

**CODE OF ORDINANCES
TOWNSHIP OF
BERLIN, MONROE COUNTY,
MICHIGAN**

Adopted August 12, 1991

Published by Order of the Township Board



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OFFICIALS
of the
TOWNSHIP OF BERLIN, MONROE COUNTY, MICHIGAN
AT THE TIME OF THIS CODIFICATION

Howard D. Lambrix
Supervisor

Robert D. Laginess, Treasurer

Thomas E. Blanchett, Trustee

Linda A. Grabetz, Trustee

Dale I. Reaume, Trustee

Marvin J. Reaume, Trustee

Board

John A. Hohman
Attorney

Mary C. Wanca
Clerk

PREFACE

This Code constitutes a complete codification of the ordinances of the Township of Berlin, Monroe County, Michigan, of a general and permanent nature.

Source materials used in the preparation of the Code were the Revised Compiled Ordinances, as supplemented through 1979, and ordinances subsequently adopted by the township board. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the Revised Compiled Ordinances, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbered 1-2 and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division.

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be

properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Successfully keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Allen Z. Paul, Supervising Editor, and Ron McLaughlin, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mary Wanca, Township Clerk, for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the township readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the township's affairs.

	MUNICIPAL CODE CORPORATION Tallahassee, Florida
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Adopting Ordinance
Ordinance No. 54-91

An Ordinance Adopting and Enacting a New Code for the Township of Berlin; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Board of the Township:

Section 1. The Code entitled "Code of Ordinances, Township of Berlin, Monroe County, Michigan" published by Municipal Code Corporation consisting of Chapters 1 through 18, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before March 26, 1990, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the township may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the township board to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6 Ordinances adopted after March 26, 1990 that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7 This ordinance shall become effective thirty (30) days after publication in the Monroe Evening News.

Passed and adopted by the Berlin Township Board this twelfth day of August, 1991. Howard D. Lambrix Supervisor Mary C. Wanca Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the township board of the Township of Berlin held on the twelfth day of August, 1991. Mary C. Wanca Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

By adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
01-09	10- 3-09	Included	13
01-10	1-25-10	Included	13
02-10	2-19-10	Included	13
01-12	3-12-12	Included	14
02-12	5-29-12	Omitted	14
13-01	11-12-13	Omitted	14
03-12	6-11-12	Included	14
01-14	9- 8-14	Omitted	15
82D-1	12- 8-14	Included	15
01-16	2- 8-16	Included	15
02-16	4-25-16	Included	15
82D-2	5-23-16	Included	15
03-16	8-22-16	Included	15
04-16	9-26-16	Included	15
05-16	9-26-16	Included	15
01-17	5- 8-17	Included	16
02-17	6-26-17	Included	16
03-17	6-26-17	Included	16
04-17	7-24-17	Included	16
05-17	7-24-17	Included	16

Berlin Charter Township, (Monroe Co.), Michigan, Code of Ordinances
SUPPLEMENT HISTORY TABLE

06-17	7-24-17	Included	16
07-17	9-11-17	Included	16
01-19	1-28-19	Included	17
02-19	8-26-19	Included	17
03-19	9- 9-19	Included	17
04-19	9- 9-19	Included	17
01-20	2-10-20	Included	18
02-20	6- 8-20	Omitted	19
03-20	8-24-20	Included	19
04-20	8- 24-20	Included	19
01-21	3-22-21	Included	19
02-21	5-24-21	Included	19
03-21	8-23-21	Included	19
01-22	2-14-22	Included	19

CODE OF ORDINANCES

Chapter 1 GENERAL PROVISIONS

ARTICLE I. IN GENERAL¹

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, Township of Berlin, Monroe County, Michigan," and may be so cited. Such Code may also be cited as the "Berlin Township Code."

State law reference(s)—Codification authority, MCL 41.641, MSA 5.45(51).

Sec. 1-2. Definitions and rules of construction.

It is the legislative intent of the township board, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the township. In the construction of this Code and any amendment thereto, the following rules shall be observed, unless the context clearly indicates otherwise:

¹Editor's note(s)—Ord. No. 9-99, § 3, adopted May 21, 1999, added Art. II, §§ 1-12—1-17 to Ch. 1. Section 2 of the same ordinance redesignated the existing §§ 1-1—1-11 as Art. I.

Code. The term "this Code" or "Code" shall mean the Code of Ordinances, Township of Berlin, Monroe County, Michigan, as designated in section 1-1.

Computation of time. The time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Saturday, Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of a Saturday, Sunday or a legal holiday, from midnight to midnight, shall be excluded.

County. The term "the county" or "this county" shall mean the County of Monroe in the State of Michigan.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Month. The word "month" shall be construed to mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

Oath, affirmation, sworn, affirmed. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed."

Officer, department, etc. Whenever any officer, department or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the Township of Berlin, Monroe County, Michigan." Whenever, by the provisions of this Code, any officer of the township is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate. Whenever in accordance with the provisions of this Code or any ordinance of the township, any specific act is required to be done by any designated officer or official of the township, such act may be performed by any township employee duly authorized to perform that act by such officer or official.

Person. The word "person" includes firms, joint adventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.

Shall/may. The word "shall" is mandatory and the word "may" is permissive.

State. The term "the state" or "this state" shall be construed to mean the State of Michigan.

Tense. Words used in the present or past tense include the future as well as the present and past.

Township. The word "township" shall mean the Township of Berlin in Monroe County, Michigan.

Township board or board. The terms "township board" or "board" shall mean the Township Board of Berlin Township, Monroe County, Michigan.

Week. The word "week" shall be construed to mean seven (7) days.

Written, in writing. The words "written" or "in writing" may include any form of reproduction or expression of language.

Year. The word "year" shall be construed to mean a calendar year.

Sec. 1-3. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections,

including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-4. References and notes.

Cross references, state law references, editor's notes and history notes are by way of explanation only and should not be deemed a part of the text of any section.

Sec. 1-5. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance, when not inconsistent with this Code:

- (1) Promising or guaranteeing the payment of money for the township, or authorizing the issuance of any bonds of the township or any evidence of the township's indebtedness, or any contract or obligation assumed by the township.
- (2) Containing any administrative provisions of the township board.
- (3) Acquiring a specific water and sewer system.
- (4) Granting any right or franchise.
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the township.
- (6) Making any appropriation.
- (7) Levying or imposing taxes.
- (8) Establishing or prescribing grades in the township.
- (9) Providing for local improvements and assessing taxes therefor.
- (10) Dedicating or accepting any plat or subdivision in the township.
- (11) Prescribing the number, classification or compensation of any township officers or employees.
- (12) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones, and specific stop or yield intersections or other traffic ordinances pertaining to specific streets.
- (13) Pertaining to rezoning.
- (14) Any other ordinance, or part thereof, which is not of a general and permanent nature.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the township clerk's office.

Sec. 1-6. Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in the township in effect on the date of adoption of this Code.

Sec. 1-7. Amendments to Code.

- (a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Township of Berlin, Monroe County, Michigan (or Township Code), is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Township of Berlin, Monroe County, Michigan (or Berlin Township Code), is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.

Sec. 1-8. Supplementation of Code.

- (a) By contract or by township personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the township board. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly in the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of this Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. Severability.

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the township board that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

Sec. 1-10. General penalty for violation of Code; continuing violations.

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than five hundred dollars (\$500.00), plus costs, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.
- (b) In addition to the penalties provided in subsection (a), the township may enjoin or abate any violation of this Code by appropriate action.

State law reference(s)—Limitation on penalties, MCL 41.183, MSA 5.45(3).

Sec. 1-11. Appearance tickets.

- (a) Officers, employees and other individuals employed by and in the service of the township who are authorized by state law and/or the provisions of the ordinances of the township to enforce the provisions of such ordinances, including, but not limited to, the zoning and ordinance enforcement officers, building inspector, fire inspector, fire officer, firefighters, and their assistants, are hereby specifically authorized in accordance with state law, including MCL 764.9 et seq., MSA 28.868 et seq.; to issue and serve upon a person an appearance ticket if the officer, employee or other individual employed by or in the service of the township has reasonable cause to believe that the person has committed a violation of the provisions of the ordinances of the township or state law, except where the issuance of such an appearance ticket is expressly prohibited by the provisions of the ordinances or applicable state law.
- (b) An appearance ticket, as used above, means a complaint or written notice issued and subscribed by a police officer or other officer, employee or individual employed by or in the service of the township who is by law or ordinance authorized to issue it, directing a designated person to appear in the designated local criminal court at a designated future time in connection with his alleged commission of a designated violation or violations of state law or local ordinance for which the maximum permissible penalty does not exceed ninety (90) days in jail and a fine of five hundred dollars (\$500.00). The appearance ticket shall be numbered consecutively, be in such form as determined by the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:
 - (1) The original, which shall be a complaint or notice to appear by the officer, employee or other individual filed with the court.
 - (2) The first copy, which shall be an abstract of court records.
 - (3) The second copy, which shall be retained by the appropriate local enforcement agency.
 - (4) The third copy, which shall be delivered to the alleged violator.

With the prior approval of such state officials, the appearance ticket may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local court procedures and practices.

ARTICLE II. MUNICIPAL CIVIL INFRACTIONS

Sec. 1-12. Definitions of the rules of construction.

Act means Act No. 236 of the Public Acts of 1961, as amended.

Authorized township official means a police officer or other personnel of the township authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the Berlin Charter Township Municipal Ordinance Violations Bureau as established by this ordinance (Ordinance No. 9-99).

Municipal civil infraction action means a civil infraction action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized township official, directing a person to appear at the township municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township, as authorized under Sections 8396 and 8707(6) of the Act.

(Ord. No. 9-99, § 3, 5-21-99)

Sec. 1-13. Municipal civil infraction action; commencement.

A municipal civil infraction action may be commenced upon the issuance by an authorized township official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction violation notice directing the alleged violator to appear at the township municipal ordinance violations bureau.

(Ord. No. 9-99, § 3, 5-21-99)

Sec. 1-14. Municipal civil infraction citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

- (a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the First District Court.
- (c) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the First District Court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by Section 8705 of the Act.
- (d) A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- (e) An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (f) An authorized township official may issue a citation to a person if:
 - (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

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- (2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and the township attorney approves in writing the issuance of the citation.
 - (g) Municipal civil infraction citations shall be served by an authorized township official as follows:
 - (1) Except as provided by subsection (2) below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - (2) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy of the land or attached the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address.

(Ord. No. 9-99, § 3, 5-21-99)

Sec. 1-15. Municipal civil infraction citations; contents.

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he or she may do one (1) of the following:
 - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance, or in person, or by representation.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township.
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall also inform the alleged violator of all of the following:
 - (1) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.

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- (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - (5) That at a formal hearing, the alleged violator must appear in person before the judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
- (Ord. No. 9-99, § 3, 5-21-99)

Sec. 1-16. Municipal ordinance violations bureau.

- (a) *Bureau established.* The township hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by this Code or in any ordinance.
- (b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at the township offices and shall be under the supervision and control of the township treasurer. The township treasurer, subject to the approval of the township board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified township employees to administer the bureau.
- (c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this article shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- (d) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for citations as provided in subsections 1-14(f) and (g) of this chapter. In addition to any other information required by this Code or other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

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- (g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized township official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 9705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator of how to respond to the citation.

(Ord. No. 9-99, § 3, 5-21-99)

Sec. 1-17. Schedule of civil fines established.

- (a) A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for municipal civil infraction violations shall be as follows unless a different amount is provided for by an ordinance for a specific violation:

(1) First offense\$ 50.00

First repeat offense250.00

Second (or any subsequent) repeat offense500.00

- (b) A copy of the schedule, as may be amended from time to time by resolution of the township board, shall be posted at the bureau.

(Ord. No. 9-99, § 3, 5-21-99)

Chapter 2 ADMINISTRATION²

ARTICLE I. IN GENERAL

Secs. 2-1—2-25. Reserved.

ARTICLE II. TOWNSHIP BOARD³

Secs. 2-26—2-50. Reserved.

²Cross reference(s)—Flood damage control administration, § 8-21 et seq.; administration and enforcement of zoning, § 18-411 et seq.

State law reference(s)—Townships generally, MCL 41.1 et seq., MSA 5.1 et seq.; freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

³State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

ARTICLE III. OFFICERS AND EMPLOYEES⁴

DIVISION 1. GENERALLY

Sec. 2-51. Issuance of appearance tickets.

The township building official and/or supervisor or those of his agents which he has designated in writing shall have authority, pursuant to Act No. 366 of the Public Acts of Michigan of 1984 (MCL 764.9c, MSA 28.868(3)) to issue and serve upon a person one (1) or more appearance tickets if the building official and/or supervisor or his designated agents have reasonable cause to believe that the person has committed an offense under any of the township ordinances.

(Ord. No. 52-88, § 1, 3-28-88)

Secs. 2-52—2-75. Reserved.

DIVISION 2. ORDINANCE ENFORCEMENT OFFICER

Sec. 2-76. Office established.

There is hereby established the office of ordinance enforcement officer within the township.

(Ord. No. 51-85, § 1, 10-15-85)

Sec. 2-77. Appointment.

The township board is hereby authorized by resolution, at any regular meeting of the board, to appoint any person to the office of ordinance enforcement officer for such term as may be designated in such resolution. The board may further, by resolution, remove any person from such office at the discretion of the board.

(Ord. No. 51-85, § 2, 10-15-85)

Sec. 2-78. Authority.

The ordinance enforcement officer is hereby authorized to enforce all ordinances of the township, whether such ordinances specifically designate a different official to enforce the same or do not designate any particular enforcing officer. Where a particular officer is so designated in any such ordinance, the authority of the ordinance enforcement officer to enforce the same shall be in addition and supplementary to the authority granted to such other specific officer. The authority of such ordinance enforcement officer shall also be in addition and supplementary to the authority vested in the township supervisor by state statute. The ordinance enforcing

⁴State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

authority of the township supervisor and the other officers specifically designated in any township ordinance shall continue in full force and effect and shall in no way be diminished or impaired by the terms of the within ordinance.

(Ord. No. 51-85, § 3, 10-15-85)

Sec. 2-79. Duties.

The ordinance enforcement duties authorized in this division shall include, among others, the following: investigation of ordinance violations; serving notice of violations; serving appearance tickets as authorized under MCL 764.9f, MSA 28.868(6); appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators, and such other ordinance-enforcing duties as may be delegated by the township supervisor.

(Ord. No. 51-85, § 4, 10-15-85)

Secs. 2-80—2-95. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS⁵

DIVISION 1. RESERVED

Secs. 2-96—2-100. Reserved.

DIVISION 2. PLANNING COMMISSION

Sec. 2-101. Fee schedule.

When a plan or other data is required to be submitted pursuant to a Berlin Charter Township Ordinance, a plan review fee shall be paid at the time of submitting plans and specifications for review in accordance with the fee schedule on the type of review requested as set forth in Chart A, which is a part of this section.

(Ord. No. 12-94, § 2, 9-12-94)

Editor's note(s)—Chart A is not set out herein, but is on file and available for inspection in the township offices.

Sec. 2-102. Scope, purpose and intent.

This article is adopted pursuant to the authority granted the township board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this article and any future amendments to this article.

⁵State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

The purpose of this article is to provide that the Berlin Charter Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Berlin Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., to establish the appointments, terms, and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

(Ord. No. 03-12, § 1, 6-11-12)

Sec. 2-103. Establishment.

The township board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Berlin Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq. The Berlin Charter Township Planning Commission shall have seven (7) members. Members of the Berlin Charter Township Planning Commission as of the effective date of this article shall, except for an ex officio member whose remaining term on the planning commission shall be limited to his or her term on the township board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission Membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq.

(Ord. No. 03-12, § 2, 6-11-12)

Sec. 2-104. Appointments and terms.

The township supervisor with the approval of the township board by a majority vote of the members elected and serving, shall appoint all planning commission members including the ex officio member. The planning commission members, other than the ex officio member, shall serve for terms of three years each. A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning commission members shall be qualified electors of the Township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable.

One member of the township board shall be appointed to the planning commission as to an ex officio member. An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the township board. No other elected officer or employee of the township is eligible to be a member of the planning commission.

(Ord. No. 03-12, § 3, 6-11-12)

Sec. 2-105. Removal.

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(Ord. No. 03-12, § 4, 6-11-12)

Sec. 2-106. Conflict of interest.

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by this article constitutes malfeasance in office.

For the purposes of this article, the planning commission shall define conflict of interest in its bylaws.

(Ord. No. 03-12, § 5, 6-11-12)

Sec. 2-107. Compensation.

The planning commission members shall be compensated for their services as provided by the township board. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the township board, including but not limited to attendance at conferences, workshops, educational and training programs and meetings and may be compensated for such as provided by the township board.

(Ord. No. 03-12, § 6, 6-11-12)

Sec. 2-108. Officers and committees.

The planning commission shall elect a chairperson and a vice chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson or vice chairperson. The term of each office shall be one year with opportunity for re-election as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission.

(Ord. No. 03-12, § 7, 6-11-12)

Sec. 2-109. Bylaws, meetings and records.

The planning commission shall adopt bylaws for the transaction of business.

The planning commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the planning commission's bylaws, a special meeting the planning commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least forty-eight (48) hours before the meeting.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

(Ord. No. 03-12, § 8, 6-11-12)

Sec. 2-110. Annual report.

The planning commission shall make an annual written report to the township board concerning its operation and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development as required by the Michigan Planning Enabling Act and the Michigan Zoning Enabling Act.

(Ord. No. 03-12, § 9, 6-11-12)

Sec. 2-111. Authority to make master plan.

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the township board passes a resolution asserting the right to approve or reject the master plan. Any existing resolution asserting such right in effect at the time of the adoption of this article shall continue until further action in the matter by the board.

Unless rescinded by the township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., need not be readopted under the Michigan Planning Act, Public act 33 of 2008, MCL 1225.3801, et seq.

(Ord. No. 03-12, § 10, 6-11-12)

Sec. 2-112. Zoning powers.

The township board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the Berlin Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.

The Berlin Charter Township Zoning Ordinance shall remain in full force and effect except as otherwise amended or repealed by the township board.

(Ord. No. 03-12, § 11, 6-11-12)

Sec. 2-113. Capital improvements program.

To further the desirable future development of the township under the master plan, the township board after the master plan is adopted, shall prepare or cause to be prepared by the township supervisor or by a designated non-elected administrative official, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority for the following six (6) year period. The capital improvements program, if prepared by someone other than the township board shall be subject to final approval by the township board. The planning commission is hereby exempted from preparing a capital improvements plan.

(Ord. No. 03-12, § 12, 6-11-12)

(Supp. No. 19)

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Sec. 2-114. Subdivision and land division recommendations.

The planning commission may recommend to the township board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than fifteen (15) days before the hearing by publication in a newspaper of general circulation within the township.

The planning commission shall review and make recommendation on a proposed plat before action thereon by the township board under the Land Division Act, Public Act 288 of 1967, MCL 560.101, et seq. Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than fifteen (15) days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed plated land.

(Ord. No. 03-12, § 13, 6-11-12)

Secs. 2-115—2-120. Reserved.

ARTICLE V. FINANCES⁶

Sec. 2-121. Fiscal year period.

The fiscal year of the township shall extend from January first of each year until December thirty-first of the same year.

(Rev. Comp. Ords. 1979, § 103.010; Ord. No. 2-92-3, § 1, 6-8-92)

State law reference(s)—Similar provisions, MCL 41.72, MSA 5.64.

Sec. 2-122. Reserved.

Editor's note(s)—Ord. No. 2-92-3, § 2, adopted June 8, 1992, repealed § 2-122 in its entirety, which pertained to annual meetings.

Chapter 3 ALCOHOLIC LIQUOR⁷

⁶State law reference(s)—Power of inhabitants to tax or vote money, MCL 41.3, MSA 5.3; budget, MCL 42.24 et seq., MSA 5.46(24) et seq.

⁷Cross reference(s)—Regulations concerning alcoholic liquors in parks, § 11-7.

State law reference(s)—Liquor control act, MCL 436.1 et seq., MSA 18.971 et seq.

ARTICLE I. IN GENERAL

Secs. 3-1—3-25. Reserved.

ARTICLE II. LIQUOR CONTROL ENFORCEMENT DEPARTMENT

Sec. 3-26. Compliance with law.

All alcoholic liquor traffic, including among other things, the manufacture, sale, offer for sale, storage for sale, possession and/or transportation thereof within the township shall comply with the provisions of the Liquor Control Act, being Act No. 8 of the Public Acts of Michigan of 1933 (MCL 436.1 et seq., MSA 18.971 et seq.), as amended.

(Rev. Comp. Ords. 1979, § 48.520)

Sec. 3-27. Department established; enforcement.

For the purpose of the enforcement of the Liquor Control Act within the township, there is hereby established a liquor control enforcement department with full power, authority, and duty to see that the provisions of such act and the rules and regulations of the state liquor control commission, adopted pursuant to such act, are enforced within the township. Such department shall consist of not less than one (1) constable or deputy sheriff appointed by the township board and/or such other personnel as the township board may, in its discretion, appoint. The personnel in such department shall be entitled to such compensation as the township board may determine and shall serve at the discretion of the board. Such department or a member thereof shall be available at all times to investigate complaints received under this article, and enforce the provisions hereof.

(Rev. Comp. Ords. 1979, § 48.530)

Sec. 3-28. Inspection.

- (a) The township liquor control enforcement department shall inspect, not less than monthly, all liquor establishments licensed under the Liquor Control Act of the state and report the results of all inspections promptly to the township board. The township liquor control enforcement department shall further promptly investigate all complaints received by it concerning violations of the state Liquor Control Act, or improper operations and practices concerning alcoholic liquor traffic within the township, and report the same to the township board and, where appropriate under the state Liquor Control Act, to the state liquor control commission, for appropriate proceedings against the violator.
- (b) Inspectors shall have the right to inspect any place in the township where alcoholic liquor is manufactured, sold, offered for sale, kept for sale, possessed or transported, or where the inspector suspects the same is being thus manufactured, sold, offered for sale, kept for sale, possessed or transported. Whenever possible, all inspection reports shall be made on liquor law enforcement inspection forms furnished by the state liquor control commission or on similar forms otherwise obtained by the township liquor control enforcement department.

(Rev. Comp. Ords. 1979, § 48.540)

Sec. 3-29. Violations; penalties.

- (a) Any person, other than persons required to be licensed under the state Liquor Control Act, who shall violate any of the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-10 of this Code.
- (b) Any licensee who shall violate any of the provisions of the state Liquor Control Act or any rule or regulation of the state liquor control commission promulgated thereunder, or who shall violate any of the provisions of this article, and any person who shall prohibit or interfere with the authorized inspection of a member of the township liquor control enforcement department shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-10 of this Code. Each day that a violation continues to exist shall constitute a separate offense.

(Rev. Comp. Ords. 1979, § 48.560)

Chapter 4 AMUSEMENTS AND ENTERTAINMENTS⁸

ARTICLE I. IN GENERAL

Secs. 4-1—4-25. Reserved.

ARTICLE II. MECHANICAL AMUSEMENT DEVICES

Sec. 4-26. Definitions.

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

Arcade means any place or establishment wherein is located ten (10) or more mechanical amusement devices.

Mechanical amusement device means a pinball machine, skeeball machine, motion picture machine, shuffleboard, miniature pool table or any similar machine, instrument or contrivance which may be operated or set in motion upon the insertion of a coin, trade token or slug. A "mechanical amusement device" is hereby further defined as any machine apparatus, or contrivance which is used or may be used as a game of skill and amusement, wherein or whereby the player initiates, employs or directs any force generated by the machine. Specifically excluded from the purview of this article are devices which only furnish music and which are commonly referred to as "juke boxes," scales for the express purpose of giving weights and medical devices such as those providing blood pressure information.

⁸Cross reference(s)—Alcoholic liquor, Ch. 3; alcoholic liquor in parks, § 11-7; offenses, Ch. 10.

State law reference(s)—Authority of township to regulate public amusements, MCL 41.181, MSA 5.45(1); recreation halls in townships, MCL 41.501 et seq., MSA 18.491 et seq.

Operator means any person who owns or has control of an amusement device or who contracts or permits any such amusement device to be installed or operated.

Owner means any person who actually owns or has title to any amusement device.

Zoning ordinance means the township zoning ordinance.

(Ord. No. 46, § 1, 6-29-83)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 4-27. License required.

No arcade shall be established, maintained or conducted in the township by any person without the owner or operator first obtaining a license to operate such place from the township board. Any such license shall be renewed yearly and all such licenses shall expire each year.

(Ord. No. 46, § 2, 6-29-83)

Sec. 4-28. Application for license.

- (a) Every owner or operator desiring to obtain a license required by this article shall file a written application to the township together with an application fee of one hundred dollars (\$100.00) or as provided by resolution of the township board. The application shall be filed with the clerk who shall be responsible for processing the application and forwarding to the township board. The application shall include the following information:
- (1) Name of owner and operator; if a partnership, names of all partners; if a firm, corporation, society, club or association, names of all officers and directors.
 - (2) Addresses of all listed in subsection (1) above.
 - (3) The location and description of the premises or place where the game room or amusement devices will be located.
 - (4) The number of amusement devices for which the applicant seeks a license and description of types of devices to be covered by such license.
 - (5) The total square footage of floor space in the room or building which will contain the games or amusement devices.
 - (6) Whether the owner or operator has at any time been convicted of a felony or offense involving moral turpitude or has been convicted of any alcohol or narcotics violation or violation of gambling laws or ordinances.
 - (7) Whether or not any permit or license heretofore granted to the applicant to engage in any business has been revoked or denied, and, if so, the circumstances surrounding the revocation or denial.
 - (8) A schedule of the days of the week and the hours of such days during which the applicant seeks permission for the operation of the arcade.
- (b) The application shall be signed by both the owner and operator, in the case of a club, society, corporation, firm, or association, the owner's signature requirement shall be met by the signature of the president and secretary or equivalent officers with proper authority. Where the ownership is a partnership, the signature of all general partners are required.

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- (c) Any false or incorrect statements made on any such application shall be immediate and substantial grounds for revocation of a license granted pursuant to such application.

(Ord. No. 46, § 3, 6-29-83)

Sec. 4-29. Inspection of premises.

- (a) Before a license for an arcade is issued, investigation of the application and inspection of the premises shall be made by the township building inspector and fire chief, or their agents, and such other departments or agencies as may be deemed necessary by the township board to determine whether the premises fully comply with all pertinent ordinances and regulations.
- (b) Before an arcade license may be recommended for approval, it must be determined that the applicant is providing sufficient off-street parking and sufficient aids and regulations whereby vehicular traffic shall not constitute a nuisance or danger. For a standard of such determination, minimum off-street parking facilities shall be as required by the zoning ordinance.
- (c) Before the fire chief or his agents approve the same, it must be determined that adequate space is provided between or around such amusement devices to permit safe ingress and egress on the premises.
- (d) The building inspector shall determine whether the building involved meets all requirements of the township's building code and other applicable township ordinances, including the zoning ordinance. The building inspector shall also determine that all wiring and connections to amusement devices comply with the electrical code.

(Ord. No. 46, § 4, 6-29-83)

Sec. 4-30. Denial of license.

No license required by this article shall be issued or remain valid:

- (1) Where the operator, owner, partner, officer, director of the licensee directly or indirectly or any agent has been convicted or pleaded guilty to a felony or any crime involving a controlled substance, alcohol, minors, gambling or a crime involving moral turpitude.
- (2) For any premises unless the building code, electrical code and all pertinent provisions of all other township ordinances are being complied with.
- (3) For any premises that are located within three hundred (300) feet of the following:
 - a. A church or any house of worship of any religious faith.
 - b. Any school building attended by students below the age of sixteen (16). (Measurement shall be made from front door to front door, along the street line.)
 - c. A hospital.
- (4) For any premises that are not zoned B-1 and B-2, as defined in zoning ordinance.
- (5) For any premises that do not provide off-street parking as required in the zoning ordinance.
- (6) For any premises that do not provide space for safe ingress and egress.
- (7) For any premises that have living quarters with direct entry into the premises.
- (8) Where an arcade is located within two thousand five hundred (2,500) feet of another arcade.

(Ord. No. 46, § 5, 6-29-83)

Sec. 4-31. License fees.

The annual fee to be paid upon granting of an arcade license issued under this article shall be two hundred dollars (\$200.00) plus twenty-five dollars (\$25.00) for each mechanical amusement device on the premises, or as set by resolution of the township board. Such license fee is in addition to the aforementioned application fee. If the number of amusement devices increases during the period for which the license is issued, the sum of twenty-five dollars (\$25.00), or as set by resolution of the township board, shall be paid to the township for each such additional amusement device.

(Ord. No. 46, § 6, 6-29-83)

Sec. 4-32. Display of license.

All licenses issued under this article shall be posted in a conspicuous place in the establishment of the licensee. Such license shall be nontransferable and shall apply only to the premises for which such license is issued.

(Ord. No. 46, § 7, 6-29-83)

Sec. 4-33. Conduct on premises.

No person or arcade or mechanical amusement device owner, operator, or licensee by himself, directly or indirectly, or by any agent or employee, shall permit:

- (1) Any indecent, or obscene language, or indecent, obscene or disorderly conduct.
- (2) The licensed premises to become a resort for disorderly persons of any type.
- (3) Gambling or the use, possession or presence of gambling paraphernalia on the premises. The winning of anything of value as a result of an operation of a mechanical device shall constitute gambling.
- (4) Intoxicated persons to loiter on the premises.
- (5) The possession, use, selling, distributing or giving away of any illegal drug or narcotic or controlled substance on the premises.
- (6) Noise or music to emerge from licensed premises.
- (7) The possession, use, selling, distributing or giving away of any alcoholic liquor or beer.
- (8) A minor under the age of twelve (12) to operate or be in or on the premises or place where an arcade is located, unless the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor.
- (9) A minor under the age of sixteen (16) years to be in or on the premises or place where an arcade or mechanical amusement device is located between the hours of 10:00 p.m. and 6:00 a.m., except where the minor is accompanied by a parent or guardian, or an adult delegated by the parent or guardian to accompany the minor.

(Ord. No. 46, § 8, 6-29-83)

State law reference(s)—Indecent language, MCL 750.103, 750.337, MSA 28.298, 28.569; person engaged in indecent or obscene conduct deemed a disorderly person, MCL 750.167(1)(f), MSA 28.364(1)(f); gambling, MCL 750.301 et seq., MSA 28.533 et seq.

Sec. 4-34. Parking requirements.

The arcade shall meet all applicable off-street parking requirements of the zoning ordinance. The arcade shall provide a bicycle rack with two (2) spaces for each amusement machine in the arcade.

(Ord. No. 46, § 9, 6-29-83)

Sec. 4-35. Right of issuance.

The building official, after consultation with the fire chief and such other agencies as shall have been deemed necessary by the township board, shall either recommend approval or disapproval of the application for license within sixty (60) days of receipt and forward such recommendation to the township board. Should an application be disapproved, the reason therefor shall be endorsed upon the application and the applicant shall be notified thereof. The applicant shall be entitled to request a hearing before the township board in the event of disapproval of the application.

(Ord. No. 46, § 10, 6-29-83)

Sec. 4-36. Renewal and transferability.

- (a) Any license issued in accordance with this article may be renewed for an additional year upon the same terms and subject to the same requirements as provided herein for an original license, including all license fees as set forth in section 4-31. However, the application fee provided for in section 4-28 shall not be required for a renewal of any license.
- (b) Whenever the holder of such license desires to effect a change of doing business, he shall notify the township board and make application for a license for such new place in the same manner as in the first instance, excepting that proof of good character may be dispensed with by such township board.
- (c) No license issued pursuant to this article shall be assignable or transferable, nor shall any person excepting the person to which it was issued be permitted to do business thereunder, either directly or indirectly.

(Ord. No. 46, § 11, 6-29-83)

Sec. 4-37. Revocation.

The township board shall have the right to revoke any license once granted or deny annual renewal thereof when it appears to their satisfaction that any person, owner, operator or licensee, directly or indirectly, or by agent or employee, has violated this article or has been convicted or pleaded guilty to a felony or any crime involving a controlled substance, alcohol, minors, gambling or a crime involving moral turpitude. The revocation of any license or the denial of renewal thereof shall not be made without a hearing before the township board. Notice must be given first to the applicant or licensee setting forth the time and place of hearing.

(Ord. No. 46, § 12, 6-29-83)

Sec. 4-38. Penalty.

Any person violating any of the provisions of this article, or any person assisting, aiding, abetting, allowing, permitting or encouraging any other person to violate any of these provisions shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding five hundred dollars (\$500.00), plus costs, and/or confinement to the county jail for a term not to exceed ninety (90) days. Each day that a violation is

permitted to exist shall constitute a separate offense, in addition, the township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article.

(Ord. No. 46, § 13, 6-29-83)

Chapter 5 BUILDINGS AND BUILDING REGULATIONS⁹

ARTICLE I. IN GENERAL

Sec. 5-1. Property maintenance code.

- (a) *Purpose and authority.* Section 23 of Act 359 of 1947 provides that the township board may adopt any provision of state law or any detailed technical regulations as a township ordinance or code, by citation of such provision of state law or by reference to any recognized standard code official or unofficial provided that such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same. Pursuant to that authority Berlin Charter Township desires to adopt the property maintenance code standards for purposes of regulating, governing the conditions and maintenance of all property, buildings and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are sanitary and safe for occupation and use and for the condemnation of buildings and structures unfit for human use in the township and providing for the issuance of permits and collection of fees.
- (b) *Adoption of International Property Maintenance Code.* A certain document designated as the 2018 International Property Maintenance Code as published by the International Code Council, Inc., is hereby adopted as the property maintenance code for Berlin Charter Township; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof as if fully set out in this section with additions, insertions, deletions and changes, if any, prescribed in subsection (c). Copies of the 2018 International Property Maintenance Code are available for review or purchase at the Building Department; Charter Township of Berlin, 8000 Swan View, Newport, Michigan 48166.
- (c) *Revision of code.* The following sections are hereby revised:
- Section 101.1: Berlin Charter Township
 - Section 103.5: (See approved Township fee schedule)
 - Section 112.4: \$100/\$500
 - Section 302.4: Six inches
 - Section 304.14: Delete "During the period from date to date" and change "every" to "Every"
 - Section 602.3: September 1 through June 1
 - Section 602.4: September 1 through June 1

⁹Cross reference(s)—Flood damage control, Ch. 8; subdivision and site condominium control, Ch. 14; zoning, Ch. 18.

State law reference(s)—State construction code act, MCL 125.1501 et seq., MSA 5.2949(1) et seq.

(d) *Costs—Owner responsibility.*

- (1) Any and all expenses or costs incurred under the provisions of this section for the demolition, removal, repair, boarding up, securing or alteration of any building or structure, or for maintaining the exterior of the building or structure, or grounds adjoining the building or structure, shall be paid by the owner or party in interest in whose name the property appears.
- (2) The owner or party in interest in whose name the property appears upon the last township tax assessment records shall be notified by the township of the amount of the cost of either the demolition, making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The notice shall be provided by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within thirty (30) days after mailing of the notice of the amount of the cost, the township shall have a lien for the costs incurred by the township to bring the property into conformance with this section and the Code. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being MCL 211.1—211.157 as amended.
- (3) In addition to other remedies under this section or the Code, the township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The township shall have a lien on the property for the amount of a judgment obtained pursuant to this section. The lien provided for in this section shall not take effect until notice of the lien is filed or recorded as provided by law. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the building or structure.

(e) *Conflict.* To the extent that provisions within this code conflict with provisions in the township zoning ordinance or township general ordinances, the more strict provision shall govern.

(Ord. No. 01-22, §§ 1—5, 2-14-22)

Secs. 5-2—5-25. Reserved.

ARTICLE II. CONSTRUCTION CODE

Sec. 5-26. Enforcing agency designated.

Pursuant to the provisions of the Michigan Building, Electrical, Mechanical and Plumbing Codes, in accordance with Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq., MSA 5.2949(1) et seq.), as amended, the building inspector of the township is hereby designated as the enforcing agency to discharge the responsibilities of the township under Act No. 230 of the Public Acts of 1972, as amended, State of Michigan. The township hereby assumes responsibility for the administration and enforcement of such Act throughout its corporate limits.

(Ord. No. 45-84-1, § 1, 4-23-84; Ord. No. 7-93, § 2, 1-10-94)

Secs. 5-27—5-50. Reserved.

ARTICLE III. ELECTRICAL REGULATIONS

DIVISION 1. GENERALLY

Sec. 5-51. Exemptions.

The provisions of this article shall not apply to the following:

- (1) The installing of radio receiving sets and equipment. (The installation of convenience outlets for power supply to a radio set shall be subject to such rules and regulations.)
- (2) Apparatus and equipment installed by or for any public utility operating under jurisdiction of the state public service commission in the exercise of its function as a utility and when such apparatus or equipment is used primarily for the generation or distribution of electric current or for signal or communication purposes.

(Rev. Comp. Ords. 1979, § 12.110)

Sec. 5-52. Penalty.

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than five hundred dollars (\$500.00), plus costs, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.
- (b) In addition to the penalties provided in subsection (a), the township may enjoin or abate any violation of this Code by appropriate action.

State law reference(s)—Limitation on penalties, MCL 41.183, MSA 5.45(3).

Sec. 5-53. Liability.

This article shall not be construed to relieve from or lessen the responsibility of any party owning, operating, controlling or installing any electric wiring, electric devices and/or electric material for damages to persons or property caused by any defect therein nor shall the township be held as assuming any such liability by reason of the inspection authorized herein, or certificate of inspection issued as herein provided.

(Rev. Comp. Ords. 1979, § 12.140)

Sec. 5-54. Jurisdiction for inspections; inspector generally.

- (a) The board of electrical examiners, also referred to in this article as the inspection authority and examining board, shall have and hereby is given jurisdiction, subject to review as hereinafter provided, over the inspection of all electrical installations, including changes, repairs and additions thereto within the limits of the township. The township board shall appoint an electrical inspector who shall inspect all electrical installations and report to the inspection authority. This jurisdiction shall apply to the installation of wiring devices, apparatus, and equipment for connection to electricity supply systems having voltage over thirty (30) volts, except as provided in section 5-57.

(b) Such jurisdiction shall apply in all systems and all voltages when safety to life and property is involved.

(Rev. Comp. Ords. 1979, § 12.010)

Sec. 5-55. Fees for inspection.

When an application is made for a permit required under the terms of this article, a fee shall be paid in an amount as prescribed by the township board.

(Rev. Comp. Ords. 1979, § 12.020)

Sec. 5-56. Right of entry; disconnection of service.

The electrical inspector or his deputy shall have the right during reasonable hours to enter any building in the discharge of his official duties for the purpose of making any inspection or test of the installation of electric wiring, electric devices and/or electric material contained therein and shall have the authority to cause the turning off of all electrical supply and cut or disconnect, in cases of emergency, any wire where such electrical currents are dangerous to life or property or may interfere with the work of the fire department.

(Rev. Comp. Ords. 1979, § 12.030)

Sec. 5-57. Permits.

- (a) No alterations or additions shall be made in the existing wiring of any building, nor shall any building be wired for the placing of any electric lights, motors, heating devices, or any other apparatus requiring the use of electrical current at a potential over thirty (30) volts, nor shall any alterations be made in the wiring in any building after inspection, without first notifying the electrical inspector and securing a permit therefor. Applications for such permit, describing such work, shall be made by the person installing the same, and permit, when issued, shall be to such applicant.
- (b) This section shall not apply to maintenance and repairs on the premises of a person regularly employing qualified electricians for that purpose, nor such minor repairs such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints or repairing drop cords.

(Rev. Comp. Ords. 1979, § 12.040)

Sec. 5-58. Inspection.

Upon the completion of the wiring of any building, it shall be the duty of the person installing the same to notify the electrical inspector to inspect the installation as soon as possible, and if it is found to be fully in compliance with this chapter and does not constitute a hazard to life and property, he shall issue on request to such person for delivery to the owner a certificate of inspection authorizing connection to the electrical service and the turning on of the current. All wires which are to be hidden from view shall be inspected before concealment and any person installing such wires shall notify the electrical inspector, giving sufficient time in which to make the required inspection before such wires are concealed.

(Rev. Comp. Ords. 1979, § 12.050)

Sec. 5-59. Reinspection; disconnection of service.

- (a) The electrical inspector may make periodically a thorough reinspection of the installation in buildings of all electric wiring, electric devices and electric material installed within the township. When the installation of any such wiring, devices, and/or material is found to be in a dangerous or unsafe condition, the person owning, using or operating the same shall be notified and shall make the necessary repairs or changes required to place such wiring, devices and materials in a safe condition and have such work completed within fifteen (15) days, or any longer period specified by the electrical inspector in such notice.
- (b) The electrical inspector is hereby empowered to disconnect or order in writing the discontinuance of electrical service to such wiring, devices or materials so found to be defectively installed until the installation of such wiring, devices and material has been made safe as directed by the electrical inspector.

(Rev. Comp. Ords. 1979, § 12.060)

Sec. 5-60. Construction requirements.

No certificate of inspection shall be issued unless the electrical installation is in strict conformity with the provisions of this article, the statutes of the state, the rules and regulations issued by the state public service commission under the authority of the state statutes, and unless they are in conformity with approved methods of construction for safety to persons and property. The regulations as laid down in the National Electrical Code, as approved by the American Standards Association and in the National Electrical Safety Code, as approved by the American Standards Association, and in this article and the rules and regulations established as provided in section 5-93 shall be prima facie evidence of such approved methods.

(Rev. Comp. Ords. 1979, § 12.070)

Sec. 5-61. Approved materials.

- (a) It shall be unlawful to install or use any electrical device, apparatus or equipment designed for attachment to, or installation on, any electrical circuit or system for heat, light or power that is not of good design and construction and safe and adequate for its intended use. The electrical inspector shall have power to disapprove the use or installation of devices not fulfilling these requirements. Devices, apparatus and equipment approved by such generally recognized authorities as United States Bureau of Standards, Electrical Testing Laboratories of New York, or Underwriters Laboratories shall be held to have the approval of the electrical inspector unless explicitly disapproved by such authority for reasons of faulty design and poor construction involving danger to persons or property.
- (b) It shall be the duty of the electrical inspector from time to time to inspect devices, apparatus and equipment offered to the public for use in installation to see such items conform to the above requirements.

(Rev. Comp. Ords. 1979, § 12.080)

Sec. 5-62. Record and review.

- (a) The township shall keep complete records of all permits issued. Maintaining records of inspections made and other official work performed under the provisions of this article shall be the duty of the electrical inspector.
- (b) When the electrical inspector condemns all or part of any electrical installation the owner or his agent may within five (5) days after receiving written notice from the electrical inspector, file a petition in writing for review of such action of the electrical inspector with the board of electrical examiners, upon receipt of which

the board of electrical examiners shall at once proceed to determine whether such electrical installation complies with this article, and within three (3) days shall make a decision in accordance with its findings.

(Rev. Comp. Ords. 1979, § 12.090)

Secs. 5-63—5-80. Reserved.

DIVISION 2. LICENSE¹⁰

Sec. 5-81. Definitions.

As used in this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Apprentice electrician means an individual other than an electrical contractor, master electrician, or electrical journeyman, who's engaged in learning about and assisting in the installation or alteration of electrical wiring and equipment under the direct personal supervision of an electrical journeyman or master electrician.

Board means Berlin Charter Township Electrical Examining and Appeals Board.

Department means Berlin Charter Township Building Department.

Electric sign means fixed, stationary, or portable self-contained, electrically illuminated equipment that has words or symbols designed to convey information or attract attention. The term includes outline lighting. Electric sign does not include those signs that are indoor or outdoor portable applications or recognized holiday residential signs listed with a recognized electrical testing laboratory and that use a cord cap one hundred ten-volt plug as the electrical energizing attachment method.

Electrical contractor means a person, firm or corporation engaged in the business of erecting, installing, altering, repairing, servicing, or maintaining electrical wiring, devices, appliances or equipment.

Electrical equipment means all electrical devices, in connection with the generation, distribution, communication, and utilization of electrical energy, within or on a building, residence, structure, or properties including fire alarm and sign devices.

Electrical inspector means any person who has the necessary qualifications, training, experience, and technical knowledge to inspect all electrical apparatus for compliance with the codes and who shall be the agent or employee of the department designated by the building official as an electrical inspector. Inspectors shall be registered pursuant to Act No. 54 of the Public Acts of 1986, being MCL 338.2301 et seq., and known as the Building Officials and Inspectors Registration Act.

Electrical journeyman means a person other than an electrical contractor who, as his or her principal occupation, is engaged in the practical installation or alteration of electrical wiring. An electrical contractor or master electrician may also be an electrical journeyman.

Electrical wiring means all wiring, generating equipment, fixtures, appliances, and appurtenances in connection with the generation, distribution, communication, and utilization of electrical energy, within or on a building, residence, structure, or properties, and including service entrance wiring as defined by the code.

¹⁰Editor's note(s)—Ord. No. 6-93, adopted Jan. 10, 1994, has been treated as superseding the provisions of former div. 2, §§ 5-81—5-93, which pertained to similar subject matter. Said Ord. No. 6-93, added a new div. 2 to read as herein set out. See the Code Comparative Table for a detailed analysis of inclusion.

Fire alarm contractor means a person, firm, or corporation engaged in the business of erecting, installing, altering, repairing, servicing, or maintaining wiring, devices, appliances or equipment of a fire alarm system.

Fire alarm specialty apprentice technician means an individual other than a fire alarm contractor or a fire alarm specialty technician who is engaged in learning about and assisting in the installation or alteration of fire alarm system wiring and equipment under the direct personal supervision of a fire alarm specialty technician.

Fire alarm specialty licensure means licensure as a fire alarm contractor or a fire alarm specialty or apprentice technician.

Fire alarm specialty technician means a person other than a fire alarm contractor who, as his or her principal occupation, is engaged in the practical installation or alteration of fire alarm system wiring.

Fire alarm system means a system designed to detect and annunciate the presence of fire, or by-products of fire, installed within a building or structure. Fire alarm system does not include a single station smoke detector.

Jobsite means the immediate work area within the property lines of a single construction project, alteration project or maintenance project where electrical construction or alteration of electrical wiring is in progress.

Master electrician means a person having the necessary qualifications, training, experience and technical knowledge to supervise the installation of electrical wiring and equipment in accordance with the standard rules and regulations governing that work.

Minor repair work means electrical work such as repairing or replacing flush and snap switches, fuses, lamp sockets or receptacles; replacement of fixtures; repairing or taping bare connections; replacing lamps or the connection of portable electrical equipment to suitable permanently installed receptacles; provided the total value does not exceed one hundred dollars (\$100.00).

Municipality means a city, village or township.

Outline lighting means an arrangement of incandescent lamps or electric discharge tubing which is an integral part of an electrical sign that outlines certain features, such as the shape of a building or the decoration of a window.

Owner means any natural person, firm, partnership, association or corporation and their legal successors. In all proceedings, actions or prosecution hereunder, in which a corporation is the owner of any building, structure or part thereof, or of premises, any of its officers, directors or persons in control or management thereof, as well as the corporation, shall be subject to the provisions of this article.

Sign specialist means a person who, as his or her principal occupation, is engaged in the installation, alteration or repair of electric signs.

Sign specialty contractor means a person, firm or corporation engaged in the business of manufacturing, installing, maintaining, connecting, or repairing electric sign wiring or devices, including wiring that is directly related to electric signs and is electrically dedicated as a sign circuit beginning at the load side of the sign circuit disconnect.

Sign specialty licensure means licensure as a sign specialist or sign specialty contractor.

Related sign wiring means:

- (1) Except as otherwise provided in subsections (2), (3), and (4), that portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.
- (2) In the case of electric sign installations having sign transformers installed physically apart from the electric sign, that portion of the electric sign wiring that originates at the load-side terminals of a

disconnecting means located in the vicinity of the electric sign involved but does not include the installation of the disconnecting means, complete with line-side connections.

- (3) In the case of the free standing electric sign installations supplied through underground circuit conductors, that portion of the electric sign wiring that originates at a wiring termination point adjacent to, within or immediately above the permanent base for the electric sign but does not include, if the base of the sign structure is suitable for use as a raceway, the installation of bushing, complete with free-length circuit conductors extending through to accommodate the connection of the related wiring within the sign structure raceway.
- (4) In the case of electric signs specifically designed to be connected directly to the building wiring raceway or cable supply, that portion of the electric sign wiring that originates at the point where the free-length circuit conductors extend through the building wiring raceway or cable at the specifically designed supply location for the electric sign involved but does not include the installation of the building wiring raceway or cable system to the specifically designated point of supply for the electric sign involved, complete with free-length circuit conductors extending through the building wiring raceway or cable to accommodate the connection of the related wiring.

(Ord. No. 6-93, § 2, 1-10-94)

Sec. 5-82. Electrical inspection.

- (a) The electrical examining and appeals board, also referred to in this division as the board, shall have and hereby is given jurisdiction, subject to review as hereinafter provided, over the inspection of all electrical installations, including changes, repairs and additions thereto within the limits of Berlin Charter Township.
- (b) The board is hereby empowered and it shall be their duty to promulgate and recommend such rules and regulations concerning electrical work in the township as may be required to properly provide for the situations therein. The rules and regulations so made by the board shall be effective upon approval by the township board and the Michigan Construction Code Commission and shall take precedence over plans, specifications and national electrical code rules.
- (c) The township board shall appoint (an) electrical inspector(s), who shall be licensed as an electrical journeyman or master electrician, who shall inspect all electrical installations and report to the inspection authority. This jurisdiction shall apply to the installation of electrical wiring, electrical devices, apparatus and equipment for connection to electrical supply systems except as provided in section 5-86, (1), (2), (3), (4), (5), (6), (8).

(Ord. No. 6-93, § 3, 1-10-94)

Sec. 5-83. Fees for inspection.

When an application is made for a permit, license, registration or examination required under the terms of this division, a fee shall be paid in an amount as prescribed by the Board of the Charter Township of Berlin.

(Ord. No. 6-93, § 4, 1-10-94)

Sec. 5-84. Right of access to buildings.

Subject to the Constitution and the laws of the State of Michigan the electrical inspector(s) and/or his or her deputy shall have the right during reasonable hours to enter any building in the discharge of his or her official duties for the purpose of making any inspection or test of the installation of electrical wiring, electrical devices

and/or electrical materials contained therein and shall have the authority to cause the turning off of all electrical supply and to disconnect, in cases of emergency, any wire where such electrical currents are dangerous to life or property or may interfere with the work of the fire department.

(Ord. No. 6-93, § 5, 1-10-94)

Sec. 5-85. Permits.

It shall be unlawful for any person, firm or corporation to install, alter, maintain, service or repair electrical equipment in or on any building, structure or part thereof, or on premises, or cause or permit therein or thereon the installation, altering, maintaining, servicing or repairing of any electrical equipment without a permit having been obtained therefore as provided herein. Nothing in this section shall be considered as applying to any person engaged in repairing and maintaining electrical appliances. Permits shall be issued only to (1) through (4) below:

- (1) Licensed electrical contractors.
- (2) Licensed fire alarm contractors.
- (3) Licensed sign specialty contractors.
- (4) A bona fide owner of a single-family residence which is, or will be on completion, his or her own place of residence, and no part of which is used for rental or commercial purposes nor is now contemplated for such purpose, provided that the owner applies for and secures a permit, pays the fee, does the work (him/her) self in accordance with the provisions hereof, applies for inspections and receives approval thereof. Failure to comply with these requirements will subject the owner's permit to cancellation.

(Ord. No. 6-93, § 6, 1-10-94)

Sec. 5-86. Contractors requirements; exceptions.

No person, firm, or corporation shall engage in the business of electrical contracting, fire alarm contracting, or sign contracting unless such person, firm, or corporation shall have received from the state or the appropriate municipality the appropriate contractors license; for shall any person other than a master electrician, except a person duly licensed and employed by and working under the direction of a holder of an electrical contractor's license, fire alarm contractor's license, or sign contractor's license, in any manner undertake to execute any electrical wiring; except, no license shall be required by the board to perform the work indicated in subsection (7), (9), (10), (11), (12), (13), and (14); nor shall a license or permit be required to execute the work covered by subsections (1), (2), (3), (4), (5), (6) and (8):

- (1) Minor repair work, as defined.
- (2) The installation, alteration, repairing, rebuilding or remodeling of elevators, dumbwaiters, escalators, or man lifts performed under a permit issued by an elevator inspection agency of the state or political subdivision of the state.
- (3) The installation, alteration or repair of electrical equipment and its associated wiring, installed on the premises of consumers or subscribers by or for electrical energy supply or communication agencies for use by such agencies in the generation, transmission, distribution or metering of electrical energy, or for the operation of signals or transmission of intelligence, not including fire alarm systems.
- (4) The installation, alteration or repair of electric wiring for the generation and primary distribution of electric current, or the secondary distribution system, up to and including the meters, where such work

is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.

- (5) Any work involved in the manufacture of electric equipment, including the testing and repairing of such manufactured equipment.
- (6) The installation, alteration or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence where such work is in connection with a communication system owned or operated by a telephone or telegraph company in rendering its duly authorized service as a telephone or telegraph company.
- (7) Any installation, alteration or repair of electrical equipment by a homeowner in a single family home and accompanying outbuildings owned and occupied or to be occupied by the person performing the installation, alteration or repair of electrical equipment.
- (8) Any work involved in the use, maintenance, operation, dismantling or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and which has the necessary permanent wiring, floor and wall receptacle outlets designed for the proper and safe use of such theatrical equipment, but not including any permanent wiring.
- (9) Work performed by mechanical contractors licensed in classifications listed in section 5-86(1), (2), (4), (5), and (6) of the Forbes Mechanical Contractor Act, Act No. 192 of the Public Acts of 1984, being MCL 338.976, plumbing contractors licensed under Act No. 266 of the Public Acts of 1929, being MCL 338.901 through 338.917, and employees of persons licensed under Act No. 192 of the Public Acts of 1984 and Act No. 266 of the Public Acts of 1929 while performing maintenance, service, repair, replacement, alteration, modification, reconstruction or upgrading of control wiring circuits and electrical component parts within existing mechanical systems defined in the mechanical and plumbing codes provided for in the State Construction Code Act of 1972, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all manufacturer prewired system wiring associated with the mechanical systems in buildings which are on the load side of the unit disconnect, which is located on or immediately adjacent to the equipment, except for life safety systems wiring.
- (10) Electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single family dwelling to the first point of attachment in the house from the well, by a registered pump installer under part 127 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being MCL 333.12701 through 333.12771.
- (11) The installation, maintenance or servicing of burglar alarm systems within a building or structure.
- (12) The installation, maintenance or servicing of residential lawn sprinkling equipment.
- (13) The installation, alteration, maintenance or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist except that the ratio of unlicensed individuals engaged in this activity shall not exceed two (2) unlicensed individuals to one (1) licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis.
- (14) The construction, installation, maintenance, repair and renovation of telecommunications equipment and related systems by a person, firm or corporation primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair and renovation of a fire alarm system.

(Ord. No. 6-93, § 7, 1-10-94)

Sec. 5-87. Inspection.

- (a) Upon the completion of the wiring of any building, it shall be the duty of the person, firm or corporation installing the same to notify the building inspector, who shall notify the electrical inspector(s) to inspect the installation as soon as possible, and if it is found to be fully in compliance with this division and does not constitute a hazard to life and property, he/she shall issue upon request to such person, firm or corporation for delivery to the owner a certificate of inspection.
- (b) All wires which are to be hidden from view shall be inspected before concealment and any person, firm or corporation installing such wires shall notify the building inspector, giving sufficient time in which to make the required inspection before such wires are concealed.

(Ord. No. 6-93, § 8, 1-10-94)

Sec. 5-88. Re-inspection.

The electrical inspector(s) may, when specifically authorized by state law or separate municipal ordinance, make periodically a thorough re-inspection of the installation in buildings of all electrical wiring, electrical devices and electrical material now installed or that may hereafter be installed, within the township. When the installation of any such wiring, devices, and/or material is found to be in a dangerous or unsafe condition, the person, firm, or corporation owning, using or operating the same shall be notified and shall make the necessary repairs or changes required to place such wiring, devices and material in a safe condition and have such work completed within fifteen (15) days, or any longer period specified by the electrical inspector in said notice. The electrical inspector(s) is/are hereby empowered to disconnect or order in writing the discontinuance of electrical service to such wiring, devices and/or material found to be defectively installed until the installation of such wiring, devices and material has been made safe as directed by the electrical inspector(s).

(Ord. No. 6-93, § 9, 1-10-94)

Sec. 5-89. Construction requirements.

No certificate of inspection shall be issued unless the electrical installation is in strict conformity with the provisions of this division, the statutes of the State of Michigan, the rules and regulations issued by the Michigan Public Service Commission under the authority of the state statutes and unless they are in conformity with approved methods of construction for safety to persons and property. The regulations as laid down in the National Electrical Code (N.F.P.A. 70), Michigan Building Code(s) in accordance with Act 230 of Public Acts of 1972 and N.F.P.A.'s: 71, 72, 73, and 74, for fire alarm systems as approved by the American National Standards Institute (ANSI) and in the amendments, rules and regulations established as hereinafter provided shall be prima facie evidence of such approved methods.

(Ord. No. 6-93, § 10, 1-10-94)

Sec. 5-90. Approved materials.

- (a) It shall be unlawful to install or use any electrical device, apparatus, or equipment designed for attachment to, or installation on any electrical circuit or system for heat, light, power, or fire alarm system that is not of good design and construction and safe and adequate for its intended use. The electrical inspector(s) shall have power to disapprove the use or installation of devices not fulfilling these requirements.
- (b) Devices, apparatus and equipment listed by such generally recognized authorities as United States Bureau of Standards, or by qualified electrical testing laboratories such as: Electrical Testing Laboratories (ETL),

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Underwriters Laboratories (UL) or Factory Mutual (FM) may be given the approval by the electrical inspector(s) unless explicitly disapproved by said authority for reasons of faulty design or poor construction involving danger to persons and/or property.

(Ord. No. 6-93, § 11, 1-10-94)

Sec. 5-91. Record and review.

- (a) The building inspector and electrical inspector shall keep complete records of all permits issued and inspections made and other official work performed under the provision of this division.
- (b) When the electrical inspector condemns all or part of any electrical installation, the owner or his or her agent may within five (5) days after receiving written notice from the electrical inspector, file a petition in writing for review of said action of the electrical inspector with the electrical examining and appeals board. Upon receipt of the petition, the board shall at once proceed to determine whether said electrical installation complies with this division, and within three (3) days shall make a decision in accordance with its findings.

(Ord. No. 6-93, § 12, 1-10-94)

Sec. 5-92. License and registration for electrical work.

- (a) The electrical examining and appeals board is hereby established and shall consist of the township electrical inspector, a representative of the electrical utility company, a licensed electrical contractor who is also a licensed master electrician, a licensed master electrician, and an electrical engineer. The township may utilize the Reciprocal Electrical Council, Inc. or the board of appeals of the state electrical division, in the place of the electrical examining and appeals board.

The members of said board shall be appointed by the township board for such terms as shall be designated at the time of appointment. This board shall examine all applicants for electrical, fire, and sign contractors licenses; journeymen and master electrician licenses; fire alarm specialty technician licenses and sign specialist licenses; and the registration of apprentice electricians and fire alarm specialty apprentice technicians.

- (b) All electrical contractors, fire alarm contractors, sign specialty contractors, master electricians, journeyman electricians, fire alarm specialty technicians, sign specialists, apprentice electricians and fire alarm specialty apprentice technicians shall secure their registration from the building department. All such registrations shall be required to be reviewed annually. Registration fees shall be as established by resolution of the township board. Said fee schedule may be amended from time to time also by resolution of the township board.
- (c) A person holding a valid electrical contractor's license, master electrician's license, electrical journeyman's license or apprentice electrician's registration shall not be required to hold any specialty licenses in order to perform specialty installations.

(Ord. No. 6-93, § 13, 1-10-94; Ord. No. 02-01, §§ 2—4, 11-30-01)

Sec. 5-93. Contractors.

It shall be unlawful for any person, firm or corporation to engage in the business of electrical contractor, fire alarm contractor, sign specialty contractor or to install, alter or repair electrical wiring, equipment, apparatus or fixtures for light, heat, power or fire alarm system in or about buildings and/or structures located within the township without first having procured the appropriate contractor's license from the State of Michigan and registering with the township.

(Ord. No. 6-93, § 13(I), 1-10-94; Ord. No. 02-01, § 5, 11-30-01)

Sec. 5-94. Master, journeyman and apprentice electrician.

It shall be unlawful for any person to engage in the occupation or trade of master, journeyman or apprentice electrician in the installation, alteration, maintenance or repair of electrical wiring equipment, apparatus or fixtures for light, heat, power or medical purposes, in or about buildings and/or structures within the township without having first obtained a registration as herein provided.

All electrical work done by apprentice electricians shall be performed under the direct personal supervision of a journeyman or master electrician who shall be on the premises at all times when such apprentice electricians are performing such work.

(Ord. No. 6-93, § 13(II), 1-10-94; Ord. No. 02-01, § 6, 11-30-01)

Sec. 5-95. Reserved.

Editor's note(s)—Ord. No. 02-01, § 2, adopted Nov. 30, 2001, repealed § 5-95 which pertained to fire alarm specialty technician's license and derived from Ord. No. 6-93, § 13(III), adopted Jan. 10, 1994.

Sec. 5-96. Reserved.

Editor's note(s)—Ord. No. 02-01, § 2, adopted Nov. 30, 2001, repealed § 5-96 which pertained to fire alarm apprentice and derived from Ord. No. 6-93, § 13(IV), adopted Jan. 10, 1994.

Sec. 5-97. Reserved.

Editor's note(s)—Ord. No. 02-01, § 2, adopted Nov. 30, 2001, repealed § 5-97 which pertained to sign specialty technician's license and derived from Ord. No. 6-93, § 13(V), adopted Jan. 10, 1994.

Sec. 5-98. Reserved.

Editor's note(s)—Ord. No. 02-01, § 2, adopted Nov. 30, 2001, repealed § 5-98 which pertained to license and registration fees and annual renewals and derived from Ord. No. 6-93, § 14, adopted Jan. 10, 1994.

Sec. 5-99. Exemptions.

The provisions of this division shall not apply to apparatus and equipment installed by or for any utility operating under jurisdiction of the Michigan Public Service Commission in the exercise of its function as a utility and when such apparatus or equipment is used primarily for the purpose of communication or metering; or for the generation, control, transformation, transmission and distribution of electrical energy.

(Ord. No. 6-93, § 15, 1-10-94)

Sec. 5-100. Violations; penalties; minor violations and fines.

- (a) Any person, firm or corporation who shall fail to comply with any of the provisions hereof, shall upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment in the Monroe County Jail for a period not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the court unless otherwise provided in the division.

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- (b) Except as provided for in subsection (a), a person licensed or registered under this division who commits a violation of this division that is not a minor violation as described in the general rules or a person not licensed or registered under this division who is performing any activity regulated by this division is guilty of a civil violation, punishable by a fine of not less than one thousand dollars (\$1,000.00) per day for each day the violation exists except that a fine shall not exceed five thousand dollars (\$5,000.00) in total per violation. A second or subsequent violation is punishable by a fine of not less than two thousand dollars (\$2,000.00) per day for each day the violation occurs except that a fine shall not exceed ten thousand dollars (\$10,000.00) in total per violation.

(Ord. No. 6-93, § 16, 1-10-94)

Secs. 5-101—5-110. Reserved.

ARTICLE IV. DANGEROUS BUILDINGS

Sec. 5-111. Purpose.

- (a) It is the purpose of this article to provide a just, equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by the building code, housing code or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.
- (b) The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this article.

Sec. 5-112. Scope.

The provisions of this article shall apply to all dangerous buildings which are in existence or which may become dangerous in township.

Sec. 5-113. Definitions.

- (a) For the purpose of this article, certain terms, phrases, words and their derivatives shall be construed as specified in either this article or as specified in the building code or the housing code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981, shall be construed as providing ordinary accepted meanings.
- (b) For the purpose of this article, any building, structure or parcel of land which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:
- (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

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- (3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1½) times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.
 - (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.
 - (5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
 - (6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.
 - (7) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 - (8) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
 - (9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 - (10) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
 - (11) Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) or more percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
 - (12) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 - (13) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this township, as specified in the building code or of any law or ordinance of this state or township relating to the condition, location or structure of buildings.
 - (14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent of the (i) strength, (ii) fire-resisting qualities, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy is in the same location.
 - (15) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate

light, air or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

- (16) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
- (17) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
- (18) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Sec. 5-114. Enforcement.

The building official and building inspector are hereby authorized to enforce the provisions of this article.

Sec. 5-115. Inspections.

The health officer, the fire marshal, the building official and the building inspector are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this article.

Sec. 5-116. Right of entry.

- (a) Whenever necessary to make an inspection to enforce any provision of this article, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this article, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- (b) For the purposes of this section, the phrase "authorized representative" shall include the officers named in section 5-114 and their authorized inspection personnel.

Sec. 5-117. Declaration of nuisance.

All buildings or portions thereof which are determined after inspection by the hearing officer to be dangerous are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this article.

Sec. 5-118. General prohibition.

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, keep or maintain any dangerous building, structure, or parcel of land which is a dangerous building in violation of this article.

Sec. 5-119. Inspection of work.

All buildings or structures within the scope of this article, and all construction or work for which a permit is required, shall be subject to inspection by the building official in accordance with and in the manner provided by this article.

Sec. 5-120. Notice of violation.

- (a) Notwithstanding any other provision of this article, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing agency shall issue a notice of the dangerous and unsafe conditions.
- (b) Such notice shall be directed to the owner, agent or lessee in whose name the property appears on the last township tax assessment records.
- (c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.
- (d) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. An owner or party in interest may waive, in writing, the time requirement for such ten-day notice. In addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.
- (e) The building official shall file in the office of the county register of deeds a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections, if any, ordered by the hearing officer pursuant to section 5-123, shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county register of deeds certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

Sec. 5-121. Violation of posted notice.

No person shall remain in or enter any building which has been posted with a notice issued under this article, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the township's building code. Any person violating this section shall be guilty of a misdemeanor.

Sec. 5-122. Hearing officer.

The hearing officer shall be appointed by the township supervisor subject to township board approval to serve at the pleasure of the township board. The enforcing agency shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer.

Sec. 5-123. Conduct of hearing; order; review.

- (a) At the time and place set for a hearing under this article, the hearing officer shall take testimony of the enforcing agency and the person to whom the notice of the hearing was directed. The hearing officer shall

render his decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

- (b) If it is determined by the hearing officer that the building or structure should be demolished or otherwise made safe, he shall so order, fixing a time in the order for the owner, agent, or lessee to comply therewith. The hearing officer may order the building to be repaired or made safe within a time period less than that time ordinarily allowed under a conventional building permit.
- (c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order of the hearing officer, the building official or building inspector shall file a copy of the hearing officer's findings and order with the township board, and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee by personal service or certified mail, return receipt requested.
- (d) The township board shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner, agent or lessee by personal service or certified mail, return receipt requested. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe. After the hearing, the township board shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure. The township board may order the building to be repaired or made safe within a time period less than that time ordinarily allowed under a conventional building permit. The township board may cause the building to be made safe or demolished and the materials, rubble and debris therefrom to be removed and the lot cleaned.

Sec. 5-124. Lien; collection.

- (a) The cost of the demolition or making a building safe under this article shall be a lien against the real property and shall be reported to the assessing officer of the township, who shall assess the cost against the property on which the building or structure is located.
- (b) The owner or party in interest in whose name the property appears upon the last township tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within thirty (30) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of such township and the same shall be collected in the same manner in all respects as provided by law for the collection.

Sec. 5-125. Interference with work.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this article; or with any person to whom such building has been lawfully sold pursuant to the provisions of this article, whenever such officer, employee, contractor or authorized representative of this jurisdiction, or person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.

Secs. 5-126—5-140. Reserved.

ARTICLE V. BLIGHT¹¹

Sec. 5-141. Legislative findings.

An ordinance to secure the public health, safety, and welfare of the residents of Berlin Charter Township, Monroe County, Michigan, by the prevention, reduction, and elimination of blight, blighting factors, and causes of blight; to provide for the regulation of the storage of motor vehicle parts and the storage or accumulation of junk, trash, litter, and rubbish on private and public property; and to provide penalties for the violation hereof.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-142. Purpose.

It is the purpose of this article to prevent, reduce or eliminate blight or potential blight in Berlin Charter Township by the prevention or elimination of certain environmental causes of blight or blighting factors which exist, or which may in the future exist, in said Township.

It is hereby determined that the following uses, structures, and activities are causes of blight or blighting factors which, if allowed to exist will tend to result in blighted and undesirable neighborhoods. On and after the effective date of this article, no person, firm or corporation of any kind shall maintain or permit to be maintained any of the cases of blight or blighting factors upon property in Berlin Charter Township owned, leased, rented, or occupied by such person, firm, or corporation.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-143. Definitions.

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

Blight is the act of impairing or destroying the visual quality of property by disposing or storing of building materials, junk, litter, garbage, rubbish, or other waste so as to leave the property in an impaired condition. For the purpose of this article, the piling and storage of firewood in a neat orderly manner for consumption on the premises is not considered to be blight.

Building materials includes but is not limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

¹¹Editor's note(s)—Ord. No. 04-17, § 2, adopted July 24, 2017, amended article V in its entirety to read as herein set out. Former article V, §§ 5-141—5-154, pertained to similar subject matter, and derived from the 1991 Code; Ord. No. 10-00, § 2, adopted Dec. 2, 2000.

State law reference(s)—Rehabilitation of blighted areas, MCL 125.71 et seq., MSA 5.3501 et seq.

Garbage means the accumulation of trash, rubbish, or litter specifically including, but not limited to, containers once containing edible products, drinkable products or usable materials, as well as dead animals (or parts thereof) and discarded edible or drinkable items.

Junk means any unused or unusable furniture, machinery, appliances, or parts thereof, remnants of wood, metal, or any other materials or other cast-off materials of any kind whether or not the same could be put to any reasonable use.

Litter means "garbage", and "rubbish" as defined herein and all other waste materials which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

Motor vehicle includes any self-propelled or towed vehicle designed or used on highways to transport passengers or property as defined in Section 33 of Act 300 of the Public Acts of 1949 (MSL 257.33, which is required to be registered for use upon streets and highways under Act 300, and also includes any wheeled vehicle which is self-propelled or intended to be self-propelled.

Person is any individual, firm, partnership, association, corporation, company, or organization of any kind.

Private premises is any dwelling, house, building, or other structure, designed or used either wholly or in part of private, commercial, industrial, or residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place is any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

Recreational vehicles and equipment when used in this article, the term "recreational equipment and vehicles" shall include:

- (1) Boats and boat trailers which shall include boats, jet skis, Sea-Doos, floats, rafts, and any other motorized or floatation equipment which may be used on the water, plus the normal equipment to transport the motorized or floatation equipment on the highway;
- (2) Folding tent trailer which is a folding structure, mounted on wheels and designed for travel and vacation use;
- (3) Motorized home which is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle;
- (4) Pick-up camper which is a structure designed primarily to be mounted on a pick-up or truck chassis, and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses;
- (5) Travel trailer which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer; or a movable or portable dwelling eight (8) feet or less in width by thirty-three (33) feet or less in length constructed to be towed on its own chassis and connected to utilities and designed without a permanent foundation for year-round living.
- (6) Horse (animal) trailer which is a structure, mounted on wheels and designed primarily to be used for the transportation of horses or other animals.
- (7) Utility trailer which is a vehicle used to transport motorcycles, snowmobiles, go-cats or stock cars;
- (8) Snowmobiles, stock cars, and go-carts;
- (9) Motorcycles, mopeds, dirt-bikes, dune buggies, or any other motorized two-wheel or four-wheel vehicle of the like which is designed for travel on the highway or off-road.

Rubbish means solid wastes consisting of both combustible and noncombustible wastes, such as paper, tin cans, aluminum cuttings, cardboard, glass, straw, shavings, barrels, lumber, paper cartons, rocks, lawn cuttings and trimmings. Materials used for the purpose of landscaping, such as bark, mulch, compost, and woodchips, shall be excluded from this definition.

Waste is the useless or worthless by-product of any process, industrial, biological, or otherwise. Waste, by way of illustration, but not of a limitation, shall include garbage, litter, and rubbish.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-144. Enforcement.

This article shall be enforced by the building official of the township and/or other such persons who shall be so assigned by the resolution of the township board.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-145. Business activities.

This article does not apply to inventory and the storage of materials and equipment incidental to and necessary for the carrying out of any business or occupation lawfully being carried on upon the property in question and shall not be determined to be a cause of blight or blighting factor provided all applicable township ordinances regarding outdoor storage are met.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-146. Storage of junk.

No owner, occupant or possessor of land in the township shall keep or permit to be kept at any two (2) times not less than four (4) days apart within any calendar month on such parcel any accumulation of junk thereon, unless the same is within a completely enclosed building.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-147. Storage of rubbish and garbage.

No owner, occupant or possessor of land in the township shall keep or permit to be kept at any two (2) times not less than four (4) days apart within any calendar month on such parcel any rubbish or garbage unless the same is kept within a closely covered can or other metal, plastic or rubber container designed for the same, and sufficient to prevent entry by rats, mice, and other feral animals.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-148. Storage of building materials.

The storage upon any property of building materials is prohibited unless there is a valid building permit issued in accordance with the regulations and time limits of the township for construction upon said property. Any accumulation of building materials shall be within a completely enclosed building, unless construction is being done on such premises and unless such materials are intended for use in connection with such construction.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-149. Vacant dwellings.

No owner, occupant or possessor of land in the township shall keep or permit to be kept any vacant dwelling or garage, or outbuilding unless the same is kept securely locked, windows kept glazed and otherwise protected to prevent entrance thereto by any unauthorized person, or entrance thereto by rats, mice and other feral animals.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-150. Deteriorated dwellings.

No owner, occupant or possessor of land in the township shall keep or permit to be kept any structure which, because of fire, wind or other natural disaster or physical deterioration, is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-151. Partially completed structures.

No owner, occupant or possessor of land in the township shall keep or permit to be kept any partially completed structure, unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the township, and unless exterior construction is completed within one (1) year after the issuance of such building permit.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-152. Inoperable motor vehicles, recreation vehicles and equipment.

The storage of an inoperable or an unlicensed motor vehicle, a recreation vehicle and equipment, upon any property, except as provided in subsections (a) through (c) of this section, shall be prohibited:

- (a) This subsection shall not apply to an inoperable or unlicensed motor vehicle, a recreation vehicle and equipment, or parts thereof, stored and located within a completely enclosed building or wholly enclosed structure.
- (b) This subsection shall not apply to an inoperable or unlicensed motor vehicle, a recreation vehicle and equipment, or parts thereof, owned by or in the possession of a commercial motor vehicle sales or services business or other similar businesses properly permitted and/or licensed by the Township and located on property owned or leased by the business.
- (c) This subsection shall not apply to any owner of record or lessee of the real property who is not the registered owner of the inoperable or unlicensed motor vehicle, and/or the recreational vehicle and equipment provided the owner of record or lessee:
 - (1) Gives written notification to the Township Building Official within ten (10) days of the date of a notice to remove the inoperable or unlicensed motor vehicle, recreational vehicle and equipment that is located on the property in question without the consent of the owner of record or the lessee; or
 - (2) Authorizes in writing the Township Building Official or other as approved by the board to remove the motor vehicle, recreational vehicle and equipment, pursuant to Section 252a of Public Act 300 of 1949 (MCL 257.252 a.).

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-153. Prima facie proof.

In any litigation arising under this article, testimony that any furniture, machinery, appliance, or parts thereof have been observed in the same place on at least two (2) separate dates at least four (4) days apart within any calendar month, shall constitute prima facie proof that such machinery, appliance or parts thereof are inoperable, unused, or unusable. Likewise, in any litigation arising under this article, testimony that any motor vehicle, or parts thereof have been observed in the same place for a period of thirty (30) consecutive days shall constitute prima facie proof that such motor vehicle or parts thereof are inoperable, unused, or unusable.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-154. Declaration of nuisance.

Any violation of any provision of this article is hereby declared to be a nuisance per se. Any township official may petition a court of competent jurisdiction to order such nuisance abated and owner and/or agent in charge of such dwelling, building, structure, tent, trailer, mobile home or land can be adjudged of maintaining a nuisance per se and the same may be abated by order of any court of competent jurisdiction.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-155. Notice of violation.

Whenever there exists upon a parcel the storage of junk, rubbish, garbage or building materials, or the maintenance of a vacant, deteriorated or partially completed structure, or any other thing or condition which under the terms of this article would endanger the economic structure, public health, safety and welfare upon which the public good depends, the township building official and/or other authorized official of the township shall serve written notice of the existence of such condition upon the owner, if possible, and/or the occupant of that parcel. Such notice shall be served personally or by first class mail.

(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-156. Correction of violation.

- (a) Upon the receipt of a notice of violation of this article, the person notified shall have ten (10) days from the service of the notice to eliminate the condition. Additional time may be granted by the enforcement officer if bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.
- (b) Failure of the owner or occupant to eliminate the conditions specified in the notice within the time allowed shall constitute a violation of this article. Each day that there is such failure to comply shall constitute a separate offense.
- (c) Violation of this article shall be deemed a municipal civil infraction and shall be punishable by the fine schedule set forth in the municipal civil infractions ordinance as restated herein:
 - (1) First offense: One hundred dollars (\$100.00).
 - (2) First repeat offense: two hundred fifty dollars (\$250.00).
 - (3) Second (or any subsequent) repeat offense: five hundred dollars (\$500.00).

In addition, the township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article.

(Supp. No. 19)

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(Ord. No. 04-17, § 2, 7-24-17)

Sec. 5-157. Severability.

If any section, subsection, sentence, clause, phrase, or portion of the ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 04-17, § 2, 7-24-17)

Secs. 5-158—5-170. Reserved.

ARTICLE VI. RESERVED¹²

Secs. 5-171—5-190. Reserved.

ARTICLE VII. EMERGENCY ACCESS LOCK BOX

Sec. 5-191. Purpose.

Experience shows when fires or other emergencies occur in locked buildings, the Berlin Charter Township Fire Department (the "department") is faced with the difficult task of gaining entry into the buildings. Entry into the buildings in some cases must be made by force, which is time consuming and may cause unnecessary damage. In some cases valuable time is wasted waiting for a key holder to arrive on the scene.

(Ord. No. 01-09, § 1, 10-3-09)

Sec. 5-192. General requirement.

The Berlin Charter Township Fire Department shall register for and approve a lock box system ("approved emergency access lock box" or "lock box") and have that information available to the public. An approved emergency access lock box shall be installed on the outside of all new buildings in the township. However, a lock box is not required to be installed on single-family and two-family dwellings, on multi-family dwellings which have no enclosed common areas (i.e., no lock box is required for a multi-family dwelling which consists entirely of individual dwellings), on agricultural buildings, or on accessory buildings related to those dwellings or buildings.

(Ord. No. 01-09, § 2, 10-3-09)

¹²Editor's note(s)—Ord. No. 01-17, § 3, adopted May 8, 2017, repealed article VI, §§ 5-171-5-176, which pertained to national electrical code and derived from Ord. No. 5-93-1, §§ 3—12, 1-10-94; Ord. No. 5-93, §§ 2—5, 9, 1-10-94; Ord. No. 2-97, §§ 2, 4, 5, 5-3-97.

Sec. 5-193. Renovated or expanded buildings.

If a building would be required by section 5-192 to have an approved emergency access lock box but for the fact that the building is not new, and if the building is thereafter expanded or otherwise renovated or repaired in a way which requires a building permit from the township, the building shall at that time be equipped with an approved emergency access lock box.

(Ord. No. 01-09, § 3, 10-3-09)

Sec. 5-194. Recommendation for existing buildings.

An approved emergency access lock box is recommended for all existing buildings in the township which are equipped with an automatic fire suppression system, an automatic fire detection system, or a medical emergency alarm system.

(Ord. No. 01-09, § 4, 10-3-09)

Sec. 5-195. Recommendation for additional buildings and structures.

An approved emergency access lock box is recommended for all buildings and structures in the township that will require access with a key during a fire or medical emergency or any other emergency situation.

(Ord. No. 01-09, § 5, 10-3-09)

Sec. 5-196. Written approval.

Whenever this article would require the installation of an approved emergency access lock box, written approval of a proposed emergency access lock box shall be obtained from the department's fire chief or the fire chief's designee or the township building official before an emergency access lock box is installed.

(Ord. No. 01-09, § 6, 10-3-09)

Sec. 5-197. Occupancy permit.

No occupancy permit shall be issued for any building in the township which is required to have an approved emergency access lock box until such a lock box has been installed for that building.

(Ord. No. 01-09, § 7, 10-3-09)

Sec. 5-198. Responsibility.

It shall be the responsibility of the owner, lessee, tenant, occupant or other party in control of a building, jointly or severally, to assume all costs and obligations associated with the purchase and installation of an approved emergency access lock box required by this article. Further, they shall all, jointly or severally, be responsible to maintain the lock box in good condition, and to ensure that all keys and information in the lock box are correct.

(Ord. No. 01-09, § 8, 10-3-09)

Sec. 5-199. Inspection.

The department or township building official will have the right to periodically inspect property in the township for: (A) Proper maintenance of the lock box; (B) Visibility of the lock box; (C) Accessibility of the Lock Box; and (D) Proper contents of the lock box.

(Ord. No. 01-09, § 9, 10-3-09)

Sec. 5-200. Location.

An approved emergency access lock box required by this article shall be installed on the outside of the building or structure, in a location approved by the department's fire chief or the fire chief's designee or the township building official. Written approval of a proposed location for a lock box shall be obtained from the fire chief or the fire chief's designee or building official before a lock box is installed.

(Ord. No. 01-09, § 10, 10-3-09)

Sec. 5-201. Contents.

The contents of an approved emergency access lock box shall include all of the following, unless any of the items are deemed unnecessary by the department's fire chief or the fire chief's designee:

- (a) Keys to the building or structure, including keys to the exterior and interior doors, except for the doors to individual residences within a multi-family building (if a master key is available, then it shall be provided to eliminate multiple keys);
- (b) Keys to mechanical and equipment rooms;
- (c) Keys to elevator controls;
- (d) Keys to specific areas as required and deemed necessary by the fire chief or the fire chief's designee;
- (e) Keys necessary for the control of a fire protection system; and
- (f) A list of names and contact numbers of three people familiar with the building or structure who may be contacted in an emergency.

(Ord. No. 01-09, § 11, 10-3-09)

Sec. 5-202. Penalty.

Any violation of the provisions of this article shall constitute a municipal civil infraction, which shall be punishable by the imposition of a civil fine as follows:

- (a) The fine for any offense which is a first repeat offense shall be \$25.00, plus costs and other sanctions; and
- (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$50.00, plus costs and other sanctions.
- (c) Each day during which any violation continues shall be deemed a separate offense.

(Ord. No. 01-09, § 12, 10-3-09)

Chapter 6 CATV REGULATIONS

ARTICLE I. IN GENERAL¹³

Sec. 6-1. Definitions.

For the purposes of this article, [the following words and phrases shall have the meanings respectively ascribed to them by this section. All other words and phrases used in this article shall have the same meaning as defined in the Act and FCC rules.]

Act means the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385), and as may be amended from time to time.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR section 76.923.

Basic cable service means "basic service" as defined in the FCC rules, and any other cable television service which is subject to rate regulation by the township pursuant to the Act and the FCC rules.

FCC means the Federal Communications Commission.

FCC rules means all rules of the FCC promulgated from time to time pursuant to the Act.

Increase in rates means an increase in rates or a decrease in programming or customer services as provided in the FCC rules.

(Ord. No. 15-127, § 1, 9-20-93)

Sec. 6-2. Purpose; interpretation.

The purpose of this article is to: (a) adopt regulations consistent with the Act and the FCC rules with respect to basic cable service rate regulation, and (b) prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulations by the township. This article shall be implemented and interpreted consistent with the Act and FCC rules.

(Ord. No. 15-127, § 2, 9-20-93)

Sec. 6-3. Rate regulation promulgated by FCC.

In connection with the regulation of rates for basic cable service and associated equipment the township shall follow all FCC rules.

(Ord. No. 15-127, § 3, 9-20-93)

¹³Note(s)—See the editor's note to art. II.

Sec. 6-4. Filing; additional information; burden of proof.

- (a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC rules. The cable operator shall file ten (10) copies of the schedule or proposed increase with the schedule or proposed increase with the township clerk. For purposes of this article, the filing of the cable operator shall be deemed to have been made when at least ten (10) copies have been received by the township clerk. The township board may, by resolution or otherwise, adopt rules and regulations as allowed by law prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.
- (b) In addition to information and data required by rules and regulations of the township pursuant to subsection (a) above, a cable operator shall provide all information requested by the supervisor that is related and helpful in connection with the township's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The supervisor may establish reasonable deadlines for submission of the requested information and the cable operator shall comply with such deadlines.
- (c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC rules including, without limitation, 47 USC section 543 and 47 CFR sections 76.822 and 76.923.

(Ord. No. 15-127, § 4, 9-20-93)

Sec. 6-5. Proprietary information.

- (a) If this article, any rules or regulations adopted by the township pursuant to section 6-4(a), or any request for information pursuant to section 6-4(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the township determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act. The township shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, (1) where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the cable operator may seek review within five (5) working days of the denial in any appropriate forum. Release of the information will be stayed pending review.
- (b) Any interested party may file a request to inspect material withheld as proprietary with the township. The township shall weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.
- (c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR section 0.459.

(Ord. No. 15-127, § 5, 9-20-93)

Sec. 6-6. Public notice; initial review of rates.

Upon the filing of ten (10) copies of the schedule of rates or the proposed increase in rates pursuant to section 6-4(a) above, the township clerk shall publish a public notice in a newspaper of general circulation in the township which shall state that: (a) the filing has been received by the township clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and (b) interested parties are encouraged to submit written comments on the filing to the township clerk not later than seven (7) days after the public notice is published. The township clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the township board shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three (3) days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the township board, then the township clerk shall mail a copy of the report by first-class mail to the cable operator at least three (3) days before the meeting at which the township board shall first consider the schedule of rates or the proposed increase.

(Ord. No. 15-127, § 6, 9-20-93)

Sec. 6-7. Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after thirty (30) days from the date of filing under section 6-49(a) above unless the township board (or other properly authorized body or official) tolls the thirty-day deadline pursuant to 47 CFR section 76.933 by issuing a brief written order, by resolution or otherwise, within thirty (30) days of the date of filing. The township board may toll the thirty-day deadline for an additional ninety (90) days in cases not involving cost-of-service showings and for an additional one hundred fifty (150) days in cases involving cost-of-service showings.

(Ord. No. 15-127, § 7, 9-20-93)

Sec. 6-8. Public notice; hearing on basic cable service rates following tolling of thirty-day deadline.

If a written order has been issued pursuant to section 6-7 and 47 CFR section 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the township any additional information required or requested pursuant to section 6-4 of this article. In addition, the township board shall hold a public hearing to consider the comments of interested parties within the additional ninety-day or one hundred fifty-day period, as the case may be. The township clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the township which shall state: (a) the date, time, and place at which the hearing shall be held, (b) interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates, and (c) copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the clerk. The public notice shall be published not less than fifteen (15) days before the hearing. In addition, the township clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than fifteen (15) days before the hearing.

(Ord. No. 15-127, § 8, 9-20-93)

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Sec. 6-9. Staff or consultant report; written response.

Following the public hearing, the supervisor shall cause a report to be prepared for the township board which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the township board pursuant to section 6-10. The township clerk shall mail a copy of the report the cable operator by first-class mail not less than twenty (20) days before the township board acts under section 6-10. The cable operator may file a written response to the report with the township clerk. If at least ten (10) copies of the response are filed by the cable operator with the township clerk within ten (10) days after the report is mailed to the cable operator, the township clerk shall forward it to the township board.

(Ord. No. 15-127, § 9, 9-20-93)

Sec. 6-10. Rate decisions and orders.

The township board shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC rules. If the township board issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant of 47 CFR section 76.933. The order specified in this section shall be issued within ninety (90) days of the tolling order under section 6-7 in all cases not involving a cost-of-service showing. The order shall be issued within one hundred fifty (150) days after the tolling order under section 6-7 in all cases involving a cost-of-service showing.

(Ord. No. 15-127, § 10, 9-20-93)

Sec. 6-11. Refunds; notice.

The township board may order a refund to subscribers as provided in 47 CFR section 76.942. Before the township board orders any refund to subscribers, the township clerk shall give at least seven (7) days written notice to the cable operator by first-class mail of the date, time, and place at which the township board shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the township board.

(Ord. No. 15-127, § 11, 9-20-93)

Sec. 6-12. Written decisions; public notice.

Any order of the township board pursuant to section 6-10 or section 6-11 shall be in writing, shall be effective upon adoption by the township board, and shall be deemed released to the public upon adoption. The clerk shall publish a public notice of any such written order in a newspaper of general circulation within the township which shall: (a) summarize the written decision, and (b) state that copies of the text of the written decision are available for inspection or copying from the office of the clerk. In addition, the township clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

(Ord. No. 15-127, § 12, 9-20-93)

Sec. 6-13. Rules and regulations.

In addition to rules promulgated pursuant to section 6-4, the township board may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC rules.

(Ord. No. 15-127, § 13, 9-20-93)

Sec. 6-14. Failure to give notice.

The failure of the township clerk to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the township board so long as there is substantial compliance with this article.

(Ord. No. 15-127, § 14, 9-20-93)

Sec. 6-15. Additional hearings.

In addition to the requirements of this article, the township board, may, in its sole discretion, hold additional public hearings upon such reasonable notice as the township board shall prescribe.

(Ord. No. 15-127, § 15, 9-20-93)

Sec. 6-16. Additional powers.

The township shall possess all powers conferred to by the Act, the FCC rules, the cable operator's franchise, and all other applicable laws. The powers exercise pursuant to the Act, the FCC rules, and this article shall be in addition to powers conferred by law or otherwise. The township may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. No. 15-127, § 16, 9-20-93)

Sec. 6-17. Failure to comply; remedies.

the township may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the township) for failure to comply with the Act, the FCC rules, any orders or determinations of the township pursuant to this article, any requirements of this article, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the township pursuant to this article, any requirements of this article, or any rules or regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. No. 15-127, § 17, 9-20-93)

Secs. 6-18—6-45. Reserved.

ARTICLE II. TELECOMMUNICATIONS IN THE PUBLIC RIGHTS-OF-WAY¹⁴

Sec. 6-46. Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of Michigan of 2002) ("Act") and other applicable law, and to ensure that the township qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. No. 07-02, § 1, 1-17-03)

Sec. 6-47. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. No. 07-02, § 2, 1-17-03)

Sec. 6-48. Definitions.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Right-of-Way Oversight Act (Act No. 48 of the Public Acts of Michigan of 2002), as amended from time to time.

MPSC means the Michigan Public Service Commission in the department of consumer and industry services, and shall have the same meaning as the term "commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of part I of title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064.47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

¹⁴Editor's note(s)—Ord. No. 07-02, §§ 1—20, adopted Jan. 13, 2003, did not specifically amend the Code; hence, its inclusion herein as Art. II was at the discretion of the editor. The existing provisions of Ch. 6 have been renumbered as Art. I.

Telecommunications provider, provider and telecommunications services mean those terms as defined in Section 102 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (c) A person providing broadband internet transport access service.

Township means Berlin Charter Township.

Township board means the township board of Berlin Charter Township or its designee. This section does not authorize delegation of any decision of function that is required by law to be made by the township board.

Township supervisor means the township supervisor or his or her designee.

(Ord. No. 07-02, § 3, 1-17-03)

Sec. 6-49. Permit required.

- (a) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the township for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one (1) copy of the application with the township clerk, one (1) copy with the township supervisor, and one (1) copy with the township attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as a part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, Act No. 442 of the Public Acts of Michigan of 1976, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of five hundred dollars (\$500.00).
- (e) *Additional information.* The township supervisor may request an applicant to submit such additional information which the township supervisor deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the township supervisor. If the township and the applicant cannot agree on the requirement of additional information requested by the township, the township or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (f) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the township under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2251 and authorizations or permits issued by the township to

telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.

- (g) *Existing providers.* Pursuant to Section 5(3) of the Act, within one hundred eighty (180) days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the township as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2251, shall submit to the township an application for a permit in accordance with the requirements of this article. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the five-hundred-dollar application fee required under subsection (c) above. A provider under this subsection shall be given up to an additional one hundred eighty (180) days to submit the permit application if allowed by the authority, as provided in Section 5(4) of the Act.

(Ord. No. 07-02, § 4, 1-17-03)

Sec. 6-50. Issuance of permit.

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the township supervisor. Pursuant to Section 15(3) of the Act, the township supervisor shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under section 6-494(b) of this article for access to a public right-of-way within the township. Pursuant to Section 6(6) of the Act, the township supervisor shall notify the MPSC when the township supervisor has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The township supervisor shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for permit is approved, the township supervisor shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (c) *Conditions.* Pursuant to Section 15(4) of the Act, the township supervisor may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the township supervisor may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 07-02, § 5, 1-17-03)

Sec. 6-51. Conduit or utility poles.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 07-02, § 6, 1-17-03)

Sec. 6-52. Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within ninety (90) days after the substantial completion of construction of new telecommunications facilities in the township, submit route maps

showing the location of the telecommunications facilities to both the MPSC and to the township. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(Ord. No. 07-02, § 7, 1-17-03)

Sec. 6-53. Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 07-02, § 8, 1-17-03)

Sec. 6-54. Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the township set forth in subsection 6-49(d) above, a telecommunications provider with telecommunications facilities in the township's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. No. 07-02, § 9, 1-17-03)

Sec. 6-55. Modification of existing fees.

In compliance with the requirements of Section 13(1) of the Act, the township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceed the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the Act, the township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The township shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the township's policy and intent, and upon application by a provider or discovery by the township, shall be promptly refunded as having been charged in error.

(Ord. No. 07-02, § 10, 1-17-03)

Sec. 6-56. Savings clause.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under section 6-55 above shall be void from the date the modification was made.

(Ord. No. 07-02, § 11, 1-17-03)

Sec. 6-57. Use of funds.

Pursuant to Section 10(4) of the Act, all amounts received by the township from the authority shall be used by the township solely for rights-of-way related purposes.

(Ord. No. 07-02, § 12, 1-17-03)

Sec. 6-58. Annual report.

The township supervisor shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority, as required under Section 10(5) of the Act.

(Ord. No. 07-02, § 13, 1-17-03)

Sec. 6-59. Cable television operators.

Pursuant to Section 13(6) of the Act, the township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 07-02, § 14, 1-17-03)

Sec. 6-60. Existing rights.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the township may have under a permit issued by the township or under a contract between the township and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 07-02, § 15, 1-17-03)

Sec. 6-61. Compliance.

The township hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The township shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, Act No. 442 of the Public Acts of Michigan of 1976, MCL 15.231—215.246, as provided in section 6-49(c);
- (b) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with section 6-49(f);
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the five-hundred-dollar application fee, in accordance with section 6-49(g);
- (d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit to and usage of a public right-of-way within the township, in accordance with section 6-50(a);

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- (e) Notifying the MPSC when the township has granted or denied a permit, in accordance with section 6-50(a);
 - (f) Not unreasonably denying an application for a permit, in accordance with section 6-50(a);
 - (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 6-50(b);
 - (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 6-50(c);
 - (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 6-50(d);
 - (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 6-51;
 - (k) Providing each telecommunications provider affected by the township's right-of-way fees with a copy of this article, in accordance with section 6-55;
 - (l) Submitting an annual report to the authority, in accordance with section 6-58; and
 - (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 6-59.

(Ord. No. 07-02, § 16, 1-17-03)

Sec. 6-62. Reservation of police powers.

Pursuant to Section 15(2) of the Act, this article shall not limit the township's right to review and approve a telecommunications provider's access to and ongoing use of a public right-of-way or limit the township's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 07-02, § 17, 1-17-03)

Sec. 6-63. Authorized township officials.

The township supervisor or his or her designee is hereby designated as the authorized township official to issue misdemeanor citations and/or authorize complaints and warrants for violations of this article.

(Ord. No. 07-02, § 19, 1-17-03)

Sec. 6-64. Penalty.

Any person, firm or corporation violating any section of this article shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by being imprisoned in the county jail for not more than ninety (90) days, or both such fine and imprisonment at the discretion of the court. Each day of violation shall constitute a separate offense.

(Ord. No. 07-02, § 20, 1-17-03)

Chapter 6.5 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 6.5-1—6.5-25. Reserved.

ARTICLE II. EXTRACTIVE OPERATIONS¹⁵

Sec. 6.5-26. Definitions.

For the purposes of this division, [the following words and phrases shall have the meanings respectively ascribed to them by this section.]

Extractive operations means:

- (1) The removal of any topsoil, soil, sand, peat, marl, clay, gravel, stone, or similar material by cutting, digging, stripping, excavating, blasting or any other methods or processes, pneumatic or mechanical fracturing or drilling.
- (2) The processing, storage, loading and transportation of the above named materials.

Operational area means the total, entire area of all parcels of land upon which extractive operations are proposed and/or undertaken. "Operational area" may also be referred to as "the site."

Owner, applicant and/or operator means any person, firm, or corporation engaged in or who applied for a permit to engage in extractive operations whether individually, jointly or through subsidiaries, agents, employees, contractors or any person engaged in or controlling an extractive operation.

(Ord. No. 8-97, § 2, 12-14-97)

Sec. 6.5-27. Statement of purpose.

- (a) It is the purpose of this division to provide for extractive operations in a manner to insure the proper development and utilization of mineral resources existing within the township and to make proper provision for the present and future health, safety and welfare of the inhabitants of the township, development and growth of the township, to insure compatibility with immediate land uses and those land uses which may be affected by the extractive operation or the means of extractive operations and to preserve and provide public services and facilities which will be affected by extractive operations.
- (b) To this end, such development and utilization of the mineral resources of the township shall be subject to appropriate regulation, both as to the conduct of the extractive operation, and as to the reclamation of affected lands at the termination of each operation. It is the intent of this division that land subject to extractive operations shall, upon conclusion of such operations, be reclaimed and rendered environmentally

¹⁵Editor's note(s)—The provisions of Ord. No. 8-97, §§ 1—11, adopted Dec. 14, 1997, were not intended to amend Ch. 18, Art. XVI, Div. 2, and have been included herein as §§ 6.5-26—6.5-36 at the direction of the township.

Cross reference(s)—Extractive operations, § 18-356 et seq.

safe for one (1) or more of the uses permitted as principal uses within the various districts provided in this chapter.

(Ord. No. 8-97, § 1, 12-14-97)

Sec. 6.5-28. Application of division.

- (a) Extractive operations shall be subject to the specifications, regulations and standards of this division.
- (b) This division will not affect excavations for residential, commercial or industrial buildings pursuant to the township building code.

(Ord. No. 8-97, § 3, 12-14-97)

Sec. 6.5-29. Administration; permit required.

No extractive operations shall be conducted within the township until the requirements of all sections of this division have been included in an application for permit and such permit has been issued. No such extractive operation shall continue after suspension or revocation of such permit.

- (1) The following procedures shall be followed before establishing an extractive operation:
 - a. The owner, applicant and/or operator shall file an operational plan in accordance with the requirements of this division. This plan may be in the form of a plat or map, and shall carry evidence of review and approval if required by any county, state or federal agency of competent jurisdiction. The operational plan shall include the entire operational area.
 - b. The owner, applicant and/or operator shall file a reclamation and rehabilitation plan, subject to the requirements of this division and shall provide a financial guarantee in accordance with the requirements of this division.
 - c. The township planning commission shall review the operational and reclamation plans to ensure that the plans conform to the standards set forth in this division and make its recommendations to the township board.
 - d. The township board shall review the permit application and the recommendations of the planning commission. The township board's review shall consider the application to ensure compliance with the provisions of this division. The board shall either:
 - 1. Reject the application;
 - 2. Approve the application as submitted; or
 - 3. Approve the application with conditions.
- (2) After the issuance of a permit, the permit holder, owner, applicant and/or operator shall pay a sum of ten cents (\$0.10) per cubic yard of material removed from the site with a minimum monthly payment of one thousand dollars (\$1,000.00) or other amount which may be established by the township board by resolution from time to time. Annually, the township board shall review the established sum per cubic yard based on whether the Consumer Price Index (CPI) has increased or decreased by five (5) percent or more from the most recent date at which said sum was established. If the CPI has increased or decreased by five (5) percent or more from CPI since the most recent date at which said sum was established, the permit holder, owner, applicant and/or operator shall pay one cent (\$0.01) additional for each five (5) percent increase or one cent (\$0.01) less for each five (5) percent decrease. The permit holder, owner, applicant and/or operator shall have ninety (90) days after determination by the board

of cubic yard sum to request review of same by board. Such request shall be made through the township clerk.

- (3) Inspections for conformance to this division shall be as follows:
- a. Inspections shall be made of the operational area not less often than twice in each calendar year, or of sufficient frequency to insure compliance with the requirements of this division.
 - b. Any alleged violations shall be reported in writing to the township supervisor or ordinance enforcement officer. The alleged violation shall be forwarded, first class mail, with a demand for compliance, to the applicant and/or operator.
 - c. Failure on the part of the applicant and/or operator to correct the alleged violation within ten (10) days after such demand is made by the township shall be reason for revocation of the permit. Additional time for correction of the cited violation may be allowed upon submission to the township board of proof of good and sufficient cause by the owner, applicant and/or operator. Any condition which would cause an immediate danger to the health and safety of persons and/or property located within the township shall be cause for the township to immediately investigate said conditions, and if confirmed, would be cause to immediately suspend the extraction operation permit of the owner, applicant/operator and order an immediate cessation of all operations at the site.

(Ord. No. 8-97, § 5, 12-14-97)

Sec. 6.5-30. Application for permit.

- (a) An application for a special land use permit for extractive operations shall be submitted jointly on behalf of, and signed by, each person or entity having any interest in the land on which the use is to be located, including, but not limited to, all owners, applicants and/or operators and all lienholders (as those terms are defined in section 6.5-26 and subsection (b)(7), below). The application shall contain the sworn certificate of each such person or entity certifying as to the accuracy and completeness of each statement pertaining to it contained therein. The application shall not be eligible for consideration until it is in satisfactory form, has been duly executed, and has been submitted to the township clerk, accompanied by all necessary fees as provided in this division.
- (b) The application shall be made on forms provided by the township clerk and shall be accompanied by such documentation as is required to determine compliance with this division, but not less than the following:
 - (1) The name and address of each person or entity having any interest in the land (whether as owner, applicant and/or operator, tenant, optionee, vendor, vendee, or otherwise, vested or contingent, present or future, direct or indirect, but excluding any lienholder as defined in subsection (7), below, on which the use is to be located (all such persons and entities are hereinafter collectively referred to as the "principals"), together with a description of each principal's interest in the land.
 - (2) The name and address of each person or entity having any interest which confers, or will confer, any right of access, development, operation, or other right in the land on which the use is to be located, whether vested or contingent, and should include, but shall not be limited to, a person or entity that is a party to a lease, development agreement, operating agreement, or any other agreement which pertains to a mining or quarrying operation on the land on which the use is to be located, the removal of resources from the site, or contracting with others for any such activity (all such persons and entities are hereinafter collectively referred to as the "operators"), together with a description of each operator's interest.

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- (3) The name and address of each other person or entity having any interest in the land or in the development thereof or any operation thereon, together with a description of each of their respective interests in the land on which the use is to be located.
 - (4) All principals, all operators, and every other person or entity having any interest in the land or in the development or operation thereof, but not including any lienholder as defined in subsection (7), below, shall be collectively referred to in this division as the "owners, applicants and/or operators."
 - (5) Specification of the location, size and legal description of the land for which special land use approval is sought, together with any and all adjoining land in which any of the owners, applicants and/or operators and/or any person or entity affiliated with any of the owners, applicants and/or operators has any interest (whether as owner, applicant and/or operator, tenant, optionee, vendor, vendee, lienholder or otherwise; vested or contingent, present or future, direct or indirect).
 - (6) A record of title to the land described in subsection (5), above, prepared by a reputable title company satisfactory to the township certified as of a date not thirty (30) days prior to the date of application and disclosing all interests in the land on which the use is to be located, including but not limited to, the interests of each owner, applicant and/or operator and each lien or security interest with respect to any portion of such land.
 - (7) A statement in writing to be recorded in the form of a deed restriction or covenant running with the land signed by each holder of a lien or other security interest in any part of the land on which the use is to be located (all such persons and entities being hereinafter collectively referred to as "lienholders"), acknowledging the township's rights under this division and any special use permit with respect to the restoration of the land in accordance with any operations and restoration plan that may be entered into with respect to said land.
 - (8) The name, address and telephone number of one (1) person, firm or corporation designated by each owner, applicant and/or operator and each lienholder as agent for all for the purpose of receiving all notices, correspondence and communications in connection with this division.
 - (9) The name and address of the banking or savings and loan entity which is to issue the irrevocable letter of credit or other surety to be posted pursuant to this division, if applicable.
 - (10) A sworn statement that none of the owners, applicants and/or operators has defaulted on any bond posted to ensure performance in connection with any mining and/or construction activity, or if any of the owners, applicants and/or operators has defaulted on any such bond, a brief description of the circumstances surrounding the default, including the name of the surety, date of default and any remedial action which was taken.
 - (11) The name of each owner's, applicant's and/or operator's carrier for public liability and property damage insurance and policy limits thereof, together with current certificates of insurance for coverages required under this division.
 - (12) Vertical aerial photographs, enlarged to a scale of one (1) inch equals two hundred (200) feet, from original photographs at a negative scale no smaller than one (1) inch equals one thousand (1,000) feet. The area covered by the vertical aerial photographs shall include all land subject to the application; all contiguous land which is proposed to be used or has been used by any of the owners, applicants and/or operators for any extraction, treatment or storage; all roads which can provide access to any land involved in the proposed operation; all roads other than state trunklines which may be used to haul mined material; site topography and natural features including location of water courses within the planned mining area; boundary of the entire mining area and area of operation by courses and distance and all lands within one (1) mile of each of the aforementioned areas. Each such area or feature shall be delineated on the aerial photograph. All aerial photographs shall be taken not more than sixty (60) days prior to the date of the application of which they are a part.

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- (13) Twenty (20) copies of an identification and topographic survey, prepared by an engineer or surveyor licensed by the state to prepare such a survey, drawn to a scale of one (1) inch equals two hundred (200) feet with topographic contours drawn at two-foot intervals on U.S.G.S. datum. This survey shall include the boundary of the entire tract by courses and distances, all boundaries of the areas subject to the application, and the means of vehicular access to the proposed operation.
 - (14) Twenty (20) copies of an isopach survey or other comparable geologic data indicating the location of deposits to be mined and the basic data and collection methods upon which such survey is based. Elevations shall be based on U.S.G.S. datum.
 - (15) An estimate of the quantity of excavation on the site, the quality of resources to be excavated and the extent of resources on undeveloped land within one (1) mile of the site.
 - (16) A report by a qualified independent soil scientist, soil engineer, hydrologist, hydrogeologist or geologist regarding the surface water, the level of the water table and the size and location of existing and new water bodies on the site and within one (1) mile of the site. The report shall include an opinion as to each and every effect on the water table and private wells of property within the reasonably anticipated area of impact during and subsequent to the operation. The report shall also include an opinion as to whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a stable water level at the level or levels proposed as part of the operation, and that the same will not interfere with existing subterranean water or cause any harm or impairment to the general public. The report shall include a ground and surface water quality analysis based on samples taken not more than one (1) year prior to the date of the application of which the report is a part. The analysis shall be completed in accordance with engineering standards duly adopted by the township board. The report shall provide base line water quality and quantity data to be used in determining compliance with the requirements of this division.
 - (17) A detailed operations and restoration plan for the extraction of the natural resource deposits and restoration of the site. The plan shall:
 - a. Set forth in detail the arrangement and nature of all operations, including the quantity of each type of material to be removed and the machinery, equipment and methods to be used in the operation. The operations plan submitted pursuant to this subsection shall, in addition to other written detail required, be presented on a transparent overlay at the same scale as the vertical aerial photograph and be applied to the aerial photograph and delineating the following:
 1. The area of active excavation;
 2. The area requested for excavation;
 3. The area of active settling ponds and washing plant facilities;
 4. The area requested for settling ponds and washing facilities;
 5. The area of existing treatment facilities and sand and gravel storage;
 6. The area requested for treatment facilities and sand and gravel storage;
 7. The area of production facilities for resource-related industry;
 8. The area requested for production facilities for resource-related industry.
 - b. Set forth a detailed explanation as to routing of commercial vehicles and their size, weight and frequency of trips. If different routes will be used at different stages of the operation, a timetable for routing shall be included. The owner, applicant and/or operator shall submit these proposed routings to the township, affected adjoining townships, the county road commission and the state department of transportation for review of the physical and design capabilities of these routes to accommodate the potential traffic, including turning movements to and from the site at

all points of egress and ingress. A letter from each jurisdiction indicating their comments, shall be included as part of this application.

- c. Set forth in detail the types and amounts of explosives proposed to be used and the areas to be blasted.
- d. Set forth in detail the amount and source of water to be utilized in processing, and the anticipated means and location of dispersals of such water following use.
- e. Set forth in detail those features of the arrangement and nature of operations which will ensure that the operations have minimum negative impact on adjacent areas and on areas affected by the routing of trucks and other commercial vehicles.
- f. Set forth in detail the procedures to be employed to protect groundwater, water courses, water bodies and wetlands from contamination and erosion directly or indirectly caused by extraction and restoration activities. The procedures should include the use of monitoring wells and the periodic sampling of water courses and water bodies and the termination of mining activities if any of the periodic samplings indicate damage from contamination or erosion. Also set forth the remedial measures or procedures to be employed by the owner, applicant and/or operator should groundwater levels and/or wells within a two-mile radius of the site be contaminated or detrimentally affected.
- g. Set forth in detail the procedure to protect groundwater levels and the direction and flow rates of subsurface aquifers. Methods for the disposition by controlled flow or controlled drainage of any excess water into existing drains or water courses shall be specified. Methods shall be such that the facilities of such drain and/or water course shall not be unduly burdened by the introduction of the additional drainage. Procedures should include the use of monitoring wells at the perimeter of the property and the termination of mining activities if monitoring wells indicate that impacts on groundwater could result in significant draw down of existing wells or the region's water table. Also set forth the remedial measures or procedures to be employed by the applicant should groundwater levels and/or wells be drawdown within a two-mile radius of the site.
- h. Set forth in detail a timetable for each stage of the operation and a plan for restoration in one (1) or more phases. The restoration plan shall specify:
 - 1. The use or uses to which each restored area will be put;
 - 2. The dates by which areas will be restored, as interim restored areas and final restored areas;
 - 3. The restoration topograph drawn as contours at an interval of two (2) feet on U.S.G.S. datum;
 - 4. The location of water bodies and other major physical features;
 - 5. The location of areas to be partitioned or subdivided, and the proposed layout of such areas;
 - 6. The methods and materials proposed for reclamation including topsoiling and the amount and type of planting;
 - 7. Roads and other improvements to be made on the site;
 - 8. A plan for disposal or treatment of any harmful or toxic materials found in any foundations penetrated by the mining operation or produced during the processing of minerals on the affected land and of chemicals or materials used during the mining or processing operations;

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9. The estimated cost of reclamation for the total project;
 10. A description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount and type of planting shall be filed as part of the restoration plan. A letter from the county agricultural agent indicating his comments shall be included as part of this application.
- (c) The application for approval of a mining special land use may be accompanied by an application for a change in the zoning designation of the subject property, provided all applicable requirements for a zoning change are met.
 - (d) The owners, applicants and/or operators shall be responsible for payment of all application fees, including but not limited to all costs incurred by the township in reviewing and evaluating the application, as provided in this division. The application shall be accompanied by a deposit against the application fee, which fee shall be in an amount sufficient to cover all costs of the township associated with review of the application. Such costs may include, but shall not be limited to, costs of providing required public notice and thorough independent, professional technical reviews of all issues pertinent to consideration of the application. Technical reviews shall address such issues as land use impacts, land value impacts, traffic flow and traffic safety impacts, water quality impacts, other natural resource impacts, compliance enforcement problems, land restoration costs and other technical issues. Independent technical reviews shall be prepared by appropriately qualified independent professionals to a level of detail appropriate to the proposed mining operation. The township board shall from time to time establish by resolution the amount of the application fee deposit for each application, on a case-by-case basis.
 - (e) Travel routes for trucks entering and leaving the pit shall be shown on a map of the township at the time of application for the special land use permit. Whenever practicable, truck routes shall avoid residential areas. These routes must be submitted to, and have the written approval of, the county road commission and the township board prior to the issuance of an extractive permit.

(Ord. No. 8-97, § 4, 12-14-97)

Sec. 6.5-31. Extractive area, bulk requirements and proximity to other uses.

- (a) There shall not be more than one (1) entranceway/exitway from a public road to the operational area. The restriction may be waived by the township board in its discretion after consideration of traffic patterns, traffic control devices, and other traffic factors. The township board may require more than one (1) entranceway taking into account such traffic factors.
- (b) On such site, no digging, stockpiling, excavating or equipment storage and/or repair shall take place closer than one hundred (100) feet from any lot line and three hundred (300) feet from any existing residential use, business use, recreational use or the center line of any public road. Stockpiles of stripped topsoil shall be located on the site so as to prevent erosion onto rights-of-way, waterways and roadways within the site.
- (c) The township board finds and determines that unpaved internal roads cause nuisance to adjoining properties because they cause airborne dust. Therefore, on such site, all roads, driveways, parking lots and loading and unloading areas shall be paved in a manner adequate to bear the projected loads according to accepted engineering standards. If an alternative method of controlling airborne dust is acceptable to and approved by the township board, the paving requirement may be waived by the board. This requirement does not apply to roads, driveways, parking lots, loading and unloading areas which are subsurface.
- (d) All fixed equipment and machinery shall be located at least two hundred and fifty (250) feet from any lot line and five hundred (500) feet from any existing residential use, business use or recreational use.

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- (1) In the event the use of any land within five hundred (500) feet of such equipment or machinery shall be changed to a residential use, business use or recreational use subsequent to the operation of such equipment or machinery, the operation of such equipment or machinery may continue henceforth but in no case shall continue less than two hundred and fifty (250) feet from any lot line adjacent to such residential use, business use or recreational use.
 - (2) A fence of not less than seven (7) feet in height shall be erected around the periphery of the total operational area. Fences shall be sufficient to prevent trespass and signs shall be posted at frequent intervals not to be greater than two hundred (200) feet apart with a written statement to inform the public of the nature of the facility. The township board may require such other fencing as is necessary to protect the health, safety and welfare of the township.
 - (3) On any lot line adjoining a residential use, business use or recreational use, a barrier of a type to be approved by the planning commission, in addition to the fence, shall be required in order to screen the area from noise and visual intrusions and/or debris and dust generated by extractive operations.
 - (4) The township board may require or restrict excavation so as to ensure creation of a safe swimming/wading area in the event that the restoration plan calls for the existence of a lake. The township board shall consider water table elevations in determining appropriate slopes.
- (e) The permanent processing plant and its accessory structures shall not be closer than two hundred and fifty (250) feet from any property line or public highway and five hundred (500) feet from any existing residential use, business use or recreational use.
- (f) Extractive operations shall not be permitted within one thousand (1,000) feet of the nearest property line of any existing church, place of worship or other religious facility, school, day nursery, state licensed child care facility, public building, nursing home, public library, public park or public playground.

(Ord. No. 8-97, § 6, 12-14-97)

Sec. 6.5-32. General requirements.

Extractive operations shall be carried out under the conditions of a permit issued and maintained under the following requirements:

- (1) Except by special consent from the township board, such extractive operations as defined in section 6.5-26 shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 noon on Saturdays. Blasting operations shall not be permitted on Sundays or legal holidays observed by the township.
- (2) Each operator shall be responsible to keep haul routes upon which trucks or other extractive equipment haul materials from its area of excavation in a driveable condition, and to keep the roads free from dust, spillage of material, dirt, rock, mud and any other debris carried onto the roads by said trucks or other equipment from the area of excavation. All exits and entranceways shall be hard surfaced and properly maintained in a hard surfaced condition so to limit the windborne dust on adjoining properties and public roads. Each operator shall comply in all other respects with rules, regulations, financial guarantees and other requirements of the county road commission.
- (3) Any noise, odors, smoke, fumes or dust generated on the site by any digging, excavating, loading or processing operation and borne or able to be borne by the wind shall, as much as is practicable, be confined within the lines of such lot as not to cause a nuisance or hazard on any adjoining lot or public road. All operations shall be in accordance with the standards established by the state department of environmental quality and the U.S. Environmental Protection Agency, or other governmental agencies having jurisdiction over the operation.

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- (4) Extractive operations shall be conducted so as to not cause the pollution of any material of any surface or subsurface, watercourse or body outside of the lines of the site on which such use shall be located, or of any existing body of water located within the premises, and in accordance with the standards established by the state department of environmental quality and U.S. Environmental Protection Agency or other governmental agency having jurisdiction over the operation.
 - (5) Extractive operations shall be conducted as to not cause or be likely to cause the erosion by water of any land outside of such site. Extractive operations shall be that such removal shall be conducted so as to not alter the drainage pattern of surface or subsurface waters on adjacent property. Operations shall be in conformance with the requirements of the local, state and federal agencies having jurisdiction over the operation. If the extractive operation shall cease to be conducted, it shall be the continuing responsibility of the applicant and the operator thereof to assure that no erosion or alteration of drainage pattern as specified in this subsection shall take place after the date of the cessation of operation.
 - (6) The potable water supply and sanitary sewage disposal systems, if public utilities are not available, shall be approved by the county health department before an extractive permit shall be issued.
 - (7) Whenever and wherever practicable, all areas within a quarry shall be rehabilitated progressively as they are worked out or abandoned to a condition toward conformance with the restoration and rehabilitation plan.
 - (8) Within sixty (60) days of issuance of an extraction permit and before any extraction operations shall commence, the operator shall perform a written certified pump test of all domestic wells within a rectangular distance of one (1) mile from the exterior perimeter of the operational area. Such tests shall determine the drawdown and the capacity of the well in gallons per minutes and other pertinent information determined by the expert. The costs of such tests shall be borne by the operator and the tests shall be performed by a qualified independent person or firm.

(Ord. No. 8-97, § 7, 12-14-97)

Sec. 6.5-33. Methods of extraction.

- (a) The owner, applicant and/or operator shall state, within the detailed site plan, the method of extraction to be used in the extraction operation. This shall include a complete inventory and analysis of the proposed level of noise, smoke, fumes, glares and odors which will be produced as a result of the method of extraction to be used.
- (b) In those instances where blasting is the method, or one (1) of the methods, of extraction to be used, the operation shall also be subject to the following regulations:
 - (1) Wherever and whenever blasting or the setting off of an explosive blast occurs within the township, where permitted, such blasting or setting off of an explosive blast shall be conducted in such manner that the maximum peak particle velocity in any one (1) of the three (3) mutually perpendicular components of ground motion (i.e. radial, transverse or vertical direction) resulting therefrom shall not exceed five tenths (0.5) inches per second and airblast or over pressure shall not exceed one hundred thirty-two (132) dB at or beyond the 400-foot permitted boundary nearest the point of blast.
 - (2) When ground vibration and/or airblast levels have been exceeded, the operator shall provide a certified seismograph reading to the township within thirty (30) days. The operator shall take immediate corrective action in blast designs, drilling, hole loading and field procedures to comply with the imposed maximum levels on subsequent blasts and provide documentation of such corrective action to the township.

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- (3) If the maximum levels should be exceeded more than two (2) times on any blasts during any six-month period or should the peak particle velocity at any one (1) time exceed two (2.0) inches per second, the operator shall immediately cease all blasting operations until detailed blast plans and procedures are submitted to the township for re-approval and to assure compliance with the maximum permitted levels.
 - (4) Blasting and the setting off of an explosive shall be restricted to between the hours of 10:00 a.m. and 4:00 p.m. on Monday through Friday, except in cases of extreme emergency. No blasting shall be permitted on Saturday, Sunday or legal holidays of the township. Any operator, blasting or setting off an explosive blast within the township, shall give the township notice prior to each blast of the fact that such blast will occur. Such prior notice must be given at such time as to allow the township a reasonable opportunity to monitor such blasting or setting off of an explosive blast to insure its compliance with the provisions of this division as determined by the board. The township may require an owner, applicant and/or operator to delay a scheduled blast up to forty-five (45) minutes to avoid simultaneous or near simultaneous blasting. The owner, applicant and/or operator shall be responsible for providing the services of an independent testing laboratory approved by the township, who shall provide adequate equipment for the purpose of monitoring the blast and shall be further required to maintain records prepared by an individual certified in the operation of such equipment and able to further attest to the accuracy of the blast monitoring records. Copies of these records shall be provided to the township.
 - (5) Each permit holder shall provide two (2) state-of-the-art seismograph machines. One (1) to be set up four hundred (400) feet from the permitted boundary, the other to be placed at the township's discretion.
 - (6) Within sixty (60) days of issuance of an extraction permit and before any extraction operations shall commence, the operator shall perform:
 - a. An audio-video survey of the interior and exterior of all buildings within one (1) mile from the exterior perimeter of the permitted area. The audio-video survey shall be performed by a person or firm experienced in this type of survey and recorded on one-half inch VHS video tape. The township shall be responsible for notifying the operator of newly erected buildings. The tapes shall be retained by the township. The cost of such audio-video survey and tapes shall be borne by the operator.
 - b. A building survey of all buildings located within the distance of one (1) mile from the exterior perimeter of the permitted area. The survey team shall make a written report and take photographs, if necessary in their opinion. The originals of the written reports and negative proofs of any photographs shall be retained by the township. The costs of the negative proofs shall be borne by the owner, applicant and/or operator. The owner, applicant and/or operator shall be obligated to perform similar surveys on buildings hereafter erected one (1) mile from the exterior perimeter of the permitted area of excavation. The township shall be responsible for notifying the operator of newly erected buildings.
 - c. A written certified pump test of all domestic wells within a rectangular distance of one (1) mile from the exterior perimeter of the permitted area. Such tests shall determine the drawdown and the capacity of the well in gallons per minutes and other pertinent information determined by the expert. The costs of such tests shall be borne by the operator and the tests shall be performed by a qualified independent person or firm.
 - (c) In order to assure compliance with this division, the township supervisor, engineer or other individual authorized by the township board shall have the right to enter upon any property in this township in which a permit for extractive operations has been issued without the consent of the applicant or occupant at such other reasonable times as may be necessary to ascertain whether this division is being complied with,

providing that such person first inform the manager or person in charge of such operations of his intent to enter upon the property stating where on such property he wishes to go and the reasons therefore. It shall be unlawful to prevent such entry made for the aforementioned purpose, providing the aforementioned requirements have been complied with.

- (d) The failure of the applicant and/or occupant or his agent to notify the township engineer, supervisor or other authorized individual of the name of the manager or persons in charge shall constitute a waiver of the requirement that the township representative shall first inform of his intent to enter upon the property. In any event, all blasting shall cease upon the order of the township supervisor, engineer or other individual authorized by the township board, upon his entry on the property.

(Ord. No. 8-97, § 8, 12-14-97)

Sec. 6.5-34. Reclamation and rehabilitation requirements.

- (a) The applicant shall file a detailed site plan at a scale of one (1) inch equals fifty (50) feet for restoring the site to a safe, attractive and usable condition. The plan shall be filed at the time of application for the extractive permit. The planning commission shall review the plan and make recommendations thereon in its report to the township board. The restoration plan shall provide the following information:
- (1) Boundary lines of the property to be used, volume of the fill materials and delineation of the areas to be filled including net acreage, dimensions and bearings of the property lines, correlated with the legal description.
 - (2) Location and extent of all natural features which shall be retained during mining operations where feasible, as determined in the course of review of the detailed site plan for operation.
 - (3) Contour lines at intervals of one (1) foot of the proposed, restored area, clearly showing connection to existing undisturbed contour lines.
 - (4) Schedule and areas of progressive rehabilitation.
 - (5) Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored area.
 - (6) Detailed written description of the proposed use of the site when restored.
 - (7) A description of methods and materials to be used in restoring the site.
 - (8) A proposal of intended improvements. Improvements means those features and actions associated with the project which are considered necessary by the township board to protect natural resources or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage.
- (b) The rehabilitation plan shall be in accordance with the following standards:
- (1) Any grading or backfilling of excavated areas shall be performed with nonnoxious, nontoxic, nonflammable, noncombustible, nondecomposable, nonradioactive materials and sanitary solids to insure:
 - a. That the backfilled area shall not collect stagnant water.
 - b. That the surface of such backfilled area is graded as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.

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- (2) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas, excepting areas where streets or other planned improvements are desired. Top soil shall be applied to a depth of four (4) inches.
 - (3) Vegetation shall be restored by the appropriate seeding of grasses and the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface, and to minimize erosion.
 - (4) Not more than forty (40) percent of any planned restoration shall take the form of a lake, pond or other form of open water.
- (c) Fertilizing and sowing of ground cover shall be done in an approved manner to insure growth.
 - (d) Trees of the hardwood species shall be planted at the number of four (4) trees per acre. All trees shall have a minimum diameter of three (3) inches at a grade level of one (1) foot above ground. All trees shall be planted balled, and planted in suitable soil conditions and shall be supported by wooden or steel supports to insure the stability of the tree during its initial growth period.
 - (e) Various species of shrubs of the evergreen variety shall be planted at the number of ten (10) per acre. Other species of shrubs may be used to prevent soil erosion, if approved by the township planning commission. All shrubs shall be of the species common to the local area.
 - (f) Upon cessation of mining operations by abandonment or otherwise, the owner, applicant and/or operator, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, buildings, stockpiles and equipment; provided that buildings and structures which have a function under the reclamation plan, and which can be lawfully used under the requirements of the zoning district in which they will be located under such a plan, may be retained.
 - (g) Unless commenced earlier during a progressive restoration plan per subsection 6.5-32(7) of this article, reclamation shall begin within twelve (12) months after cessation of extractive operations, by abandonment or otherwise. In all cases, restoration shall be completed within a time period specified in the reclamation plan as approved.
 - (h) The township board may require or restrict excavation so as to ensure creation of a safe swimming/wading area in the event that the restoration plan calls for the existence of a lake. The township board shall consider water table elevations in determining appropriate slopes.

(Ord. No. 8-97, § 9, 12-14-97)

Sec. 6.5-35. Financial guarantees.

- (a) The owner, applicant and/or operator shall provide an irrevocable bank letter of credit, in the form and amount specified below, to guarantee restoration of the site and certification of conformance to the standards and requirements for operation established herein by the township board. The letter running to the township shall be filed in the penal sum of twelve thousand dollars (\$12,000.00) for each acre or fraction thereof, included under the permit, whether disturbed or not, conditioned upon prompt and complete compliance with all the provisions of this chapter and any and all rules and regulations adopted by the township board pursuant thereto.
- (b) The owner, applicant, and/or operator shall be required to carry a liability insurance policy approved by the township board to cover property damage for surface and/or subsurface occurrences and bodily injury in an amount not less than five million dollars (\$5,000,000.00) and name the township, its elected and appointed officials as additional named insured. A certified copy of the policy shall be placed on file with the township clerk before a permit is issued.

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- (c) The owner, applicant and/or operator shall also provide a security bond as a guarantee of intent to maintain and replace county and township roads traversed by trucks associated with the mining operations. The security shall be deposited with the county road commission in the form and amount required by the road commission.
 - (d) The township board shall not approve a permit for any extractive operation until the board has received the planning commission's recommendation on the proposed application, and until the required letter of credit, bonds and insurance have been approved and provided.
 - (e) The owner, applicant and/or operator shall provide a cash deposit, certified check, or irrevocable bank letter of credit or surety bond acceptable to the township covering the estimated cost of improvements and reclamation. The same shall be deposited with the township clerk to insure faithful completion of the improvements and reclamation. The performance guarantee provided by this section shall be deposited at the time of the issuance of the permit.
 - (f) The letter(s) of credit, bonds and insurance required above shall be continuously renewed so as to remain in effect throughout the duration of the excavation operations and the completion of the rehabilitation and reclamation of the site. The township shall be sent any notice of intent to cancel such bonds or insurance within twenty (20) days before the cancellation thereof. Failure of the owner, applicant and/or operator or any person named in the application to maintain such bonds and insurance shall be cause for immediate cessation of operations and revocation of the permit.

(Ord. No. 8-97, § 10, 12-14-97)

Sec. 6.5-36. Enforcement and penalty.

- (a) *Municipal civil infraction.* Any person, firm, or corporation who shall engage in, authorize, direct or permit the violation of any provision of this division shall be responsible for a municipal civil infraction. Each day a violation continues shall be deemed a separate offense. The penalty for violation of this division shall be five hundred dollars (\$500.00). Any such fine unpaid after thirty (30) days shall result in the suspension of the extractive permit.
- (b) *Misdemeanor.* Any person, firm or corporation who shall engage in, authorize, direct, or permit the conducting of extractive operations after a permit has been revoked or after being required to cease all extractive operations in accordance with this division shall be guilty of a misdemeanor. Each day a violation continues shall be deemed a separate offense. The maximum penalty for a misdemeanor under this division shall be a fine of five hundred dollars (\$500.00) and/or ninety (90) days in the county jail in the discretion of the court.
- (c) *Enforcement.* The township supervisor and ordinance enforcement officer are given primary responsibility for enforcement of the provisions of this division and are hereby designated as the authorized individuals to issue municipal civil infractions citations and municipal civil infraction violation notices for violations of this division. The township board may appoint such other persons to enforce, or aid in the enforcement of the provisions of this division as the board shall find prudent and necessary.

(Ord. No. 8-97, § 11, 12-14-97)

Secs. 6.5-37—6.5-60. Reserved.

ARTICLE III. MINERAL EXTRACTION

Sec. 6.5-61. Title.

This [article] shall hereinafter be known and cited as Berlin Charter Township Mineral Extraction Ordinance.
(Ord. No. 05-16, § 1, 9-26-16)

Sec. 6.5-62. Purpose and authority.

- (a) *Purpose.* Berlin Charter Township recognizes that topsoil, soil, sand, peat, marl, clay, gravel, stone and other earthen deposits within the Township's boundaries are nonrenewable natural resources necessary and beneficial to the welfare of its inhabitants and the surrounding regional area.

To provide for the utilization of these resources in a manner compatible with nearby residential and agricultural uses, to protect human health and the environment, and to insure complete restoration for another land use at the conclusion of the extraction, it is necessary to regulate and provide procedures and standards for extraction of earthen materials and for the restoration of the land at the conclusion of the extractive operations.

It is the intent of this [article] that lands subject to extractive operations shall, upon conclusion of operations, be reclaimed and rendered fully useful for one (1) or more of the uses permitted as principal uses within the various districts provided in the Berlin Charter Township Zoning Ordinance.

These regulations are required because extraction operations and the related activities can disrupt or pollute the environment, impair the water quantity and quality, cause noise and dust nuisances, damage the roads, and create conditions that are dangerous to township residents. Completed mineral extraction operations, if unregulated, can leave land in a condition that is unsightly, polluting, or dangerous. It is in the township's interest to control cumulative impact within areas of the township, or the township as a whole, and to recognize there are limitations within the capacity of the land for this land use. The Township has the authority to regulate extraction operations to protect the public health, safety and welfare pursuant to P.A. 246 of 1945, as amended MCL 41.181, et seq and P.A. 359 of 1947, as amended, MCL 42.1 et seq. This [article] is enacted for the purpose of promoting the public health, safety, and welfare of the residents of the Township, to preserve the natural resources, and prevent the creation of nuisances and hazards to the public health, safety, and welfare.

- (b) *Authority.* Any person proposing to establish a mineral extraction operation after the effective date of this [article] shall be required to first obtain a mineral extraction license from the township under this [article]. The township board shall have the authority to review, approve, or deny application for a mineral extraction license to further the above purposes. The mineral extraction license shall be reviewed by the township board concurrently with the special land use application, which the township board shall consider based upon the requirements of this [article], the zoning ordinance and the special land use recommendation of the planning commission.

(Ord. No. 05-16, § 2, 9-26-16)

Sec. 6.5-63. Exemptions.

Applicability of ordinance. Subject to compliance with all other applicable statutes, ordinances, rules, and regulations, this [article] does not apply to the following:

- (a) Operations that involve the removal of one hundred (100) cubic yards or less of material per calendar year.
- (b) The usual and customary excavation associated with the construction of residential dwellings, commercial or industrial buildings, roads, wells, parking lots, sewer or water lines, sanitary land fills

and farm ponds, or similar uses, pursuant to the Berlin Charter Township Zoning Ordinance and Building Code.

- (c) The usual and customary balancing of land by cutting and filling on a site in preparation for a development approved by the township in accordance with all township ordinances and regulations. This exemption shall not permit the removal of more than one hundred (100) cubic yards of material from the site.
- (d) The ordinary and necessary grading of land for the tilling and cultivation of soils for the growing of crops and trees.
- (e) The usual and customary excavation of land in the public right-of-way, when associated with a public utility or public facility improvement.
- (f) Ponds excavated in accordance with section 18-323 of the zoning ordinance; provided the limits on the amount of materials that may be removed from the site specified in section 18-323 of the zoning ordinance are not exceeded.
- (g) Any mineral extraction operation that was in existence and otherwise lawfully operated on the effective date of this [article].

(Ord. No. 05-16, § 3, 9-26-16)

Sec. 6.5-64. Definitions.

When used in this [article], the following terms shall have the meaning associated with them:

Applicant/owner/operator. The terms "applicant", "owner", and "operator" shall include the tenants, lessees, agents, servants or assigns thereof.

Aquifer. A geological formation, group of formations or part of a formation, capable of yielding significant quantities of groundwater to wells or springs.

De-watering. The act of using a well or pump to remove water from a surface or subsurface area as a part of construction project, mining operation or any other operation involving surface or subsurface pumping removal of water.

Dry extraction. The removal or mining of earthen materials from an area which is situated above the water table and for which dewatering is not required.

Extraction. The extraction, mining, quarrying, excavation, or other removal or processing of sand, gravel, soil, minerals or any earthen material from any site.

Earthen deposits. Any naturally occurring material at the Earth's surface and subsurface which includes topsoil, peat, clay, sand and gravel, bedrock or other materials produced thereof.

Fines. Materials mined from the site passing the no. 200 mesh sieve opening as defined by the National Standard Sieve Size (ASTM-E11) that are a product of any extraction operations at the site.

Ground water. Water below the land surface within the zone of saturated soil or bedrock.

Water table. The surface between the zone of saturation and the zone of aeration; that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere.

Ground water monitoring. The collection of hydrogeologic data and representative water samples in order to measure the characteristics of the saturated zone.

Ground water recharge. The infiltration of water through the soil to the zone of saturation.

Ground water recharge area. Any area on the ground where soil permeability characteristics allow for the infiltration of water to the zone of saturation. While nearly all land areas provide for some degree of infiltration, soil types and subsurface geologic conditions in certain areas may provide for a higher rate of infiltration to the aquifer.

Hydrogeologic report. A document presenting and interpreting field information or published hydrogeologic conditions and predicting the potential impact on nearby or otherwise affected water and/or water features, including ground water.

Mineral extraction license/license. A license granted by Berlin Charter Township authorizing a licensee to extract earthen materials from land located in the township pursuant to the terms of this [article] and to the conditions set forth at the time of the granting of the license.

Operations. A process or action that is part of the mineral extraction process and includes the extraction, storing, processing or transportation of mined materials, as well as related activity necessary to facilitate mining, such as maintenance and restoration.

Overburden. Earthen materials situated below the layer of topsoil and above the materials to be extracted from the site.

Part 91. Soil erosion and sedimentation control requirements of the Natural Resources and Environmental Protection Act of 1994 PA 451 as amended, Part 91 Soil Erosion and Sedimentation Control.

Processing. The washing, sorting, crushing, aggregating, grinding, blending, mixing, conveying or cutting of extracted material from the extraction site.

Reclamation. Plans and activities which are intended to eliminate unsafe and hazardous conditions and to render a site compatible with future land use.

Sediment basin. A naturally occurring or constructed depression used for the sole purpose of capturing sediment during and after an earth change activity. This can be one (1) or more basins to trap sediment and water quality contaminants in the runoff.

Setback. Distances from house sites, property boundaries, road rights-of-way, wetlands and streams, which are not to be excavated, in order to protect private and public properties as well as natural features of the township.

Site. The entire real property or properties for which the extraction permit is issued, whether or not extraction is to occur on the entire real property(ies).

Surface runoff. Water that does not infiltrate into the soil, but instead flows across the ground surface.

Wetland. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh, and which is any of the following:

- (a) Contiguous to the Great Lakes or Lake St. Clair, and inland lake or pond, or a river or stream.
- (b) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream; and greater than five (5) acres in size;
- (c) Not contiguous to the Great Lakes, an inland lake or pond, or a river or stream, but within five hundred (500) feet of such water features, and five (5) acres or less in size if the department (MDEQ) determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the owner.

(Ord. No. 05-16, § 4, 9-26-16)

Sec. 6.5-65. License required; nature and limitations of license.

- (a) *License required.* It shall be unlawful for an owner, leaseholder, operator or any other persons or entities that own, manage, or otherwise occupy the site to establish any extraction operation without first having obtained a license as required by this [article].
- (b) *Licensing fees.* Licensing fees based upon tonnage of material to be removed will be established by the township board by resolution.
- (c) *Special land use.* It shall be unlawful for an owner, leaseholder, operator or any other persons or entities that own, manage, or otherwise occupy the site to establish an extraction operation without first having obtained a special land use permit in accordance with article XVI of the Berlin Charter Township Zoning Ordinance.
- (d) *Liability for compliance.* Any party having any interest in the land comprising the site, including the owner, leaseholder, and operator, or any other persons or entities who own, manage or otherwise occupy the site, shall be jointly and severally responsible for complying with the requirements of this [article] and for any violation of this [article]. Each party having any of the interest or interests mentioned above shall have the responsibility of taking all necessary precautions and actions to prevent any violation of this [article].
- (e) *Adherence to terms of license.* No person or entity to whom a mineral extraction license has been issued pursuant to this [article] shall engage in any activity on the site contrary to the terms of the license or contrary to the terms of this [article].
- (f) *Permits on file.* All required federal, state, and county permits shall be approved and on file with Berlin Charter Township prior to the commencement of any extraction activity on the site.
- (g) *Registration with state.* The applicant/operator/owner shall obtain all required licenses, and shall be registered to conduct business in the State of Michigan and provide proof thereof to the township.
- (h) *No other uses permitted by license.* A mineral extraction license does not constitute approval for other uses, including but not limited to on-site manufacturing operations of any nature, processing of material obtained from off-site, as well as asphalt, cement or other manufacturing operations of any nature. This shall not preclude the applicant/operator/owner from making application to the planning commission under the zoning ordinance for other uses that are permitted within the zoning district, subject to the procedures and requirements of the zoning ordinance.
- (i) *Transferability of license.* Any license for extraction operations issues pursuant to the ordinance shall be transferable by the licensee with prior township approval. Approval shall not be unreasonably withheld. Transfers include mergers, reorganization, or acquisition, and similar business actions.
- (j) *Below ground extraction.* Extraction of earth materials below the ground water elevation may be conducted if specifically approved by the township board and specified in the extraction license issued pursuant to this [article] and subject to such other terms and conditions deemed appropriate by the township board.
- (k) *Dewatering prohibited.* Mining methods shall not require permanent or on-going dewatering of the site.
- (l) *Term of license.* The term of the extraction license shall be the timeframe specified by the special land use permit, and is renewable subject to five (5) year compliance reviews in accordance with section 6.5-75 herein.
- (m) *Qualifications of experts.* This [article] references certain documents to be prepared by professionally qualified individuals such as geologists, engineers, architects, environmental scientists and surveyors. In all cases where such a professional is identified, that person shall hold all the necessary licenses, registrations, certificates, errors and omissions insurance and/or other such recordation necessary to practice in the State of Michigan.

(Ord. No. 05-16, § 5, 9-26-16)

Sec. 6.5-66. Applicant requirements.

- (a) *Preliminary presentation.* If applicant so desires, before making a formal application, applicants may appear before the township board at a regularly scheduled meeting to make a preliminary presentation on the conceptual nature of the proposed extraction activity. The board will provide the applicant with a copy of this [article], outlining the application process and license requirements.
- (b) *Pre-application conference.* Prior to submission of an application, the applicant must request and attend a pre-application conference with township officials to discuss licensing requirements and the application process and to pay a pre-application fee, as determined by resolution of the township board.
- (c) *Filing of application.* An original signed application for an extraction license shall be filed with the township clerk together with two (2) duplicate copies and a copy of the application in digital format.

(Ord. No. 05-16, § 6, 9-26-16)

Sec. 6.5-67. Application requirements.

- (a) *Identification of parties in interest.* A separate list of names, addresses, telephone number, fax number, and e-mail address of any and all persons, firms or corporations having the following interests shall be provided to the township:
 - (1) All applicants seeking a mineral extraction license and their interest in the property.
 - (2) Anyone having a legal or equitable interest in the property where the extractive operation is proposed.
 - (3) Anyone having an interest in the operation of the proposed extractive operation on the site and evidence of such interest.
 - (4) If any of the parties identified in any or all of the lists are entities such as corporations, limited liability companies or partnerships, copies of documents evidencing the formation of the entity and proof that the entity is in good standing with the State of Michigan shall be submitted.
- (b) *Consent of title holder.* If the applicant is anyone other than the fee title holder of the property, a written consent for the proposed mineral extraction executed by the legal titleholder is also required.
- (c) *Form of application and signature of applicant.* The applicant's signature and date shall appear on the first page of the application original and on all duplicates submitted to the township for review. In addition, each page of the complete application submittal shall include the original application date in the lower right-hand corner. If the application is subsequently amended, each replacement page shall bear, in the lower right-hand corner, the original application date and the date of submittal of the page revision. All applications shall be made in a loose leaf, three-ring binder in order to facilitate the replacement of pages.
- (d) *Application fees and escrow.* An application fee and an initial escrow deposit to cover the cost of processing the application, as determined by resolution of the township board, shall accompany each application.
- (e) *Licensing fees.* The first annual license fee, as determined by resolution of the township board as provided in subsection 6.5-65(b), shall accompany each application. If a license is approved, a subsequent fee is due on the anniversary date of the issuance of the license. The fee shall be held in escrow pending decision on granting the application. The annual fee shall remain payable on all acreage not yet restored.

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- (f) *Costs.* In addition to the basic application fee, applicants for a mineral extraction license shall pay the actual reasonable expenses incurred by the township in reviewing and/or relating to the application, pursuant to section 6.5-82 of this [article].
- (g) *Information and data required for an extraction license.*
- (1) *Survey.* A full legal description and drawing of the site, prepared by a licensed surveyor, showing:
- a. The number of acres on each portion of the site to be mined, and the location of all parcel boundaries on and within the extraction site.
 - b. Existing site improvements including buildings and structures, drives, wells, and drain fields.
 - c. All servient and beneficial easements, and all easements appurtenant to the property.
 - d. Existing topography survey of the existing conditions on-site and for a minimum of two hundred (200) feet off-site and contour intervals not less than of two (2) feet, obtained from an actual on-site land survey, unless at the pre-application conference the Township engineer deems that a survey interval of less than two (2) feet is necessary for review.
 - e. The location and dimensions of drives to and from the property, including abutting streets.
 - f. The location of all parcel boundaries of all adjoining or contiguous properties, and their structures, and identification of their current land use, current zoning district, and future land use as designated in the Township Master Plan.
- (2) *Site inventory map and assessment* prepared by a licensed surveyor or professional engineer, clearly showing the locations and types of existing man-made structures and natural features both on the proposed property and on areas within two hundred (200) feet from the site property lines. The drawing should delineate:
- a. Applicable setbacks for the site and from the extraction area, including any residential buildings or waterways within five hundred (500) feet of the site.
 - b. Tree fence rows, woodlands and wetlands and the extent of these lands, even if beyond the two hundred (200) foot margin above.
 - c. Watercourse stream banks, pond ordinary high-water marks, flood ways, and flood plains, where determinable from public and private records and/or when accessible to applicant as through aerial photographic interpretation.
 - d. Areas of hydric soils, highly permeable soils, ground water recharge areas and topographic slopes.
 - e. Landmark trees in the area(s) affected by mining should be located by numbered dots, with an accompanying database table of corresponding species and size listings. All trees eighteen (18) inches in diameter or larger will be considered landmark trees.
 - f. An initial flora catalog, i.e. plants species, in the area(s) affected by mining.
 - g. The location of all archaeological, historical, or features of cultural significance.
 - h. The site inventory should contain a written description of the quality, character, and health of the natural features, including but not limited to wetlands, surface waters, woodlands, historical features, and threatened and endangered species.
- (3) *Environmental impact statement*, based upon the site inventory map and assessment, shall be prepared by a qualified professional addressing impacts the operation will have on natural features, and flora and fauna, both on the site and adjacent lands, as well as any mitigation measures needed to eliminate or minimize these impacts. The statement should also address the following:

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- a. Noise and dust.
 - b. Drainage, erosion and sedimentation.
 - c. Views of the mining site from adjacent roads and properties.
 - d. Wetlands, flood ways, flood plains, and special habitats for fish and wildlife.
 - e. Potential impacts on surface waters, on ground water, and on aquifers.
 - f. Areas and features of historic, archeological and natural significance.
 - g. Traffic study, including truck traffic and access to and from the site.
 - h. Compatibility with adjacent land uses.
 - i. Any additional items that the Township's engineering or environmental consultant reasonably deem significant.
- (4) *Hydrogeological analysis*, prepared by a professional engineer or professional geologist with experience in hydrogeological studies. The analysis shall:
- a. Identify and describe existing characteristics of the watershed within one (1) mile of the boundaries of the tax parcel on which the permitted site exists. Characteristics include, but are not limited to:
 - 1. Surface drainage patterns, groundwater conditions, including flow directions and depth of water tables.
 - 2. Existing lakes and ponds, wetlands, rivers and streams including flood plains, flood ways and areas of seasonal water accumulation.
 - 3. Aquifer information, including any discharge and/or recharge areas, and a description of the methodology or means by which identification and location were determined.
 - 4. Establish the direction of groundwater movement by means of up-gradient and down-gradient monitoring wells, piezometers and as illustrated by cross sections.
 - 5. Present the stratigraphy of the mining area using cross sections, with sediment data derived from soil borings advanced to the depths of disturbance, including grain size analysis and estimates of the hydrologic conducting of major sediment layers.
 - b. For hydrogeologic features listed in subsection 6.5-67(g)(4)a.1.—5. that are on the site, the following is required:
 - 1. A delineated boundary describing both size and location.
 - 2. Assessment of the impact the proposed operation will have on these features.
 - 3. A copy of all test results and other data used for preparation of said report.
 - 4. Proposed monitoring devices, including types, locations, number, and specifications for devices to monitor impact of the proposed operation.
 - 5. When an extraction lake or pond is proposed, the applicant shall establish the background or base line water quality of any aquifer being affected. Once the lake or pond is created, the water quality of the water body must also be determined and compared to the background water quality of the affected aquifers.
 - c. When mining below the water table is proposed, the applicant shall install one (1) or more piezometers near the mining area in order to establish any vertical flow or piezometric pressure

of the ground water. Piezometric pressures within the ground water may lead to changes in the levels of the extraction lakes.

- d. Extraction lakes must not result in significant changes in the water quality and quantity. Hence, when mining results in the creation of one (1) or more extraction lakes or ponds, the applicant must demonstrate that the mining operation will not significantly affect up-gradient groundwater levels or down gradient groundwater flows or the water supply to adjacent wetlands or surface waters. In addition, operations at the site must not significantly affect the capability of extraction lakes to prevent flow through of the ground water.

(5) *Subsurface information:*

- a. *Physical features map*, prepared by a professional engineer or professional geologist. The extent, location and nature of all subsurface materials on the proposed extraction site are to be shown on a topological map including:
1. Estimated extent (outline) of deposit limits of extraction materials.
 2. Location by geographic coordinates and identification number of all excavation drill holes and drill logs and all other data or reports however embodied or obtained from excavation drill holes.
 3. Proposed location of observation wells, piezometers, flow meters, and any other monitoring stations.
- b. Report to include information about:
1. Depth of excavation drill holes and the claimed deposit of materials to be extracted from the site.
 2. Identification, location, and description of soil and mineral content, with soil boring logs representative of the site and an analysis of the subsurface materials. The township engineer and applicant's engineer shall confer and jointly determine the number of borings required and boring depths at the pre-application conference. In the event of a dispute, the engineers shall agree upon a third engineer from a reputable engineering firm to resolve the dispute.
 3. Ground water elevation, flow directions, and identification of aquifers.
 4. Estimated quantity of reserves at the site, and projected years of operation.
 5. Depth and estimated quantity of topsoil to be stripped.
 6. Depth and estimated quantity of overburden to be stripped and location of storage sites, if any.
- c. Isopach map with two (2) foot contour intervals, indicating the deposit extent and depth below existing surface elevations.

(6) *Monitoring controls.*

- a. *Monitoring wells.* A minimum of five (5) monitoring wells shall be installed according to the three-point method, constructed to requirements of the United States EPA, Michigan Department of Environmental Quality or Monroe County Environmental Health, and retained for future monitoring. The township engineer and applicant's engineer shall confer and jointly determine the required number and/or locations of monitoring wells.

These monitoring wells must be capable of detecting any significant ground water change. In the event of a dispute, the engineers shall agree upon a third engineer from a reputable engineering firm to resolve the dispute.

- b. *Domestic wells.* Prior to the issuance of any extraction license, the applicant shall be required to conduct, at no cost to affected well owners, a pre-extraction survey of each domestic well located within one (1) mile the site property line.
 - 1. The survey will consist of collecting baseline data from well logs, where available, measurement of water level and well depth and standard water quality testing measuring among other factors, including hardness, color, odor, pH, bacteria, nitrates, sulfates, petroleum, and total dissolved solids (tds).
 - 2. The survey will be limited to those domestic well owners who provide consent to the survey within thirty (30) days of receiving a certified letter request from the applicant.
 - 3. These tests shall determine the following baseline data for comparison with similar data to be monitored during extraction operations.
 - 4. Copies of existing well logs for all wells located within one (1) mile of the site.
 - c. *Groundwater testing* of all monitoring wells shall take place prior to commencing extraction operations to establish background water quality levels. Testing shall include:
 - 1. Static water level elevation, total dissolved solids (tds), water temperature, turbidity, specific conductance, pH, dissolved oxygen, redox potential, alkalinity, as well as the concentration level of the following: iron, manganese, magnesium, calcium, soluble phosphorus, nitrate nitrogen, ammonia, arsenic, lead, zinc, chloride, sodium, sulfate, phenols, and total petroleum hydrocarbons. If the total petroleum hydrocarbon levels exceed the detection (DL) limit, then VOC, SVOC, and MTBE must also be measured as well.
 - 2. For each aquifer within the extraction zone, the applicant is to provide a measure of hydraulic conductivity, aquifer flow direction, probable drawdown (based on a slug test or other measure), and probable recharge area.
 - 3. All laboratory testing shall be conducted in conformance with current applicable U.S. Environmental Protection Agency (EPA) test methods, and data shall be compared to maximum contaminant levels (MCL) as set by U.S. EPA.
 - 4. Operator could elect to install more groundwater monitoring wells in lieu of sampling the domestic wells annually. All of the above testing requirement will apply, if this alternative is chosen.
 - d. *Annual testing* shall be performed on domestic and monitoring wells in accordance with standards jointly established by the township's expert and the operator's expert taking into consideration the type and level of extractive activities which have taken place on the site during the preceding year.

The results of the testing shall be filed with the township supervisor within sixty (60) days of date of testing. The parameters listed in c.1., above, must be tested annually, and a comparison made with the baseline water quality data.
 - e. *Additional testing* may be required by the township to better assess any potential risks if concerns regarding water quality or quantity are raised by or uncovered in the annual testing.
- (7) A well complaint resolution program shall be prepared and submitted to the township, which specifies the procedures the applicant is committed to follow in resolving any domestic water well complaints, including:

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- a. Multiple points of contact, response times and methods.
 - b. Complaint evaluation and mitigation procedures, including reports to both the domestic well owner and the township.
 - c. The well complaint resolution program shall be applicable to properties that provide consent for the pre-extraction well survey.
 - d. If an analysis and evaluation of well complaints leads to the determination that an adverse impact is caused by the applicant's extraction operation, the applicant will replace the domestic water supply at the residence by the following, but not limited to, methods, at no cost to the homeowner:
 1. Repair or replace well components damaged by the extraction operation.
 2. Deepen the existing well or drill a replacement well.
 3. Provide another source of potable water for the residence as approved by the township and the homeowner.
- (8) *Operations plan.* An applicant prepared report describing the following:
- a. Earth handling equipment to be used on-site.
 - b. Excavation equipment.
 - c. Methods of excavating.
 - d. Methods of transporting material from extraction site to processing plant and/or offsite.
 - e. Processing plant height and area requirements.
 - f. Types of processing activities, such as screening, washing, crushing, settling of fines and blending.
 - g. Estimated quantity, use and disposal of fines.
 - h. Estimated number and size of settling ponds and sediment basins.
 - i. Estimated annual production of sand, gravel, and other minerals in cubic yards.
 - j. Estimated type, size and number of trucks hauling material from the site daily, during peak season and annually.
 - k. Fuel storage area requirements, if any.
 - l. Maintenance and storage area requirements.
 - m. Other structures and facilities to be constructed on-site.
 - n. Procedures for recording and handling complaints.
 - o. Dust control plan.
 - p. Roadway debris and mud control plan.
 - q. Proposed hours and days of operation.
 - r. Perimeter security plan.
- (9) *Mining plans* shall be prepared by a professional geologist or engineer, and shall illustrate the pattern, direction and phasing of earth moving, excavation, land shaping and reclamation activities. The plans shall be of sufficient detail so they can be used to assess the performance of the mine operation during any site inspection, including the following:

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- a. Location and description of entrance area, processing plant and support areas, and structures, including any weigh stations.
 - b. Lane widenings on public roads at intersections with drives.
 - c. Division of the site into a series of cells that illustrate the sequence of the proposed extraction activities.
 - d. Indicate the size of each cell and estimated dates each cell will be operative.
 - e. Sequence of clearing and grubbing, including a description of the disposal methods.
 - f. Sequence of construction and installation of facilities.
 - g. Sequence of stripping, placement and/or stockpiling of topsoil, including the area to be stripped.
 - h. Sequence of stripping, placement and/or stockpiling of overburden including the area to be stripped.
 - i. Sequence of extraction.
 - j. Property boundaries.
 - k. Set back lines and placement of berms, if any.
 - l. Location and type of materials for sound and visual screening of the site.
 - m. Location and operation of any check station or weigh stations.
 - n. Fence locations.
- (10) *Detailed reclamation plan* showing that the entire property will be left in a form for development with uses that are permitted in the district, relating the reuse to existing uses or probable uses for surrounding properties, and shall include the following elements:
- a. Proposed topography at contour intervals to provide adequate grading information, subject to the township engineer's recommendation at the pre-application meeting, with five (5) feet being the minimum.
 - b. Schedule of progressive rehabilitation.
 - 1. After mining is completed on one (1) specified area, quadrant, or cell, reclamation shall follow progressively in reasonable stages set forth in the plan before mining continues on other areas of the site. Extraction areas which are inactive for over one (1) year must be stabilized and slopes reduced to one (1) vertical foot to four (4) horizontal feet, if feasible.
 - 2. All rehabilitation activity shall be in compliance with soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 PA 451 as amended.
 - c. Proposed ground cover and other plantings to stabilize the soil surface and to beautify the restored area, as well as to protect from erosion and siltation.
 - d. Concept plan(s) for the proposed end use of the site when restored including a plan for residential use, drawn to scale, and prepared by a professional engineer, licensed architect, or licensed landscape architect. The concept plan shall include:
 - 1. The proposed circulation system, including the location of internal roads and connection to the external road network.
 - 2. Delineation of drainage patterns, identification of lakes, flood plains, wetlands, and conceptual layout of lots (if residential is proposed).

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3. The use proposed in the concept plan must be acceptable to the township board based on the recommendation of the planning commission and a review of the zoning district, township master plan, surrounding land uses, and site characteristics.
 4. A description of the provisions for obtaining necessary permits and approvals for the future use(s).
 5. A landfill or other disposal or refuse site will not be considered a suitable or satisfactory use.
- e. When the proposed future use, as deemed appropriate by the township board, includes residential units or other uses requiring the use of septic fields, the applicant shall provide a description of the construction and rehabilitation techniques that will be met, including:
1. A description of methods and materials to be used in restoring the site.
 2. The proposed date for completing all extraction operations and handling of all spoils and extraneous materials.
 3. The date for completing the final restoration.
 4. A list of all seeding and planting materials, which must be of native stock.
- (h) *Supporting documentation.*
- (1) *Haul route map.* An area map delineating the haul route to be used for the proposed operation. Haul routes except arterial streets or their equivalents shall not pass through residential areas. The Haul Route Map must be accompanied by written approval from the Monroe County Road Commission prior to the issuance of a mineral mining license, under the auspices of the Michigan Trunk Line Highway Systems Act, Act 51, P.A. 1951, as amended, or other governing agencies as applicable.
 - (2) *Dust control plan.* A control plan to alleviate dust resulting from the mining operation, which may include sweeping, paving, spraying water or calcium chloride, or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of road commission, and will be part of the soil erosion plan. This plan is to be reviewed annually by the township engineer or environmental consultant.
 - (3) *Mud control plan.* A control plan to alleviate mud and/or debris resulting from the mining operation, which may include sweeping, paving, spraying water or calcium chloride, or other best management practices. The plan shall include proposed management practices on both access roads and public roads, beyond normal maintenance of road commission(s), and will be part of the soil erosion plan.
 - (4) *Noise control plan.* A study and report prepared by a qualified professional estimating the noise levels at the property boundaries containing the extraction operation and at successive stages of the operation. This plan must contain mitigation measures to be implemented when noise levels exceed acceptable standards.
 - (5) *Soil erosion plan.* A site specific plan that will provide a complete description of all soil erosion measures, including but not limited to:
 - a. All erosion control strategies and control measures including but not limited to silt fences, vegetation screens, sediment basins, and settling ponds.
 - b. Locations of control measures particularly on all bare surfaces including steep slopes.
 - c. Time schedule and installation description for each control measure.
 - d. All temporary and permanent measures and maintenance to each, to maintain adequate control.

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- e. The plan is to conform to any and all requirements of the soil erosion and sedimentation requirements of the Environmental Protection Act, MCL 394.9101 et seq Natural Resources and Environmental Protection Act of 1994 PA 451 as amended.
- (6) *Pollution prevention plan.* A complete description of proposed pollution prevention materials based on National Fire Protection Association, State of Michigan or Monroe County Pollution Prevention laws. This plan must address any probable impacts from processors activities or on-site fuel or chemical storage.
 - (7) *Impact mitigation plan* to mitigate impacts resulting from mineral extraction, and the method by which complaints about any aspect of the facility operation or off-site transportation are to be received and resolved. This plan must set forth the procedures to address complaints regarding adverse impacts, including noise, fugitive dust, ground water changes, wetland loss and lighting.
 - (8) *Audio-video/building surveys.* Within sixty (60) days of the issuance of an extraction permit and before any extraction operations shall commence, the operator shall perform:
 - a. An audio-video survey of the interior and exterior of all buildings within one (1) mile from the exterior perimeter of the permitted area. The audio-video survey shall be performed by a person or firm experienced in this type of survey and recorded in a digital form. The township shall be responsible for notifying the operator of newly erected buildings. The digital copy shall be retained by the township. The cost of such audio-video survey and digital recordings shall be borne by the operator.
 - b. A building survey of all buildings located within the distance of one (1) mile from the exterior perimeter of the permitted area. The survey team shall make a written report and take photographs. The originals of the written reports and the digital copies of the photographs shall be retained by the township. The costs of the survey shall be borne by the operator. The operator shall be obligated to perform similar surveys on buildings hereafter erected one (1) mile from the exterior perimeter of the permitted area of excavation. The township shall be responsible for notifying the operator of newly erected buildings.
 - (9) *Permits.* A comprehensive list of all permits required for the proposed operation, copies of the application documents, and a schedule showing when they are to be renewed, including, but not limited to:
 - a. A copy of permit from the Michigan Department of Environmental Quality (DEQ), or written communication addressed to the Township from the DEQ indicating that a permit is not required for the proposed extraction or reclamation by any applicable statute granting the DEQ jurisdiction over the activity.
 - b. A Michigan State Fire Marshall permit for the on-site storage or transfer of fuels; or a written indication from the applicable agency that a permit is not required.
 - c. A copy of a storm water control permit from the United States Environmental Protection Agency (EPA) and any NPDES or wetland permit from the Michigan Department of Environmental Quality, PA 451 of 1994, Part 31.
- (i) *Indemnities.*
 - (1) A proposed surety bond, irrevocable bank letter of credit in satisfactory form, or security deposit in an amount sufficient to guarantee restoration of the site. In fixing the amount of the surety bond, the township board shall take into account:
 - a. The size and scope of the proposed excavation.

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- b. The probable cost of rehabilitating the premises upon default of the operator, as recommended by the Township engineer and/or consultant designated by the Township.
 - c. Estimated expenses to compel operator to comply by court decree.
 - d. Other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- (2) A proposed liability insurance policy of not less than five million dollars (\$5,000,000.00) per incident for all liability claims arising out of the site. The certificate of insurance shall provide that the Township must be given thirty (30) days prior written notice of cancellation of insurance. In case of cancellation, the license shall be suspended.
- (j) *Aerial photograph.* An aerial photograph of the entire site of oblique prospective, with a scale of not more than one (1) inch equals two hundred (200) feet, is to be submitted to the township each year as part of the annual report by the township engineer or by the environmental consultant.
- (k) *Extraction of samples.* At the time of any inspections, the township agents, representatives, independent consultants, and engineers are authorized to enter upon the property and may extract from the property small samples of water, soil and other materials as may be necessary to perform the evaluation.
- (Ord. No. 05-16, § 7, 9-26-16)

Sec. 6.5-68. Review of application by township board.

- (a) *Planning commission review.* Once a complete application is submitted, the application shall be reviewed under the site plan review and special land use procedures of the zoning ordinance. The planning commission will conduct a public hearing following the procedures of the zoning ordinance and make a recommendation to the township board to approve, approve with conditions or deny the application.
- (b) *Township board review.* Once the planning commission has made a recommendation, the application shall be forwarded to the township board for consideration for the following:
- (1) Conduct a detailed review of the application.
 - (2) Conduct a public hearing in accordance with section 6.5-83.
 - (3) Render a decision. A license shall only be granted where all of the following conditions are met:
 - a. The applicant can comply with this [article].
 - b. The proposed operation will not adversely affect the health, safety, and welfare of the residents of the township.
 - c. The proposed operation will not cause traffic hazards.
 - d. The proposed operation will not adversely affect the water table, water quality, or water supply of any surrounding land.
 - e. The site will be restored so it is safe and harmonious with the surrounding land uses.
 - f. The end use proposed in the reclamation plan is acceptable to the township board, based upon the commission's review of the township zoning ordinance, township master plan, surrounding land uses and site characteristics.
- (c) *Effect of denial.* An extraction license application denied by the township board may not be reapplied for, whether the same or modified application, for a period of twelve (12) months from the date of denial.

(Ord. No. 05-16, § 8, 9-26-16)

Sec. 6.5-69. Issuance of license.

- (a) *Issuance.* If an application is approved, the township board shall issue a mineral extraction license in duplicate upon receipt of the required fees, bond, irrevocable bank letter of credit, and/or security deposit, and proof of insurance from the applicant, in form approved by the township attorney.
- (b) *Distribution of copies.* One (1) duplicate original license will be provided to the applicant, and the other copy shall be attached to a copy of the approved application and accepted amendments and retained by the township clerk.

(Ord. No. 05-16, § 9, 9-26-16)

Sec. 6.5-70. Form of license.

- (a) *License contents.* The extraction license shall be prepared in duplicate originals and signed by the township supervisor and township clerk, after being approved by a majority of the township board, and shall contain the following:
 - (1) A full description of the operation, including all conditions and restrictions permitted by the license based on approved plans and drawings.
 - (2) A full description of the restored site based on the approved plans and drawings.
 - (3) The scheduled dates for the completion of the operations, each restoration stage, and completion of the restoration plans.
 - (4) The dates for which the license is valid based on the continual restoration schedule approved by the township board.
 - (5) An extraction license agreement signed by all parties having an interest in the land and/or operation, that they will comply with this [article] and the license, and that the parties will reimburse the township for all legal, engineering, consulting, and investigative costs incurred by the township in establishing any violations and for any enforcement action taken by the township.
 - (6) That township agents, representatives, independent consultants, and engineers are authorized to enter upon the property at any time for the purpose of inspection and may extract from the property small samples of water, soil and other materials as may be necessary to assure compliance.
 - (7) That the operation remains subject to:
 - a. Required inspections by the township engineer and/or other designated agents or officials of the township.
 - b. Payment of annual license fees.
 - c. Reimbursement for all township costs for monitoring to determine compliance with the license.
 - d. Renewal of the mineral extraction license every five (5) years.
 - (8) All required attachments to the application.

(Ord. No. 05-16, § 10, 9-26-16)

Sec. 6.5-71. Compliance by licensee.

All persons or firms engaged in the activity of mineral extraction shall comply with the following standards:

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- (1) *License required.* Operate only with a license issued under this [article] and only in compliance with the terms of the license and this [article].
 - (2) *Annual license fee.* Make payment to the township clerk for the annual license fee, as determined by resolution of the township board, on each anniversary date of the license.
 - (3) *Escrow account.*
 - a. An escrow account shall be established on each anniversary date of the license. The amount to be deposited into this account shall be determined by resolution of the township board. This escrow account shall be used for all reasonable costs and expenses incurred by the township or township consultants for inspections and/or monitoring and review to determine compliance, and enforcement.
 - b. Within thirty (30) days of the anniversary date of the license, the township shall provide the licensee an itemized statement of expenses paid for out of the escrow account during the preceding year.
 - c. In the event that the funds in the escrow account have not been exhausted at each anniversary date, the applicant shall re-establish the amount to the originally determined amount.
 - d. In the event that the funds in the escrow account are not sufficient to pay the costs and deficiency, within ten (10) calendar days of the date written notice is made by the expenses incurred by the township, the applicant shall reimburse the township for all costs, and if not so paid, the extraction license shall be deemed automatically suspended until such time as the deficiency is paid to the township. Further, at such time the escrow is depleted to less than one thousand dollars (\$1,000.00), applicant shall replenish the escrow to the original amount.

(Ord. No. 05-16, § 11, 9-26-16)

Sec. 6.5-72. Operation requirements.

- (a) *Hours of operation.*
 - (1) *Extractive and processing activities.* Extractive and processing activities shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 noon on Saturday.
 - (2) *Maintenance activities.* Maintenance activities shall be permitted only between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 7:00 a.m. and 6:00 p.m. on Saturday.
 - (3) *Transporting.* No transporting of aggregates or any materials from the site shall be permitted prior to 7:00 a.m. and after 6:00 p.m., Monday through Friday, and prior to 7:00 a.m. and after 12:00 p.m. on Saturday.
 - (4) *Sunday operations.* There shall be no extractive or processing or maintenance activities or transporting of aggregates permitted on Sundays or legal holidays. The holidays are New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas.
 - (5) *Emergency hours.* Permission for emergency hours of operation shall be granted only upon written request from the operator and by written agreement of the township supervisor. Details of the need for emergency hours shall be within the written agreement.
 - (6) *Blasting hours.* Blasting and the setting off of an explosive shall be restricted to between the hours of 10:00 a.m. and 2:00 p.m. on Monday through Friday, except in cases of extreme emergency. No blasting shall be permitted on Saturday, Sunday or legal holidays of the township. Any operator, blasting or setting off an explosive blast within the township, shall give the township notice prior to

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each blast of the fact that such blast will occur. Such prior notice must be given at such time as to allow the township a reasonable opportunity to monitor such blasting or setting off of an explosive blast to insure its compliance with the provisions provided herein as determined by the board. The township may require an owner, applicant and/or operator to delay a scheduled blast up to forty-five (45) minutes to avoid simultaneous or near simultaneous blasting. The owner, applicant and/or operator shall be responsible for providing the services of an independent testing laboratory approved by the township, who shall provide adequate equipment for the purpose of monitoring the blast and shall be further required to maintain records prepared by an individual certified in the operation of such equipment and able to further attest to the accuracy of the blast monitoring records. Copies of these records shall be provided to the township.

(b) *Methods of extraction.*

- (1) The owner, applicant and/or operator shall state, within the detailed site plan, the method of extraction to be used in the extraction operation. This shall include a complete inventory and analysis of the proposed level of noise, smoke, fumes, glares and odors which will be produced as a result of the method of extraction to be used.
- (2) In those instances where blasting is the method, or one (1) of the methods of extraction to be used, the operation shall also be subject to the following regulations:
 - a. Wherever and whenever blasting or the setting off of an explosive blast occurs within the township, where permitted, such blasting or setting off of an explosive blast shall be conducted in such manner that the maximum peak particle velocity in any one (1) of the three (3) mutually perpendicular components of ground motion (i.e. radial, transverse or vertical direction) shall not exceed one-half (0.5) inches per second as described below. Applicant shall monitor vibrations using seismographs at the nearest permanent structure to the blast and maintain vibrations below one-half (0.5) inches per second measured relative to corresponding frequencies and shall set vibration limits below the Z-Curve I Line highlighted on the blasting level chart at the nearest permanent structure.
 - b. When ground vibration and/or air blast levels have been exceeded, the operator shall provide a certified seismograph reading to the township within thirty (30) days. The operator shall take immediate corrective action in blast designs, drilling, hole loading and field procedures to comply with the imposed maximum levels on subsequent blasts and provide documentation of such corrective action to the township.
 - c. If the maximum levels should be exceeded more than two (2) times on any blasts during any (6) six-month period or should be peak particle velocity at any one (1) time exceed one-half (0.5) inch per second, the operator shall immediately cease all blasting operations until detailed blast plans and procedures are submitted to the township for re-approval and to assure compliance with the maximum permitted levels.
 - d. Each permit holder shall provide two (2) state-of-the-art seismograph machines. One (1) to be set up four hundred (400) feet from the permitted boundary, the other to be placed at the township's discretion.
 - e. If the applicant or permit holder is unable to comply with the provisions of subsection (b)(2)a. above for reasons due to the condition of the subject property, the applicant or permit holder may apply to the township board for a variance on such limit.

Such application shall set forth the basis for the request (which will not be financial) and which shall include a submission of scientific evidence as to the reasons that the blast limitations of subsection (b)(2)a. cannot be met on the subject property; evidence demonstrating to the township board that the enforcement of such requirements will result in the preclusion of the extraction of valuable natural resources by mining from the

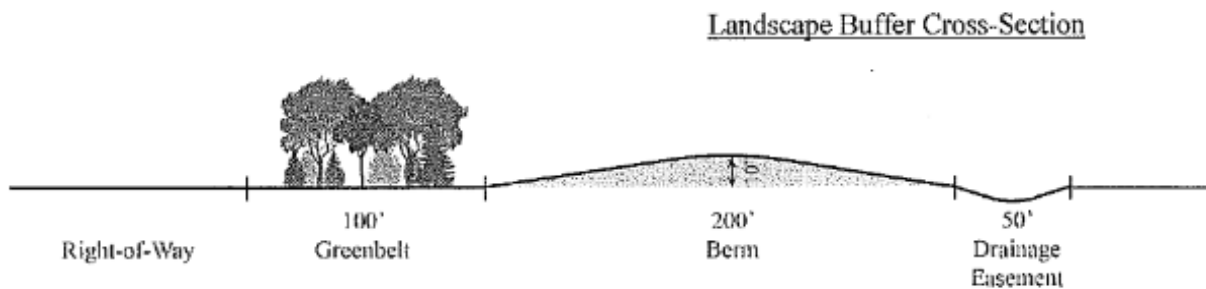
property; submission of the proposed adjusted blast limit that would maintain the lowest vibrations per second measured relative to corresponding frequencies and vibration limits below the Z-Curve I Line highlighted on the blasting level chart at the nearest permanent structure. Applicant must further demonstrate that no very serious consequences will result from the extraction by blasting at the limit proposed. If it is demonstrated and found by the township board (in consultation with its experts), that the limitation set forth in subsection (b)(2)a. has the effect of precluding the extraction of valuable natural resources by mining from the property, the township board shall grant relief from the limits of subsection (b)(2)a. of this [article] but only to the extent necessary to allow the mining and in no event in excess of two (2.0) inches per second measured relative to corresponding frequencies and shall set vibration limits below the Z-Curve I Line highlighted in the blasting level chart at the nearest permanent structure.

- (c) *Truck staging.* Truck staging may be permitted on site as part of the extraction operation. Trucks shall be turned off and shall only be turned on or idling during normal operating hours.
- (d) *No processing.* Other than as specified in the application and license, no processing of any nature, shall be conducted at any time on site.
- (e) *Machinery and building setbacks.* All machinery, equipment, and buildings and structures shall be located at least three hundred fifty (350) feet from any road right of way or lot line, and five hundred (500) feet from any stream, waterway, or wetland, or from any existing residence. The greater setback distance as described shall apply. The township board may approve the continued maintenance and use of facilities within the prescribed setback if they were installed and used prior to the date of this [article].
- (f) *Mining and stockpiling setbacks.* No extraction, processing, loading, weighing, stockpiling or other operations or equipment storage or repair shall take place closer than:
 - (1) Three hundred fifty (350) feet from any road right of way or the outer boundaries line of the permitted site(s),
 - (2) Five hundred (500) feet from any existing residence, unless the owner of the residential property requests a shorter setback, and
 - (3) Five hundred (500) feet from any stream, waterway, or wetland, unless otherwise permitted by the MDEQ or other state or federal regulatory agency.
- (g) The township board shall have the authority to reduce the required setbacks based on exceptional circumstances related to the property.
- (h) *Lateral support.* There shall be no extraction unless there is adequate lateral support for adjoining land, not subject to the permit, as determined by the township engineer.
- (i) *Stabilization of soil.* Stockpiles of soil to be used for the reclamation shall be stabilized by temporary or permanent measures or otherwise maintained as specified in approved soil erosion plan and/or soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 PA 451 as amended, Part 91 as defined.
- (j) *Natural drainage and ground water recharge.* The extraction operations and related activities shall not adversely affect the natural drainage of the other properties in the area nor shall there be a net loss of regulated wetlands or recharge area.
- (k) *Impact on water.* The operation shall be conducted so it will not cause any contamination, or adversely affect ground or surface water outside the site and shall be monitored by adequate monitoring wells and techniques for surface water (i.e. flow flume or equivalent method) as determined by the township.
- (l) *Noise, odors, smoke, fumes, or dust.* Any noise, odors, smoke, fumes, or dust generated on said site by any digging, excavating, loading or processing operation and borne, or apt to be borne by the wind, shall be confined so as not to cause a nuisance or hazard on any adjoining property or public road. The noise

generated by the operation shall not at any one (1) time exceed sixty-five (65) decibels ('a' scale) at the property line for a period longer than one (1) minute. (Equivalent noise).

- (m) *Landscaping.* Berms and landscaping shall be installed within all required building, machinery, mining and stockpiling setbacks and shall consist of the following (see Figure 12.13 below):
- (1) Earth berms constructed to a height of ten (10) feet above the mean elevation of the centerline of the adjacent public highway or the general level of the terrain along the interior property lines, whichever is higher. The berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass.
 - (2) Plantings shall consist of one (1) evergreen tree for every fifteen (15) feet within a greenbelt along the length of the landscape berm. The evergreen trees shall be a minimum five (5) foot tall at planting. To create a more natural appearance and provide landscape diversity, the township board may approve the substitution of deciduous trees for up to one-third ($\frac{1}{3}$) of the evergreen trees. Every effort will be extended to use species that are native to the surrounding area; invasive species are to be avoided.
 - (3) Berms installed for noise control or for sight screening shall be exempt from the stockpile restrictions in setback areas.
 - (4) An easement area for site drainage shall also be provided within the required setback areas.

[Figure 12.13]



- (n) *Fencing.* The applicant shall erect a (7) seven-foot chain link fence, or equivalent fencing, with gates, completely surrounding the permitted site, including haul routes from the extraction area. Gates shall be kept locked during non operation hours. The integrity of the fence shall be verified not less than weekly. Any repairs shall be made immediately.
- (o) *Exterior lighting.* All exterior lighting shall be downward directed with full cut-off shielding and shall be installed as required by Section 18-312 of the Berlin Township Zoning Ordinance.
- (p) *Posting of signs.* The owner or operator shall place appropriate "Danger Keep-Out" signs around said premises not more than two hundred (200) feet apart.
- (q) *Grading of non-mined areas.* All portions of the site not currently being actively mined (except required berms) shall be graded so that the slopes are not steeper than one (1) foot vertical for each four (4) feet horizontal and protected with temporary control measures per the approved soil erosion plan and/or soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 — P.A. 451 as amended, Part 91 as defined. Should additional measures be required to provide proper control of erosion and sedimentation, they will be installed.
- (r) *Storage of hazardous materials.* All fuels, chemicals and other hazardous materials to be contained on-site shall be noted in the application, including material, quantity, use, and method of primary and secondary containment.

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- (1) All containment structures or devices shall be designed and operated to prevent ground water pollution. Secondary containment facilities for fuels, waste oil, explosives or dust control chemicals are to have roofs.
 - (2) The applicant shall also provide a written spill response plan and reports procedure, in the event a hazardous materials spill occurs on-site. Said landscape buffer cross-section plan shall indicate how any and all contaminated material will be collected and disposed.
 - (3) The operations shall minimize on-site storage of these materials.
- (s) *Equipment storage.* Only equipment or vehicles owned or leased by the operator shall be stored on the site overnight.
 - (t) *Washing vehicles.* The license plates, brake lights, turn signals and wheels of each truck and trailer shall be washed or wiped clean before leaving the site on each trip.
 - (u) *Truck routes.* The applicant/owner/operator shall notify all trucks entering the permitted site on the appropriate truck routes specified on the license and will use best efforts to obtain compliance with this provision.
 - (v) *Mud, debris and dust control.* The owner and/or operator shall be responsible for adequately treating against dust/mud, and improving and maintaining, beyond Monroe County Road Commission responsibility, the public roads, bridges and culverts directly servicing the site, as necessitated by the truck traffic over the haul route to or from the site.
 - (w) *Public roads.* Public roads regularly used for hauling shall be maintained in a reasonably dust free manner either by a regular application of a dust suppressant or if hard surface, by sweeper collector unit.
 - (x) *Ingress and egress roads.* Roads used for ingress and egress for the extraction operation that are located within five hundred (500) feet of occupied residences shall be kept dust free by:
 - (1) Hardtopping with a concrete or bituminous substance.
 - (2) The regular spraying of water and/or calcium chloride.
 - (3) If a concrete or bituminous surface is created, a street sweeper must be on-site and used as often as necessary to control dust and debris.
 - (y) *Access to site.*
 - (1) There shall not be more than one (1) entranceway from a public road, except for emergency access provisions.
 - (2) The entranceway shall be located in an area designed to minimize traffic congestion and shall be approved by the Monroe County Road Commission or other governing agency, as applicable.
 - (3) Any mineral extraction operation site which permits the removal of more than fifty thousand (50,000) tons of material per year shall have truck access directly onto a county designated route/all season roadway, as designated by the Monroe County Road Commission that connects to a state roadway.
 - (z) *Load tickets.* Maintain a record or copy of the load ticket for each truck departing with extracted minerals from the site. These records must include driver and truck/trailer identification, date, time, the type and weight of the load. These records must be maintained by the operator and the township shall be provided with monthly and annual summary reports. The summary reports shall state the gross tonnage being hauled from the site and the number of vehicles per day visiting the site. Load tickets must be made available to the township's attorney upon demand for inspection by the township. All proprietary information provided to the township attorney in connection with the disclosure shall be considered confidential and shall not be disseminated to the general public, but may only be used for purposes of enforcement of this [article].

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- (aa) *Outside materials.* No material from outside the site shall be brought in for processing or storage.
 - (bb) *Water and sewage.* Approval of township and Monroe County Health Department of potable water supply and sanitary sewage disposal systems for the site is required.
 - (cc) *Liability insurance.* The operators must maintain the liability insurance approved with the license and provide proof of that insurance to the township annually. Township and its officials, employees and consultants shall be named as an additional insured and the township shall be named as a certificate holder.
 - (dd) *Explosives.* Use of explosives shall be in accordance with the regulations outlined by the federal mine, safety and health administration and any other applicable agencies.

(Ord. No. 05-16, § 12, 9-26-16)

Sec. 6.5-73. Reclamation.

- (a) *Time for reclamation.* Phased reclamation of each extraction site in accordance with the following restoration standards must begin as soon as the mining of any phase of the site is completed or mined to the limits shown on the application (whichever comes first).
- (b) *Compliance with plan.* The reclamation shall be in accordance with the extraction license and the approved reclamation plans.
- (c) *Ponding.* Ponding shall be avoided in all areas except designated lake areas or in settling ponds.
- (d) *Backfilling.* In the event filling of the mined area is necessary in the course of reclamation, these areas are to be backfilled and compacted with soils of similar types to the existing strata and graded to match the existing contours and elevations and that these soils, which are brought onto the site, are under compliance with the following:
 - (1) A detailed statement indicating the arrangement and nature of all operations, including the quantity of each type of material to be deposited, and the exact locations from which the material will be brought.
 - (2) A qualified testing laboratory will test fill material, if fill material is brought in from off-site to determine its suitability for use as fill material. A report specifying in detail the testing to be undertaken by the applicant at each off-site source location to ensure that the material being brought on-site is not contaminated. The report shall include a certification by a qualified independent soil scientist, soils engineer, hydrogeologist or geologist, confirming that the material from each source location is not contaminated. The levels of acceptance are to conform to the most stringent proposed land use per the zoning ordinance. The owner or operator shall supply the township with all copies of the test results.
 - (3) Set forth a detailed explanation as to the routing of all vehicles bringing off-site fill material to the site, and their size, weight and frequency of trips.
 - (4) All reclamation activities shall comply with the soil erosion plan and the soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 — P.A. 451, as amended, Part 91 as defined.
 - (5) Set forth in detail the contingency cleanup procedures to be utilized in the event of any contamination of the underlying groundwater or surface water.
- (e) *Grades.* In general, grades of areas that are not permanently submerged will be gently rolling and shall be blended into existing grades in a harmonious manner similar to the surrounding area.

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- (1) No unsubmerged grade shall exceed one (1) foot vertical to four (4) feet horizontal, unless an unmodified area remains on-site that has a natural grade in excess of one to four (1:4), and the township board finds that modification of this area is not necessary.
 - (2) In addition to the above, the reclamation plan shall show an internal future development area of three hundred fifty (350) feet from the site property lines. Within this area, site grades shall be reduced to a sufficient slope to support an internal road on residential lots fronting on at least one (1) side of the road. This area may be reduced to not less than one hundred (100) feet where the Township Board finds that residential development is not a feasible future land use for the site and the use proposed does not require a (350) three hundred fifty-foot area with less steep grades.
- (f) *Submerged grades.* Grades of all areas that are permanently submerged shall not exceed one (1) foot vertical to five (5) feet horizontal from the shore to the depth of five (5) feet below the annual low water elevation.
- (g) *Topsoil.* Topsoil is to be reused from the existing topsoil material stockpiled previously. All additional topsoil needed to meet the depth required if stocks of stripped topsoil do not fulfill the requirements shall be provided. A minimum depth of four (4) inches of topsoil shall be required for site reclamation.
- (h) *Planting.* Seeding and planting shall be performed to provide a permanent vegetative cover in the areas shown on the Reclamation plan.
- (1) Every effort will be extended to use species that are native to the surrounding area; invasive species are to be avoided.
 - (2) Seed mix shall be a minimum of MDOT roadside mix, applied at a rate of four (4) pounds per one thousand (1,000) square feet. Mulch shall be applied within twenty-four (24) hours after seeding has occurred. If straw mulch is utilized, it shall be anchored.
 - (3) All work shall conform to the requirements of the soil erosion plan and/or soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 — P.A. 451, as amended, Part 91 as defined. Temporary measures will be in place within thirty (30) days if no work is taking place. Permanent measures will be in place within five (5) days after final grading.
- (i) *Time for completion.* Reclamation must be completed within nine (9) months of cessation of mining operations. All plant structures, buildings, stockpiles and equipment shall be removed within the time limit; provided, however, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which the property is located may be retained. This does not relieve the requirements of the soil erosion plan and/or soil erosion and sedimentation requirements of the Natural Resources and Environmental Protection Act of 1994 — P.A. 451 as amended, Part 91 as defined.
- (j) *Mining prohibited.* No further mining shall be permitted on a site when a phase within the site subject to reclamation has not been restored within the required time limit.
- (k) *Disposal of materials.* As part of the reclamation process:
- (1) All site debris shall be removed from the site and properly disposed of. No burying of debris is allowed.
 - (2) Tree and woody plant debris shall be ground or chipped, and retained for landscaping use on-site. Burning of this material is not allowed.
 - (3) No foreign or deleterious material will be buried.

(Ord. No. 05-16, § 13, 9-26-16)

Sec. 6.5-74. Annual report and inspection.

- (a) *Annual report.* Each year at the anniversary date of the license the operator shall submit a report to the township supervisor. The report shall include the following information:
- (1) Tonnage of sand, gravel and other materials removed from the extraction site during that year.
 - (2) Description of restoration activities undertaken during the year.
 - (3) Description of landscaping activities undertaken during the year.
 - (4) Acres of land restored during the year, including a map of restored areas.
 - (5) Total acres of disturbed land (not restored) at the end of the year, including processing plant area, unseeded berms and slopes, unrestored areas, unrestored shorelines, areas stripped of topsoil, and water areas where active extraction is occurring.
 - (6) A statement regarding planned extraction and restoration activities for the next year.
 - (7) A statement regarding conformance to the approved extraction operations and reclamation plans, and compliance with required federal, state, and county regulations including, but not limited to:
 - a. The volumes of restoration material stockpiled on-site.
 - b. The sufficiency of the stockpiled material to restore the then excavated site pursuant to the approved restoration plan.
 - c. Copies of all permits and required inspections during the year.
 - (8) A list of all equipment that is located on and used at the site, whether temporary or permanent, together with a statement of the dollar value of each piece of said equipment.
 - (9) Written evidence that the financial guaranties and liability insurance required pursuant to the ordinance are in full force for a period of not less than twelve (12) months from the date of the annual report.
 - (10) Applicable permits and/or reports that may be required from other governmental agencies.
 - (11) A current environmental impact study, prepared by a qualified professional or professional engineer, submitted to the township, addressing impacts the operation has had on natural features, and flora and fauna, both on the site and adjacent lands, as well as any mitigation measures taken to eliminate or minimize these impacts.
 - (12) Provide a description of any complaints received during the prior calendar year and the procedures used to resolve the complaints.
 - (13) Failure to provide the required annual reports shall result in a temporary suspension of the mineral extraction license.
- (b) *Additional meetings.* Following receipt of the annual report, the township may require meetings with representatives of the licensee to review the annual report and to discuss any existing or anticipated issues associated with the extraction operation and may, if reasonably necessary, require that additional information, testing or reports be submitted to the township in order that the township may address those issues.
- (c) *Inspections.* Appointed representatives of the township, including, but not limited to the township engineer and/or consultants, shall conduct not less than one (1) inspection of the site each year. A representative of the operator shall accompany the inspectors. The purpose of the inspection is to evaluate the operations in terms of the annual report and compliance with the approved license conditions. At the time of any

inspections, the township representatives may extract from the property samples of water, soil, and/or other material as may be necessary to perform the evaluation. A series of photographs will be taken to establish a historic record of activities and site changes over the life of the extraction operation. An inspection report shall be submitted to the township and shall include:

- (1) An evaluation of the annual report submitted by the extraction operator.
- (2) An evaluation of the site and operations in terms of performance and compliance with the extraction license.
- (3) Review of all monitoring well data in relation to the baseline water quality data and in regard to the general operation of the site.
- (4) A determination of the amount of the reclamation security based upon the amount of land disturbed and reclaimed.
- (5) Photographs of the site.
- (6) Recommendations, including a modified monitoring plan, reclamation plan, and/or inspections schedule.
- (7) A request for additional data as township's representative reasonably deems necessary as the extraction area is increased or if the extraction lake is increased in depth.

(Ord. No. 05-16, § 14, 9-26-16)

Sec. 6.5-75. Review of license.

- (a) *Review period.* An extraction license is subject to compliance every five (5) years. The applicant shall submit all review materials required under section 6.5-62 to the township board not less than six (6) months nor more than one (1) year before the end of the then current five (5) year period together with a review fee and an escrow deposit as determined by the township board to reimburse the township for costs and expenses incurred in processing and reviewing the review of license.
- (b) *Review of license application requirements.*
 - (1) Updates to the information and plans contained in the last extraction license application. The plans must include mining, reclamation, and erosion control drawings.
 - (2) Monitoring well records and any domestic well records, certified by a registered engineer, geologist, or hydrogeologist, regarding ground water elevations and chemical analysis of the water.
 - (3) A lake bottom contour map.
 - (4) Provide an annual statement regarding conformance to the approved extraction operations and reclamation plans, as well as compliance with all required federal, state, and county regulations. Copies of all current and renewed permits, including required inspection reports and any violations and the resolution thereof, during the prior year shall be provided.
 - (5) An aerial photograph of the entire site of oblique prospective, with a scale of not more than one (1) inch equals two hundred (200) feet, taken after extraction operations for the year have ceased and prior to the date of the annual report required under this license. The aerial map shall have contours at a minimum of (2) two-foot intervals. Calculations shall be provided using the aerial maps from an independent third party confirming the volumes of the mining activities for the past year's operation.
 - (6) Report on the proposed extraction and reclamation activity for the next five (5) years, including any requested modifications to the original plans.

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- (g) In instances where the applicant has failed to perform the necessary monitoring or the required reclamation, the township board shall suspend the license renewal process.
 - (c) *Township review process.* The township board may undertake the following activities to determine whether or not to renew the extraction license:
 - (1) Conduct a public hearing to hear public comments on the past performance and continuation of the extraction operation.
 - (2) Review the operator's annual reports and the inspection reports received during the term.
 - (3) Review the application for renewal of license.
 - (4) If deemed appropriate, renew, adopt additional conditions for the renewal of the license, or deny renewal.
 - (d) *Standards for approval or denial.*
 - (1) The standards applied with an original license application review, as outlined in section 6.5-68.
 - (2) Documented negative impacts of the extraction operation on the environment and in relation to the health, safety, and welfare of the community.
 - (3) Substantial non-compliance with the previous approved extraction license particularly in regard to required environmental monitoring or the required reclamation.

(Ord. No. 05-16, § 15, 9-26-16)

Sec. 6.5-76. Waiver.

- (a) *Authority to grant waiver.* When there are practical difficulties in the way of carrying out the strict letter of the ordinance, the township board shall have the power to vary or modify the provisions of this ordinance, in accordance with this section. The intent and purpose of the ordinance shall be observed, public safety secured, and substantial justice done.
- (b) *Application for waiver.* Any applicant may apply for a waiver from any provision of the ordinance by filing an application for waiver with the township clerk and paying a waiver application review fee as determined by resolution of the township board.
- (c) *Costs.* In addition to the waiver review fee, the applicants shall pay the costs of reviewing the waiver in accordance with section 6.5-82.
- (d) *Hearing on waiver.* The township shall hold a public hearing upon the waiver application within forty-five (45) days from its filing.
 - (1) The public hearing shall be conducted in accordance with section 6.5-83.
 - (2) The township shall keep a record of said hearing and shall render a written decision not later than the next regular township board meeting, or 30 days after the hearing date, whichever is greater.
 - (3) The township board may attach reasonable conditions in granting the waiver from any provision of the ordinance to insure that the standards and intent of the ordinance are met.
 - (4) Violation of conditions shall be considered a violation of this ordinance and shall be subject to the penalties stated in sections 6.5-79 and 6.5-80.

(Ord. No. 05-16, § 16, 9-26-16)

Sec. 6.5-77. Compliance with future amendments to ordinance.

Any licensee subject to this [article] shall be required to comply with the provisions of any future amendments to this [article] and the extraction license agreement shall contain a provision to that effect.

(Ord. No. 05-16, § 17, 9-26-16)

Sec. 6.5-78. Amendment to license.

- (a) *License amendments.* Berlin Charter Township recognizes that changes or variations from a mineral extraction license may be needed once a licensed project begins due to the nature of the materials, unexpected variations in the topographical features, equipment restraints or other physical considerations. The applicant may present proposed changes to the mining plan and/or reclamation plan to the township board for approval without applying for a new license. Amendments to a license shall not be a substitute for a valid and well thought out original plan.
- (b) *Submission on proposed amendments.* The proposal for amending a license requires the submission of the proposed changes to the township clerk two weeks prior to a scheduled meeting of the township board, and shall include the following:
 - (1) The existing license and supporting documents.
 - (2) The nature and reasons for the change including any supporting documents that justify the changes.
 - (3) A set of amended plans from those originally approved with the mineral extraction license.
 - (4) An amendment fee and escrow amount, as determined by resolution of the township board, to cover costs incurred by the township for the review.
- (c) *Hearing on proposed amendments.* The township shall hold a public hearing upon the amendment application within forty-five (45) days from its filing.
 - (1) The public hearing shall be conducted in accordance with section 6.5-83.
 - (2) The township shall keep a record of said hearing and shall render a written decision not later than the next regular township board meeting, or thirty (30) days after the hearing date, whichever is greater.
 - (3) The township board may attach reasonable conditions in granting the waiver from any provision of the ordinance to insure that the standards and intent of the ordinance are met.
 - (4) Violation of conditions shall be considered a violation of this [article] and shall be subject to the penalties stated in sections 6.5-79 and 6.5-80.
- (d) *Authority of township board.* Once an amendment submission is made to the township board and determined to be complete, the township board shall, within ninety (90) days:
 - (1) The amendment may only be approved if it meets all of the following conditions:
 - a. The applicant can comply with this [article].
 - b. The operation will not adversely affect the health, safety, and welfare of the residents of the township.
 - c. The site will be restored so it is safe and harmonious with the surrounding land uses.
 - d. The proposed operation will not adversely affect the water table, water quality, or water supply of any surrounding land.

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- e. The use proposed in the reclamation plan is acceptable to the township board, based upon the board's review of the township zoning ordinance, township master plan, surrounding land uses and site characteristics.
- (2) A license amendment proposal denied by the Township Board may not be reapplied for, whether the same or modified, for a period of twelve (12) months from the date of denial.

(Ord. No. 05-16, § 18, 9-26-16)

Sec. 6.5-79. Revocation.

- (a) *Justification for revocation.* Any violation of this [article] or a license given pursuant to it, shall justify revocation of the license, provided that the township gives the licensee seven (7) days to correct the violation, (unless the violation is of such nature that it cannot be cured within seven (7) days in which event the licensee shall be given a reasonable period of time to cure). Failure on the part of the licensee to correct the reported violation within seven (7) days (or within the time otherwise permitted) after the demand is made shall entitle the township to:
- (1) Cancel the license and demand that all activities cease.
 - (2) Require the restoration to be done and completed as provided for in this [article].
- (b) *Temporary revocation.* The township supervisor, in the case of a violation of this [article], may temporarily revoke a license issued under this [article] for up to thirty (30) days where the public health, safety, or welfare may be affected.
- (c) *Appeal of license action.* A cancellation or suspension of license may be appealed to the township board if a hearing is requested within thirty (30) days of the issuance of a notice of cancellation or suspension. That township board shall have authority to affirm or reverse the cancellation or suspension. It may also order a temporary suspension until violations are corrected.

(Ord. No. 05-16, § 19, 9-26-16)

Sec. 6.5-80. Violations and penalties.

- (a) *Municipal civil infraction.* Any operator violating any provision of this [article] shall be deemed responsible for a municipal civil infraction. Each day an operation is carried on in violation of the ordinance shall be considered a separate infraction. The municipal civil infraction fines payable upon an admission of liability or a determination of liability by a court of competent jurisdiction is five hundred dollars (\$500.00) per offense.
- (b) *Nuisance per se.* In addition to the foregoing, any violation of this [article] shall be deemed a nuisance per se, permitting the township board, its officers, agents or any private citizen to take such action in any court of competent jurisdiction to cause the abatement of the nuisance, including injunctive relief.
- (c) *Discretion of township.* The penalties provided for in this section are cumulative and the township may, in its sole discretion, elect to charge an alleged violator with a misdemeanor and/or issue a civil infraction violation and/or seek such equitable relief to abate a nuisance resulting from a violation of this [article].

(Ord. No. 05-16, § 20, 9-26-16)

Sec. 6.5-81. Financial guaranty and liability insurance.

- (a) *Cash bond, performance bond, or irrevocable letter of credit.* The operator must provide and maintain a cash or performance bond, or irrevocable letter of credit in satisfactory form approved by the township attorney, from an FDIC insured State of Michigan licensed company with a branch office in Monroe County.
- (b) *Liability insurance.* The operator shall at all times procure and maintain at the operator's expense a liability insurance policy of not less than five million dollars (\$5,000,000.00) per incident for all liability claims arising out of the site. The certificate of insurance shall provide that the township must be given thirty (30) days prior written notice of cancellation of insurance. In case of cancellation, the license shall be suspended. Township and its officials, employees and consultants shall be named as an additional insured and the township shall be named as a certificate holder.
- (c) *Indemnification.* The operator shall hold the township harmless against all claims by third parties for damage or costs arising out of, resulting from, or related to mineral extraction, processing and reclamation on the site property or incurred in the development of the site property. The operator shall indemnify the township for all costs, damages, or expenses incurred by the township arising from the claims, including attorneys' fees.

(Ord. No. 05-16, § 21, 9-26-16)

Sec. 6.5-82. Costs.

- (a) Applicants for a mineral extraction license shall pay the costs of review of the application. The costs shall be in an amount equal to the township's actual expenses incurred for reviewing and/or relating to the application, including but not necessarily limited to the cost of:
 - (1) Township board meetings;
 - (2) Special meetings;
 - (3) Attorney fees;
 - (4) Reports and review by the township's experts and/or consultants; and
 - (5) Notices of public hearing.
- (b) In addition to the application review fee, mineral extraction licensees shall pay an annual license fee to cover the costs of monitoring and annual inspections. The fee shall be based upon a fee schedule adopted by the township board.

(Ord. No. 05-16, § 22, 9-26-16)

Sec. 6.5-83. Public hearings.

- (a) In all instances where public hearings are required by this [article], notice of the public hearing shall be provided by the Township clerk as required by the State of Michigan Zoning Enabling Act — P.A. 110 of 2006, as amended.
- (b) Any party may appear and comment at the hearing in person, by agent, or by attorney.
- (c) The township shall keep a record of all public hearings.

(Ord. No. 05-16, § 23, 9-26-16)

Sec. 6.5-84. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this [article] takes effect, are saved and may be consummated according to the law in force when they were commenced. In addition, code of compiled ordinances sections 18-356 through and including section 18-365 of ordinance 25-88 are specifically saved and preserved as this [article] and as to any agreement or judgment which references or is subject to such provisions by agreement or judgment or otherwise.

(Ord. No. 05-16, § 24, 9-26-16)

Sec. 6.5-85. Severability.

It is the intention that if any portion of this [article] is found, for any reason, to be invalid, the remainder of the ordinance shall remain in effect.

(Ord. No. 05-16, § 25, 9-26-16)

Sec. 6.5-86. Relationship to other laws.

- (a) *More restrictive provisions apply.* Whenever regulations or restrictions imposed by this [article] are either more or less restrictive than regulations or restrictions imposed by this or any other governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern.
- (b) *Resolution of conflict.* Wherever there is a conflict in determining which is the more restrictive or imposes the higher standard, the standards of this regulatory ordinance shall govern.
- (c) *No violation of other laws.* Regardless of any other provision of this [article], no land shall be used and no structure erected or maintained in violation of any federal, state, or county environmental protection laws or regulations.

(Ord. No. 05-16, § 26, 9-26-16)

Chapter 7 FIRE PREVENTION AND PROTECTION¹⁶

ARTICLE I. IN GENERAL

Secs. 7-1—7-25. Reserved.

¹⁶Cross reference(s)—Buildings and building regulations, Ch. 5; emergency access lock box, § 5-191 et seq.; subdivision and site condominium control, Ch. 14.

State law reference(s)—Fire prevention act, MCL 29.1 et seq., MSA 4.559(1) et seq.; crimes related to fires, MCL 750.240 et seq., MSA 28.437 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq., MSA 28.397 et seq.; explosives act, MCL 29.41 et seq., MSA 4.559(41) et seq.

ARTICLE II. FIRE DEPARTMENT

Sec. 7-26. Scope, purpose and intent.

This article is adopted pursuant to the authority granted the township board under PA 33 of 1951. The purpose of this article is to:

- (1) Provide that the township board shall hereby establish the township fire department.
- (2) Establish jurisdiction and authority of the township board over personnel selection.
- (3) Establish authority to adopt rules and regulations for the conduct of personnel and maintenance of equipment.
- (4) Employ and appoint a chief, firefighters and officers.
- (5) Prescribe the powers and duties of fire department volunteers and employees.

Sec. 7-27. Establishment, funding, rules and regulations.

- (a) There is hereby established the township fire department. The township board, acting by resolution, shall appoint such persons who, based on experience, training, and qualifications would, in its discretion, best perform the duties associated with providing fire protection to the citizens of the township.
- (b) The township board shall approve an annual appropriation for the operation and maintenance of the department and its equipment, and for that purpose shall have the authority to use general funds, to initiate the creation of a special assessment district and levy assessments, sell bonds, establish user fees, or raise revenues in any other manner provided for under law for the operation and maintenance of the department; it shall provide for payment of any debts incurred incidental to its continued operation; it shall purchase necessary equipment; and/or construct public buildings for uses incidental to the maintenance and operation of a fire department.
- (c) The township board shall establish rules and regulations for the operations of the department and the care of the equipment.

Sec. 7-28. Chief.

- (a) The township board shall appoint a chief who shall be the chief administrative officer of the fire department. The chief shall be accountable to the township board for the efficient and effective operation of the department, and for the department's compliance with all state laws, township ordinances and policies. The chief shall serve at the pleasure of the board.
- (b) The chief shall recommend, subject to township board approval, the appointment of an assistant chief, captains, lieutenants, engineers (drivers) and firefighters as may be deemed necessary.
- (c) The chief shall develop written administrative rules to increase the efficiency and effectiveness of the department, including preplanning and postincident critiques, regulations, assignment and scheduling of personnel and shall plan for the long-range needs of the department.
- (d) The chief shall review all personnel and operating problems with and shall report monthly to the township board. A written report shall be filed annually with the township board.

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- (e) As needed, the chief shall notify the township supervisor of major problems or issues that require board action. When such problems must be resolved immediately and it is impractical or will endanger the health, safety or welfare of the township to wait until the next board meeting to resolve the issue, the township supervisor shall be empowered to resolve the issue or problem, subject to the subsequent approval of the board.
 - (f) The chief shall hold regular department informational and training meetings.
 - (g) The chief may incur expenditures against the department budget as appropriated by the township board. The chief will monitor the unencumbered balances remaining in the department budget and shall make timely recommendations for budget amendments at such time as the need for such amendments become known. The department's expenditures shall not exceed the amounts appropriated. Capital outlay purchases that exceed one thousand dollars (\$1,000.00) shall conform to township policy regarding written quotes and competitive bidding.
 - (h) The chief shall also be responsible for the following:
 - (1) Supervise the extinguishment of all fires that endanger the health, safety and welfare of township.
 - (2) Enforce township fire ordinances or fire prevention codes.
 - (3) Ensure that all personnel are trained and qualified for the duties that they are expected to fulfill.
 - (4) Ensure that fire inspection and community fire prevention programs are conducted.
 - (5) Ensure that all equipment and buildings are properly maintained and in good working order.
 - (6) Ensure that all department personnel comply with departmental and board rules, regulations and policies.

Sec. 7-29. Officers.

- (a) There shall be a chain of command established among the fire department officers in descending order of rank, from the chief to the assistant chief, captains, lieutenants, engineers, to firefighters. Each rank shall obey the orders of their superior officers. Temporary officers may be appointed by the senior officer present at any emergency to ensure the continuity of the chain of command. Such temporary appointments shall terminate when the officer with the given responsibility becomes available.
- (b) The chief shall establish a job description for each rank. Each command officer shall be responsible that orders are carried out by subordinates.

Sec. 7-30. Firefighters.

- (a) Applicants for vacant firefighter positions shall be of good character, possess a good driving record, and shall be screened by a physician of the township board's choice and at township expense. The physician's examination shall determine if the applicant has any preexisting physical conditions that would preclude the applicant from performing the duties associated with firefighting.
- (b) All firefighters shall serve an initial probationary period for a period of not less than six (6) months. At the discretion of the chief, the probationary period may be extended. At the conclusion of the minimum probationary period, the chief may recommend that a probationary firefighter that has met all of the qualifications contained in the firefighter job description be given permanent firefighter status by the township board.
- (c) A probationary firefighter shall be entitled to all compensation and benefits afforded to permanent firefighters, but shall be restricted to perform only those duties for which he has been specifically trained. A

probationary firefighter shall not be issued department insignia or badges. Use of emergency signal devices on the private vehicle of a probationary firefighter shall be at the chief's discretion.

Sec. 7-31. Disciplinary procedure.

- (a) Violations of any township ordinance, board rule, fire department administrative regulation or conviction of a felony shall subject any personnel involved to disciplinary proceedings. A violation shall be documented by the chief upon good cause shown, or when a violation occurs in his presence.
- (b) The chief shall provide a copy of the written reprimand to an alleged violator. The written reprimand shall state the rule that was allegedly violated, the nature of any disciplinary action taken, and the consequences of any further reoccurrences. Disciplinary action may range from a reprimand to a suspension, demotion or dismissal, or a combination of any of the above, depending on:
 - (1) Seriousness of the violation.
 - (2) Consequences to the safety of others by the violation.
 - (3) Potential harm to the department or the township.
 - (4) Prior record of the individual.
 - (5) The degree of wantonness, if any, of the act.
- (c) Any disciplinary action may be appealed to the township board, who shall affirm, deny, or modify the disciplinary action taken by the chief. The township board may, on its own initiative, bring charges against any fire department personnel. Disciplinary action initiated by the township board shall follow the above procedures, except that the responsibilities designated above to the chief shall be performed by the township board.
- (d) In addition to such administrative rules that may be promulgated by the chief, theft of township property or other property at the scene of an emergency shall be cause for dismissal.
- (e) Firefighters shall not respond to emergencies, meetings or training sessions while under the influence of alcohol or any controlled substances.

Sec. 7-32. Compensation.

Compensation of firefighters shall be in such amounts as may be determined from time to time by the township board. The fire department shall keep accurate records that indicate the amount of compensable time served by all personnel. The time records shall be submitted monthly to the township board for payment, and all such time slips shall be signed by the department personnel designated on the time slip.

Sec. 7-33. Public contact.

- (a) The fire chief, or his designee, may release facts regarding fires or other emergencies to the news media. All other personnel shall refer all media inquiries to the chief or the designee.
- (b) Members of the public will be allowed in the fire station only when accompanied by a member of the fire department.
- (c) The public will always be treated courteously and professionally by all department personnel.

Sec. 7-34. Emergency responses.

- (a) When responding to emergencies, all personnel of the fire department will drive emergency vehicles with appropriate concern for the safety of the public and defensive driving. Use of emergency signals on vehicles shall be considered a request for the right-of-way from other drivers.
- (b) Use of emergency signal equipment shall be permitted only when the department has been officially dispatched to an emergency.

Sec. 7-35. Equipment.

- (a) Protective gear shall be worn by all personnel of the fire department when engaged in firefighting in any enclosed structure, or outdoors when warranted.
- (b) Lost or damaged equipment shall be reported as soon as possible to an officer. Township property shall be disposed of with the prior approval of the township board. All department issued equipment shall be returned to the chief by personnel leaving the department.

Sec. 7-36. Use of fire station.

- (a) Only township-owned vehicles and equipment may be kept at the fire station. Department equipment shall not be borrowed for private use.
- (b) Private vehicles must be parked in designated areas only.
- (c) Alcohol and controlled substances shall not be brought into the fire station.

Sec. 7-37. Soliciting donations.

- (a) All fund-raising activities shall have the prior approval of the township board, and all revenues solicited in the name of the fire department shall be deposited with the township treasurer. Such funds will be disbursed by the township board.
- (b) Any fund-raising activities on behalf of the fire department, yet not solicited in the name of the township or the fire department, shall be conducted by a tax-exempt organization that has been designated as a 501-c-3 charity by the Internal Revenue Service.

Sec. 7-38. Emergency hazardous substance incident—Recovery of expenses.

- (a) *Findings and purpose.* The charter township finds that a potential exists for responses to incidents involving the release of hazardous substances and/or materials. Such incidents create a great likelihood of personal injury or property damage. The control and abatement of such incidents places a significant financial and operational burden upon the township's firefighting, rescue and emergency medical services and other township resources. The township finds that it is necessary to adopt an ordinance to establish the liability for such incidents and to establish a policy and methods which will allow the township to seek recovery of the township costs associated with emergency response to hazardous substances and/or materials incidents.
- (b) *Definitions.*

Compressed gas shall mean any material regulated as a compressed gas by the United States Department of Transportation through regulations found in 49 CFR Subsection 173.300.

Emergency response shall mean the providing, sending and/or utilizing of police, firefighting, emergency medical and rescue services by the township, or by a private industrial entity, corporation or other assisting

government agency operating at the request or direction of the township or state, for an incident resulting in a hazardous substances and/or materials release or threatened release or the clean up or abatement of same.

Expenses of an emergency response shall mean the direct and reasonable costs incurred by the township, or by a private person, corporation or other assisting government agency, which is operating at the request or direction of the township, when making an emergency response to the hazardous substances and/or materials incident, including the costs of providing police, firefighting, rescue services, emergency medical services, containment storage, clean up and abatement of all hazardous conditions at the scene of the incident. The costs further include all salaries and wages of township personnel responding to the incident, salaries and wages of township personnel engaged in the investigation, supervision and report preparation regarding said incident, all salaries and wages of personnel of assisting government agencies operating at the request or direction of the township, and all costs connected with the administration of the incident relating to any prosecution of the person(s) responsible, including those relating to the production and appearance of witnesses at any court proceedings in relation thereto. Costs shall also include such items as disposable materials and supplies used during the response to said incident, the rental or leasing of equipment used for the specific response, replacement of equipment which is contaminated beyond reuse or repair during the response to said incident, special technical services and laboratory costs, and services and supplies purchased for any specific evacuation relating to said incident.

Hazardous substances and/or materials shall include, but are not limited to, a chemical that is a combustible liquid, a flammable gas, explosives, flammables, oxidizing materials, pyrophoric, unstable reactive or water reactive, radioactive materials, petroleum products or gases, poisons and shall include all those materials designated as hazardous by the state in Act No. 307 of the Public Acts of Michigan of 1982, as amended, or by the Federal Superfund Amendment.

Owner shall mean any person having a vested or contingent interest in the premises, real property, personal property, container or vehicle involved in the hazardous substances and/or materials incident, including but not limited to any duly authorized agent or attorney, purchaser, devisee or fiduciary of said person having said vested or contingent interest.

Oxidizing material shall mean any material regulated as an oxidizing material by the United States Department of Transportation through regulations found in 49 CFR Subsection 173.151.

Person shall mean individuals, firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, contractor, employee, agent or fiduciary, and includes all legal representatives, heirs, successors and assignees thereof.

Poison shall mean any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison class A by the United States Department of Transportation through regulations found in 49 CFR Subsection 173.326.

Premises shall mean any lot or parcel of land.

Radioactive material shall mean any material required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles under regulations found in 49 CFR Subsection 173.425.

Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a hazardous substance or material into the environment, or the abandonment or disposing of barrels, containers, or other closed receptacles containing a hazardous substance.

Responsible party shall mean the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle where an incident arises which involves the release or threatened release of hazardous substances and/or materials on or about said building, premises, property and/or vehicle.

Threatened release shall mean any imminent or impending event potentially causing but not resulting in a release which causes the township to undertake emergency response.

Vehicle shall mean any mode which is used as an instrument of conveyance, including but not limited to motor vehicles, railroads, boats, aircraft, etc.

(c) *Policy.*

- (1) In the event that township employees are dispatched to a hazardous substances and/or materials incident, the township employee in charge shall notify the responsible party, including appropriate state and federal agencies, as soon as possible. Township personnel shall make efforts to limit the township's action to those necessary to address dangers from fire or the imminent threat of fire or the imminent threat from any hazardous substances or materials, and necessary evacuation of affected persons.
- (2) Except for procedures necessitated by fire or the imminent threat of fire resulting from a hazardous substances or materials incident, township officials are not authorized to incur any obligations, financial or otherwise, to the township in regards to the mitigation of impacts resulting from a hazardous substances and/or materials incident.
- (3) All township personnel shall take appropriate steps for a hazardous substances and/or materials response that conforms to their level of training and as appropriate to the supplies and equipment to them, in accordance with established protocols and procedures.

(d) *Liability for expense.*

- (1) *Responsible party.* The responsible party shall be required to reimburse the township for all costs and expenses of an emergency response to said hazardous substances and/or materials incident.
- (2) *Charge against person.* The expense of an emergency response shall be a charge imposed upon the responsible party under this section. The charge constitutes a debt of that responsible party and is collectible by the township in the same manner as an obligation under contract, express or implied.
- (3) *Cost recovery schedule.* The township board may, by resolution, adopt a schedule of the costs included within the expense of an emergency response. This schedule of charges may be amended from time to time by a resolution of the township board. This schedule shall be available at the office of the township clerk for inspection by the public during regular office hours.
- (4) *Billing.* The township may, within ten (10) days of receiving itemized costs or any part thereof incurred for an emergency response, submit a bill for these costs by registered or certified mail, return receipt requested or personal service to the person liable for the expenses as enumerated under this section. The bill(s) shall require full payment within thirty (30) days from the date of mailing or service of said bill upon the responsible person.
- (5) *Failure to pay; procedure to recover costs.* Any failure, by the person described in this section as liable or responsible for expenses of an emergency response, to pay said bill within thirty (30) days of mailing or service of the bill shall constitute a default on said bill. In case of default, the township shall have the right and power to add all emergency response costs to the tax roll of such property involved in the hazardous substances and/or materials incident, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The township shall also have the right to bring action in a court of competent jurisdiction to collect said costs if the township deems such action to be necessary.

(e) *Conflict with state or federal law.* Nothing in this section shall be construed to conflict with state or federal laws requiring persons responsible for or causing a release or threatened release from engaging in remediation activities or paying the cost thereof, or both.

(f) *Nonexclusive remedy.* The remedies provided by this section shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

(Ord. No. 5-97, §§ 1—6, 5-11-97)

Secs. 7-39—7-55. Reserved.

ARTICLE III. INTERNATIONAL FIRE CODE¹⁷

Sec. 7-56. Adoption of International Fire Code.

A certain document, three (3) copies of which are on file in the office of the township building official of Berlin Charter Township being marked and designated as the International Fire Code, 2018 edition, including all appendix chapters (see International Fire Code Section 101.2.1, 2018 edition), as published by the International Code Council, be and is hereby adopted as the fire code of the Berlin Charter Township in the State of Michigan regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the offices of the township are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any prescribed in section 7-57.

(Ord. No. 02-07, § 1, 10-7-07; Ord. No. 06-17, § 1, 7-24-17; Ord. No. 04-20, § 1, 8-24-20)

Sec. 7-57. Insertions.

The following sections are hereby revised by inserting the following in each respective section in order:

Section 101.1. Insert: Berlin Charter Township

Section 110.4. Insert: Misdemeanor, \$500.00, 90 days

Section 111.4. Insert: \$500.00 and \$500.00

(Ord. No. 02-07, § 2, 10-7-07; Ord. No. 06-17, § 2, 7-24-17; Ord. No. 04-20, § 2, 8-24-20)

Sec. 7-58. Flammable and combustible liquids.

The geographic limits referred to in the following sections of the 2018 International Fire Code shall be based on state statute or regulation or in the absence of state statute or regulation on the matter, nationally recognized standards and shall require the approval of the township fire chief.

Section 5204.2.9.6.1 Geographic area in which storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited: Entire Township except upon approved by Township Fire Department and Building Department.

¹⁷Editor's note(s)—Ord. No. 02-07, §§ 1—3, adopted October 7, 2007, repealed the former Art. III, §§ 7-56—7-63, and enacted a new Art. III as set out herein. The former Art. III pertained to Uniform Fire Code and derived from Ord. No. 1-93, §§ 2—6, 8(A), 10, 3-8-93; Ord. No. 1-93-1, §§ 3, 4, 3-8-93.

Section 5206.2.4.4 Geographic area in which storage of Class I and Class II liquids in above-ground tanks is prohibited: Entire Township except upon approved by Township Fire Department and Building Department.

Section 5806.2 Geographic area in which storage of flammable cryogenic fluids in stationary containers is prohibited: Entire Township except upon approved by Township Fire Department and Building Department.

Section 6104.2 Geographic area in which storage of liquefied petroleum gas is restricted for protection of heavily populated or congested areas: Entire Township except upon approved by Township Fire Department and Building Department.

(Ord. No. 02-07, § 3, 10-7-07; Ord. No. 06-17, § 3, 7-24-17; Ord. No. 04-20, § 3, 8-24-20)

Editor's note(s)—Ord. No. 04-20, § 3, adopted August 24, 2020, changed the title of section 7-58 from "Geographic limits" to "Flammable and combustible liquids." The historical notation has been preserved for reference purposes.

Secs. 7-59—7-80. Reserved.

ARTICLE IV. RESERVED¹⁸

Secs. 7-81—7-91. Reserved.

Chapter 8 FLOOD DAMAGE CONTROL¹⁹

ARTICLE I. IN GENERAL

Sec. 8-1. Purpose.

It is the purpose of this chapter to significantly reduce hazards to persons and damage to property as a result of flood conditions in the township, and to comply with the provisions and requirements of the national flood insurance program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44 FR 31177, May 31, 1979.

(Ord. No. 82C, Art. I, § 1, 10-25-82)

¹⁸Editor's note(s)—Ord. No. 02-05, § 2, adopted Mar. 25, 2005, repealed §§ 7-81—7-91, which pertained to fireworks and derived from Ord. No. 2-96, §§ 1—10, adopted Mar. 25, 1996; Ord. No. 5-00, § 2, adopted Apr. 28, 2000; and Ord. No. 04-04, §§ 2—5, adopted May 21, 2004.

¹⁹Cross reference(s)—Buildings and building regulations, Ch. 5; subdivision and site condominium control, Ch. 14; utilities, Ch. 15; zoning, Ch. 18.

State law reference(s)—Water resources commission, MCL 323.1 et seq., MSA 3.521 et seq.; soil conservation districts law, MCL 282.1 et seq., MSA 13.1781 et seq.

Sec. 8-2. Objectives.

The objectives of this chapter include:

- (1) The protection of human life, health and property from the dangerous and damaging effects of flood conditions.
- (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas.
- (3) The prevention of private and public economic loss and social disruption as a result of flood conditions.
- (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage.
- (5) To insure that the public has access to information indicating the location of land areas subject to periodic flooding.
- (6) To preserve the ability of floodplains to carry and discharge a base flood.

(Ord. No. 82C, Art. I, § 2, 10-25-82)

Sec. 8-3. Definitions.

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

Area of special flood hazard means the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base flood means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard area means land which on the basis of available floodplain information is subject to a one (1) percent or greater chance of flooding in any given area.

Flood hazard boundary map (FHBM) means an official map of the township, issued by the Federal Emergency Management Agency (FEMA), where boundaries of the areas with special flood hazards have been designated as Zone A.

Flood insurance rate map (FIRM) means an official map of the township, on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable in the township.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles as well as the flood hazard boundary floodway map and the water service elevation of the baseboard.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other watercourse and the adjacent land areas designated in the flood insurance study which must be reserved in order to discharge the base flood.

Harmful increase means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury or damage to land or water resources.

Mobile home means a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a single-family dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

New construction means structures, including additions to existing structures, for which the start of construction commenced on or after November 24, 1982.

Structure means anything constructed or erected and designed for a permanent location on the ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Ord. No. 82C, 10-25-82; Ord. No. 3-95, § 1, 4-10-95; Ord. No. 4-00, § 1, 4-14-00)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 8-4. Disclaimer of liability.

- (a) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this chapter shall not be considered a guarantee or warranty of safety from flood damage. This chapter does not imply that areas outside the flood hazard area will be free from flood damage.
- (b) This chapter shall not create liability on the part of the township or any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 82C, Art. I, § G, 10-25-82)

Sec. 8-5. Delineation of the flood hazard overlay zone.

- (a) The flood hazard area zone shall overlay existing zoning districts delineated on the official township zoning map. The boundaries of the flood hazard area zone shall coincide with boundaries of the areas indicated as within the limits of the 100-year flood entitled the Flood Insurance Study of Berlin Township, Monroe County, dated April 20, 2000 with accompanying flood insurance rate maps/floodway maps (Panel Numbers 0046, 0108, 0109, 0114, 0117, 0118, 0119, 0136, 0140, 0145, 0252, 0256, 0257, 0280 and any other official

revisions to the above mentioned maps as published by the Federal Emergency Management Agency (FEMA). Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary maps. The study and the company maps are adopted by reference, appended, and declared to be a part of this chapter. The term "flood hazard area" as used in this chapter shall mean the flood hazard area zone and the term floodway shall mean the designated regulatory floodway.

- (b) Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute in accord with section 8-26.
- (c) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this chapter shall be necessary for all development occurring within the flood hazard area zone.
- (d) Conflicts between the requirements of this section and other requirements of this chapter or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this chapter. In such cases the more stringent requirement shall be applied.

(Ord. No. 82C, Art. I, § A, 10-25-82; Ord. No. 4-00, § 2, 4-14-00)

Secs. 8-6—8-20. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 8-21. Duties of building inspector.

- (a) With regard to the national flood insurance program, and the regulation of development within the flood hazard area zone of the township the duties of the building inspector shall include, but are not limited to:
 - (1) Notification to adjacent communities and the department of natural resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the federal insurance administration.
 - (2) Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of floodproofed structures, the elevation to which the structure was floodproofed.
 - (3) Recording of all certificates of floodproofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- (b) It shall be the responsibility of the building inspector to obtain and utilize the best available flood hazard data for purposes of administering this chapter in the absence of data from the Federal Emergency Management Agency (FEMA).

(Ord. No. 82C, Art. II, § A, 10-25-82; Ord. No. 3-95, § 2, 4-10-95; Ord. No. 4-00, § 3, 4-14-00)

Sec. 8-22. Records.

All records and maps pertaining to the national flood insurance program shall be maintained in the office of the building inspector and shall be open for public inspection.

(Ord. No. 82C, Art. II, § A, 10-25-82)

Sec. 8-23. Development permit.

Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a building permit in accordance with this Code and township ordinances and the following standards:

- (1) The requirements of this chapter shall be met.
- (2) All necessary development permits shall have been issued by appropriate local, state and federal authorities, including the floodplain permit, or letter of no authority from the state department of environmental quality under the Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Act No. 451, Public Acts of 1994, as amended (NREPA). Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(Ord. No. 82C, Art. I, § B, 10-25-82; Ord. No. 4-00, § 4, 4-14-00)

Sec. 8-24. Application for permit.

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under chapter 18 of this Code the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

- (1) The elevation in relation to mean sea level of the floor, including basement, of all structures.
- (2) Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed.
- (3) Where floodproofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this chapter will be met.
- (4) Where it can be determined that development is proposed within zones A1-30 on the FIRM or the regulatory floodway, a certification as required by this chapter.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (6) Proof of development permission from appropriate local, state and federal agencies as required by subsection 8-23(2) including a floodplain permit approval from the state department of environmental quality under the floodplain regulatory authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Act No. 451, Public Acts of 1994, as amended (NREPA).

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- (7) Base flood elevation data where the proposed development is subject to Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, or greater than five (5) acres in size.
 - (8) Additional information which may be reasonably necessary to determine compliance with the provisions of this chapter.

(Ord. No. 82C, Art. III, § A, 10-25-82; Ord. No. 4-00, § 5, 4-14-00)

Sec. 8-25. Variances.

- (a) Variances from the provisions of section 8-24 shall only be granted by the zoning board of appeals upon a determination of compliance with the general standards for variances contained in this chapter and each of the following specific standards.
 - (1) A variance shall not be granted within a regulatory floodway where the result would be an increase in flood levels during a base flood discharge, except upon certification by registered professional engineer or the state department of environmental quality, that the cumulative effect of the proposed development will not harmfully increase the water elevation of a base flood. In determining whether a harmful increase will occur, compliance with the floodplain regulatory authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Act No. 451 of the Public Acts of Michigan of 1994, as amended (NREPA), shall be required, provided that the allowable increase, including the increases used as the design standard for delineating the floodway, shall not exceed one-tenth ($\frac{1}{10}$) foot.
 - (2) A variance shall be granted only upon:
 - a. A showing of good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. A determination that the granting of a variance will not result in flood heights in excess of those permitted by this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
 - (3) The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
- (b) The township zoning board of appeals may attach conditions to the granting of a variance to insure compliance with the standards contained in this chapter.
- (c) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers Listing of Historic Sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

(Ord. No. 82C, Art. IV, § A, 10-25-82; Ord. No. 3-95, § 3, 4-10-95; Ord. No. 4-00, § 6, 4-14-00)

Sec. 8-26. Mapping disputes.

- (a) Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the zoning board of appeals shall be based upon the most current floodplain studies issued by the

Federal Emergency Management Agency (FEMA). Where FEMA information is not available, the best available floodplain information shall be utilized.

(b) Where a dispute involves an allegation that the boundary is incorrect as mapped and FEMA floodplain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by FEMA.

(c) All parties to a map dispute may submit technical evidence to the zoning board of appeals.

(Ord. No. 82C, Art. V, § A, 10-25-82; Ord. No. 4-00, § 7, 4-14-00)

Secs. 8-27—8-45. Reserved.

ARTICLE III. STANDARDS

Sec. 8-46. General standards for flood hazard reduction.

(a) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:

(1) Be designed and anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Be constructed with materials and utility equipment resistant to flood damage.

(3) Be constructed by methods and practices that minimize flood damage.

(b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.

(c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

(d) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.

(e) Adequate drainage shall be provided to reduce exposure to flood hazards.

(f) Compliance with the standards of this section shall be certified by a registered professional engineer or architect.

(g) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this chapter.

(h) The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.

(i) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the federal insurance administration shall take precedence over data from other sources.

(Ord. No. 82C, Art. I, § C, 10-25-82)

Sec. 8-47. Specific base flood elevation standards.

- (a) On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:
 - (1) All new residential construction, including additions and substantial improvements of the same shall have the lowest floor, elevated one (1) foot above the base flood level except that the basement floor may be at the base flood level.
 - (2) All new nonresidential construction, including additions and substantial improvements of the same shall have either:
 - a. The lowest floor, including basement, elevated one (1) foot above the base flood level; or
 - b. Be constructed such that below flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted to the building inspector and shall indicate the elevation to which the structure is floodproofed.
- (b) The most recent base flood elevation data received from the Federal Emergency Management Agency (FEMA) shall take precedence over data from other sources.

(Ord. No. 82C, Art. I, § D, 10-25-82; Ord. No. 3-95, § 4, 4-10-95; Ord. No. 4-00, § 8, 4-14-00)

Sec. 8-48. Mobile home standards.

- (a) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 - (1) Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations, except that on mobile homes less than fifty (50) feet in length one (1) tie per side shall be required.
 - (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on mobile homes less than fifty (50) feet in length four (4) ties per side shall be required.
 - (3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
 - (4) All additions to a mobile home shall be similarly anchored.
- (b) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the county office of civil preparedness for mobile home parks and mobile home subdivisions.
- (c) Mobile homes within zones A1-30 on the flood insurance rate map shall be located in accord with the following standards:
 - (1) All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one (1) foot above the base flood level.

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- (2) Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
 - (3) In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for piers more than six (6) feet above ground level.
 - (4) In mobile home parks and mobile home subdivisions which exist on October 25, 1982, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, the standards in subparagraphs (1), (2) and (3) of this subsection shall be complied with.

(Ord. No. 82C, Art. I, § E, 10-25-82)

Sec. 8-49. Floodway protection standards.

- (a) New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A1-30 on the FIRM, except where it is demonstrated to the building inspector that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with the Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Act No. 451, Public Acts of 1994, as amended (NREPA), shall be required, provided that the allowable increase shall not exceed one-tenth ($\frac{1}{10}$) of a foot. Provisions of subsection (b) below shall be applied to land situated within the regulatory floodway.
- (b) All development occurring within the regulatory floodway shall comply with the following standards:
 - (1) Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by registered professional engineer or the state department of environmental quality, that the development proposed will not result in any increase in flood levels during a base flood discharge, and compliance with the Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, Act No. 451, Public Acts of 1994, as amended (NREPA).
 - (2) The placement of mobile homes shall be prohibited except in mobile home parks and subdivisions which exist at the time this chapter is adopted.
 - (3) Development which is permitted in the regulatory floodway shall meet the requirements of sections 8-46 through 8-48.
- (c) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.
- (d) This section shall include all future changes and amendments promulgated by FEMA, the U.S. Army Corps of Engineers and the state department of environmental quality in regard to flood damage control.

(Ord. No. 82C, Art. I, § F, 10-25-82; Ord. No. 3-95, §§ 5, 6, 4-10-95; Ord. No. 4-00, § 9, 4-14-00)

Chapter 9 JUNKYARDS²⁰

²⁰Cross reference(s)—Zoning, Ch. 18.

- CODE OF ORDINANCES
Chapter 9 - JUNKYARDS
ARTICLE I. IN GENERAL

State law reference(s)—Authority for townships to license and regulate junkyards, MCL 445.451 et seq., MSA 19.731 et seq.

ARTICLE I. IN GENERAL

Sec. 9-1. Location restrictions.

No license shall be issued to any person to operate a junkyard at a point nearer to any public highway or right-of-way than five hundred (500) feet nor nearer to any residence or dwelling than four hundred (400) feet nor nearer to any property line than two hundred fifty (250) feet.

(Rev. Comp. Ords. 1979, § 45.240)

Sec. 9-2. Screening, fence required.

No license shall be issued under this chapter to any person unless the lands to be used for the purpose of operating a junkyard shall be completely screened or enclosed by a chain link, or comparable quality fence or other type fence that blocks vision eight (8) feet in height from the ground, with gates of equal height and type which shall be securely locked with adequate locks at all times other than business hours. Appropriate aesthetic plantings of at least four (4) feet in height to be planted four (4) feet apart.

(Rev. Comp. Ords. 1979, § 45.240)

Cross reference(s)—Zoning requirements in I-2 district, § 18-236.

Sec. 9-3. Hours of operation.

It shall be unlawful for any person to operate or to permit the operation of a junkyard under this chapter between the hours of 8:00 p.m. and 8:00 a.m.

(Rev. Comp. Ords. 1979, § 45.250)

Sec. 9-4. Prohibited conduct.

It shall be unlawful to impose or place any sign on the fence or the gates of the fence enclosing the premises being used as a junkyard; to store or place any junk or refuse materials of automobiles within the fence enclosing premises to a greater height than the fence herein provided for, or to burn any junk or refuse materials of automobiles within the lands used for the operation of such junkyard whether within or without the fence or enclosure.

(Rev. Comp. Ords. 1979, § 45.250)

Secs. 9-5—9-20. Reserved.

ARTICLE II. LICENSE

Sec. 9-21. Required.

No person shall carry on the business of operating a junkyard and/or place for dismantling, wrecking and disposing of the junk and/or refuse material of automobiles in the township without first having obtained a license therefor from the township board.

(Rev. Comp. Ords. 1979, § 45.210)

Sec. 9-22. Application.

Any person desiring a license required by this article shall make written application upon a form to be furnished by the township clerk, which application shall contain the following information: Applicant's name, age, post office address, residence, and residence for five (5) years next preceding the date of application, legal description of the premises upon which the business is to be operated. The application shall further show what criminal convictions, if any, the applicant, or its president and manager, have had as well as when and where, and the names and addresses of two (2) character references. Such application shall be accompanied by the license fee.

(Rev. Comp. Ords. 1979, § 45.220)

Sec. 9-23. Issuance.

The township clerk is hereby authorized to issue a license under this article to any person who has presented the application therefor, accompanied by the license fee, whenever such application has been approved by a majority of the township board. In acting on such application the township board shall be governed by the standards and requirements of this chapter.

(Rev. Comp. Ords. 1979, § 45.270)

Sec. 9-24. Fee; expiration.

The fee for a license required by this article is hereby fixed at one hundred dollars (\$100.00) per year or fraction thereof. All licenses issued under and pursuant to this article shall terminate on December thirty-first of each year.

(Rev. Comp. Ords. 1979, § 45.230)

Sec. 9-25. Renewal.

To renew a license under this article, reapplication shall be made each year and the information furnished by applicant as originally required excepting, however, that the character references shall not be required.

(Rev. Comp. Ords. 1979, § 45.260)

Sec. 9-26. Suspension, cancellation—Grounds.

Conviction of the licensee, or its president or manager, of a criminal offense involving moral turpitude shall be grounds for the suspension or cancellation of the license issued under this article.

(Rev. Comp. Ords. 1979, § 45.310)

Sec. 9-27. Same—Procedure, hearing.

Whenever any person operating pursuant to a license issued under this article shall violate any of the rules or regulations adopted or established herein, the township board shall have the right to suspend or cancel such license. Any person aggrieved by such suspension may, upon written application, have a hearing before the township board for the purpose of having the license so suspended reinstated. The decision of the board made at the time of such hearing shall be final upon the question of reinstatement.

(Rev. Comp. Ords. 1979, § 45.280)

Chapter 9.3 LAW ENFORCEMENT

ARTICLE I. IN GENERAL

Secs. 9.3-1—9.3-25. Reserved.

ARTICLE II. POLICE DEPARTMENT

Sec. 9.3-26. Title.

This article shall be known and referred to as "Berlin Charter Township Ordinance to Establish Police Department".

(Ord. No. 04-03, § 1, 4-4-03)

Sec. 9.3-27. Scope, purpose and intent.

This article is adopted pursuant to the authority granted the Township Board under Act No. 359 of the Public Acts of Michigan of 1947, Section 42.12 and Act No. 33 of the Public Acts of Michigan of 1951, MCL 41.806 which provide that the township board may provide for and establish a police department and authorize the township supervisor, subject to the approval of the board to appoint policemen to protect property and preserve the public welfare and safety in that portion of the township not included within the corporate limits of any villages. The purpose of this article is to establish the Berlin Charter Township Police Department; to establish authority and to adopt rules and regulations for the conduct of personnel and for maintenance of equipment; to provide for the employment and appointment of police officers; and to prescribe the powers and duties to police department employees.

(Ord. No. 04-03, § 1, 4-4-03)

Sec. 9.3-28. Police department; establishment, funding powers and duties.

- (a) There is hereby established the Berlin Charter Township Police Department. The township board, acting by resolution, shall appoint such persons who, based on experience, training, and qualifications would in its discretion, best perform the duties associated with providing police protection to the citizens of Berlin Charter Township.

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- (b) The township board shall approve an annual appropriation for the operation and maintenance of the department and its equipment, and for that purpose shall have the authority to use general funds, to initiate the creation of a special assessment district and levy assessments, sell bonds, or raise revenues in any other manner provided for under law for the operation and maintenance of the department. The annual appropriation shall include revenue raised by voted millage if any, which the voters have provided for use solely for purposes of police department administration and police department funding.
 - (c) The township board shall provide for the establishment of rules and regulations for the operation of the department and the care of the equipment.

(Ord. No. 04-03, § 2, 4-4-03)

Sec. 9.3-29. Police officers; duties.

- (a) The township board shall authorize the supervisor, subject to the approval of the township board, to employ one (1) or more police officers for the department. The police officer shall be accountable to the township board for the efficient and effective operation of the department, and for the department's compliance with all state and federal laws and regulations, township ordinances and policies and shall attend meetings of the township board upon request. The officer shall serve at the pleasure of the board.
- (b) The police officer shall work with the township board through the supervisor to develop written administrative rules to increase the efficiency and effectiveness of the department, including pre-planning and post-incident critiques, regulations, assignments and scheduling, and shall assist in planning for the long-range needs of the department. The police officer shall file a monthly and annual written report on department activity with the township board. As needed, the police officer shall notify the township supervisor of major problems or issues that require board action. When such problems must be resolved immediately and it is impractical or will endanger the health, safety or welfare of the township to wait until the next board meeting to resolve the issue, the township supervisor shall be empowered to resolve the issue or problem, subject to the approval of the board.
- (c) The supervisor may incur expenditures against the department budget as appropriated by the township board. The supervisor will monitor the unencumbered balances remaining in the department budget and shall make timely recommendations for budget amendments at such time as the need for such amendments becomes known. The department's expenditures shall not exceed the amounts appropriated. Capital outlay purchases shall conform to township policy regarding board approval, including any policies regarding written quotes and competitive bidding.

(Ord. No. 04-03, § 3, 4-4-03)

Sec. 9.3-30. Police officers; requirements.

- (a) Applicants for vacant police officer positions shall be of good character, possess a good driving record, and shall be screened by a physician of the township board's choice and at township expense. The physician's examination shall determine if the applicant has any preexisting physical conditions that would preclude the applicant from performing the duties associated with police duties and such physicals shall be conducted annually. Background checks will be conducted through the Monroe County Sheriff's Department on all applicants for police officer positions. All applicants must comply with the provisions of the Law Enforcement Officers Training Council Act, that being Act No. 203 of the Public Acts of Michigan of 1965 as found at MCL 28.601 et seq. as well as all rules and regulations promulgated by the law enforcement officers training council and all other state requirements. All police shall serve an initial probationary period for a period of one hundred eighty (180) calendar days. At the conclusion of the probationary period, the supervisor may

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recommend that a probationary police officer that has met all of the qualifications contained in the police officer's job description, be given non-probationary police officer status by the township board.

- (b) The Berlin Charter Township Police Department and its members shall be subject to and governed by all applicable federal and state laws, policies, standards, rules and regulations and all applicable Berlin Charter Township ordinances, policies, standards, rules and regulations, including any rules or regulations promulgated by the state or any department, divisions or agencies thereof which in any way pertain to minimum employment standards of police officers and employees of any police department of any township in the state. Personnel policies shall be established for part time and full time police department employees, by Berlin Charter Township. The Berlin Charter Township personnel policy shall govern proper disciplinary procedure in conjunction with that contained herein.

(Ord. No. 04-03, § 4, 4-4-03)

Sec. 9.3-31. Department equipment.

Lost or damaged equipment shall be reported as soon as possible to the township. Township property shall be disposed of only with the prior approval of the township board. Personnel leaving the department shall return all department-issued equipment to the supervisor.

(Ord. No. 04-03, § 5, 4-4-03)

Sec. 9.3-32. Use of police station; alcohol and controlled substances.

Only township owned vehicles and equipment may be kept at the police station with the exception of vehicles or equipment for which prior approval has been obtained from the township board. Department equipment shall not be borrowed for private use. Private vehicles must be parked in designated areas only. Alcohol and controlled substances shall not be brought into the township police department or into any station or onto any parcel of land upon which a township police station is situated.

(Ord. No. 04-03, § 6, 4-4-03)

Sec. 9.3-33. Soliciting donations.

All fund raising activities shall require the prior approval of the township board, and all revenues solicited in the name of the police department shall be deposited with the township treasurer. The township board shall disburse such funds.

(Ord. No. 04-03, § 7, 4-4-03)

Chapter 9.5 LICENSES²¹

ARTICLE I. RESERVED

²¹Cross reference(s)—Nudity in liquor-licensed establishments, § 10-1; marihuana establishments prohibited, § 10-2.

Secs. 9.5-1—9.5-20. Reserved.

ARTICLE II. ADULT ENTERTAINMENT²²

Sec. 9.5-21. Legislative findings and intent.

The Township Board of Berlin Charter Township recognizes and concludes that the activity of "adult entertainment" as that term is more particularly described in section 9.5-23 of this article, is an activity which, because of its nature, is known to have seriously objectionable operational characteristics, and thus is an activity which has a deleterious effect on adjacent areas and unless properly regulated would result in the destruction of neighboring property values and a threat to the public health, safety and welfare of the persons in the township. Accordingly, it is the intent and purpose of the township board to adopt reasonable regulations for adult entertainment businesses in the township, so as to minimize the injury caused by this activity on the public health, safety, and welfare on the persons and property within the township.

(Ord. No. 8-95, § 1, 8-18-95)

Sec. 9.5-22. Short title.

This article shall be known and may be cited and referred to as the Berlin Charter Township Adult Entertainment Ordinance and hereinafter be referred to as "this article."

(Ord. No. 8-95, § 2, 8-18-95)

Sec. 9.5-23. Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

Adult bookstore means an establishment having a substantial or significant portion of its stock in trades devoted to the sale or rental of books, magazines, newspapers, video tapes, video discs, motion picture films, or any other media, whether printed or electronic, which are characterized by their emphasis on portrayals of specific sexual activities or specific anatomical areas, or an establishment with a segment or section devoted to the display of such materials.

Adult cabaret means an establishment which features one (1) or more dancers, strippers, male or female impersonators or similar entertainers, performers, wait staff or other persons who reveal or show specific anatomical areas of their bodies or who engage in, perform, or simulate specific sexual activities.

Adult entertainment business means adult bookstores, adult cabarets, adult novelty businesses, adult motion picture theaters, adult personal service businesses, and restricted adult businesses.

Adult motion picture theater means an establishment used for presenting to others motion picture films, video cassettes, cable television, or other visual media, distinguished or characterized by an emphasis on specific sexual activities or specific anatomical areas for observation by patrons therein.

²²Cross reference(s)—Nudity in liquor-licensed establishments, § 10-1.

Adult novelty business means an establishment which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.

Adult personal services business means an establishment having a person or persons, while nude or while displaying specific anatomical areas, providing personal services for another person or persons, which include, but is not limited to, the following activities and services, if the person or persons providing the personal service are nude or display specific anatomical areas: massage parlors, exotic rubs, modeling studios, tattoo parlors, body painting studios, wrestling studios, and theatrical performances.

Establishment means a business or enterprise which utilizes any building, structure, premises, parcel, place or area.

Massage parlor means any establishment where private massage is practiced, used, or made available as a principal use of the premises.

Restricted adult business means any of the above defined uses, which are not customarily open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

Specific anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the line of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specific sexual activities means activities which include, but are not limited to: human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of genitals, pubic regions, buttocks, or female breasts.

(Ord. No. 8-95, § 3, 8-18-95)

Sec. 9.5-24. License required.

No adult entertainment business shall be established, maintained, or conducted in the township by any person without the owner or operator first obtaining a license to operate such place from the township board. Any such license shall be valid only one (1) year from the date of issuance.

(Ord. No. 8-95, § 4, 8-18-95)

Sec. 9.5-25. Application.

Every owner or operator as defined herein desiring to obtain a license as required by this article shall file a written application to the township, together with an application fee of five hundred dollars (\$500.00) or as provided by resolution of the township board to defray the costs of administration of this article in the initial phase of licensing. The application shall be filed with the township clerk who shall be responsible for processing the application and forwarding the same to the township board. The application shall include the following information:

- (1) Name of owner and operator; if a partnership, names of all partners; if a firm, society, club or association, names of all officers and directors; if a corporation, the objects for which organized, the names and addresses of the officers and directors, and if more than thirty (30) percent of the outstanding stock of such corporation is owned by one (1) person or in joint ownership, then the name of such person(s).
- (2) Addresses of all listed as above.
- (3) The location and description of the premises or place where the adult entertainment business will be located, and a description of the type of adult entertainment activity conducted on the premises.

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- (4) The total square footage of floor space in the room or building in which the adult entertainment business will be operated, along with a building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, security arrangements for maintaining order, noise control, and, where appropriate, adequate plans for screening.
 - (5) Whether the owner or operator has at anytime been convicted of a felony or offense involving moral turpitude or has been convicted of any alcohol or narcotics violation or violation of any gambling laws or ordinances.
 - (6) Whether or not any permit or license heretofore granted to applicant to engage in any business has been revoked or denied, and, if so, the circumstances surrounding the revocation or denial.
 - (7) A statement whether the applicant has made application for a similar license on premises other than that described in its application, and the disposition of such application.
 - (8) A schedule of the days of the week and the hours of such days during which the applicant seeks permission for the operation of the adult entertainment business.
 - (9) The application shall be signed by both the owner and operator. In the case of a club, society, corporation, firm, or association, the owner's signature requirement shall be met by the signature of the president and secretary or equivalent officers with proper authority. Where the ownership is a partnership, the signature of all general partners are required. Any false or incorrect statements made on any such application shall be immediate and substantial grounds for revocation of a license granted pursuant to such application.

(Ord. No. 8-95, § 5, 8-18-95)

Sec. 9.5-26. Inspection of premises.

Before an adult entertainment business license shall be issued, investigation of the application and inspection of the premises shall be made by the township building official, fire chief, or their agent, and such other departments or agencies as may be deemed necessary by the township board to determine whether the premises fully comply with all pertinent ordinances and regulations. Before any adult entertainment business license may be recommended for approval, it must be determined that the applicant is providing sufficient off-street parking and sufficient aids and regulations whereby vehicular traffic shall not constitute a nuisance or danger. For a standard of such determination, minimum off-street parking facilities shall be as required by the zoning ordinance of the township. Before the fire chief or his agents approve the same, it must be determined that adequate space is provided to permit safe ingress and egress in the premises. The building official shall determine whether the building involved meets all requirements of the township's building code and other applicable township ordinances, including the zoning ordinance.

(Ord. No. 8-95, § 6, 8-18-95)

Sec. 9.5-27. Location.

An adult entertainment business regulated by this article may be located in the township only in conformance with the following restrictions:

- (1) No adult entertainment business shall be permitted within one thousand (1,000) feet of any of the following:
 - a. A state licensed child care facility.

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- b. A church, place of worship, or other religious facility.
 - c. A day nursery, preschool, primary school, secondary school, college or university.
 - d. A public library, public building, public park, public playground.
 - e. A zoning district (excluding agricultural districts) in which residential uses are permitted.
 - f. A dwelling used or designed for residential purposes, regardless of the zoning district in which it is located.
- (2) No adult entertainment business shall be permitted within one thousand (1,000) feet of the property line of any other adult entertainment business.
 - (3) The distances provided for in subsection (1)a. through e. inclusive and subsection (2) of this section shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest points of the property lines of the protected use and the proposed regulated adult entertainment business, or between the nearest point of the zoning district boundary from which the regulated adult entertainment business is to be separated to the nearest point of the property line of the proposed regulated adult entertainment business.
 - (4) The distances provided for in subsection (1)f. shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest point of the property line of the adult entertainment business and the residential dwelling.

(Ord. No. 8-95, § 7, 8-18-95)

Sec. 9.5-28. Issuance of license.

No adult entertainment business license shall be issued:

- (1) For premises where there exists a violation of the applicable building, electrical, mechanical, plumbing, or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable township ordinance or state law.
- (2) For premises where it is determined by the township board that the premises do not have adequate off-street parking, exterior and interior lighting, refuse disposal facilities, security arrangements for maintaining order, screening, and noise or nuisance control.
- (3) Until the township building department and the township fire department have inspected the subject premises and ascertained that all physical requirements have been complied with, the adequacy of security arrangements on the premises for maintaining order and avoiding public disturbance is satisfactory.

(Ord. No. 8-95, § 8, 8-18-95)

Sec. 9.5-29. Time requirements; license denial.

The township board shall act on a license application or license renewal application within sixty (60) days of the date the application is filed with the township clerk. If the township board determines after a review of the application and accompanying written recommendations that an application for a license under this article must be denied, the township clerk shall inform the applicant of this fact by written notice either personally served on the applicant or mailed by first class mail to the applicant's last known address. This written notice shall inform the applicant of the reasons the application was denied and of the applicant's right to seek judicial review of the decision.

(Ord. No. 8-95, § 9, 8-18-95)

Sec. 9.5-30. License renewal fee.

Any application to renew a license previously issued under this article shall be accompanied by a renewal fee of two hundred fifty dollars (\$250.00) to help defray the costs of administering the article during the renewal phase of licensing.

(Ord. No. 8-95, § 10, 8-18-95)

Sec. 9.5-31. Suspension or revocation of license.

Any license issued under this article may be revoked or suspended during the period of its issuance as a result of any violations of the terms and conditions of the license and this article. Such revocation or suspension shall be determined by the township board at a meeting of the board preceded by notice to the licensee of the proposed action and the reasons therefore, and the time, date, and place of the meeting at which the matter is to be heard. This notice shall be either personally served or mailed by first class mail to the applicant's last known address at least seven (7) days prior to the date of the township board meeting which this matter is to be heard. The licensee shall have an opportunity to present any evidence or arguments on its own behalf at that time. The extent of the suspension or revocation shall be in the discretion of the township board and shall be based upon the nature of the violation or violations which have occurred, the frequency thereof, and the likelihood of their correction with respect to future operations. The reasons for any suspension or revocation shall be set forth in writing and mailed to the licensee at its last known address within eight (8) days after the township board decision concerning the same.

(Ord. No. 8-95, § 1, 8-18-95)

Secs. 9.5-32—9.5-50. Reserved.

ARTICLE III. DANCERS AND ENTERTAINERS

Sec. 9.5-51. Short title.

This article shall be known and may be cited and referred to as the Berlin Charter Township Dancer and Entertainer Licensing Ordinance and shall hereinafter be referred to as "this article."

(Ord. No. 9-95, § 1, 9-11-95)

Sec. 9.5-52. Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

Adult cabaret means an establishment which features one (1) or more dancers, strippers, male or female impersonators or similar entertainers, performers, wait staff or other persons who reveal or show specific anatomical areas of their bodies or who engage in, perform, or simulate specific sexual activities.

Adult entertainment business means adult bookstores, adult cabarets, adult novelty businesses, adult motion picture theaters, adult personal service businesses, and restricted adult businesses.

(Supp. No. 19)

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Adult personal services business means an establishment having a person or persons, while nude or while displaying specific anatomical areas, providing personal services for another person or persons, which include, but is not limited to, the following activities and services, if the person or persons providing the personal service are nude or display specific anatomical areas: massage parlors, exotic rubs, modeling studios, tattoo parlors, body painting studios, wrestling studios, and theatrical performances.

Dancer or entertainer means a person or individual who provides entertainment which may include dancing emphasizing specified sexual activities, displaying nudity or showing specific anatomical areas during a show or exhibition at an adult entertainment business or other establishment.

Establishment means a business or enterprise which utilizes any building, structure, premises, parcel, place or area.

Massage parlor means any establishment where private massage is practiced, used, or made available as a principal use of the premises.

Restricted adult business means any of the above defined uses, which are not customarily open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.

Specific anatomical areas means less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the line of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specific sexual activities means activities which include, but are not limited to: human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of genitals, pubic regions, buttocks, or female breasts.

(Ord. No. 9-95, § 2, 9-11-95)

Sec. 9.5-53. License required.

- (a) It shall be unlawful for any owner, tenant, person, licensee, agent or employee, of any theater, establishment, bar, tavern, club or business offering any kind of show or exhibition emphasizing specified sexual activities or specified anatomical areas to employ or engage any person as a dancer or entertainer unless such dancer or entertainer possesses a valid entertainer's license issued by the township.
- (b) It shall be unlawful for any person to provide his or her services as a dancer or entertainer in any theater, establishment, bar, tavern, club or business offering any kind of show or exhibition emphasizing specified sexual activities or specified anatomical areas, unless such person possesses at the place of employment, engagement, show or exhibition, a valid entertainer's license issued by the township.

(Ord. No. 9-95, § 3, 9-11-95)

Sec. 9.5-54. Application.

Any person desiring employment as a dancer or entertainer in a theater, establishment, bar, tavern, club, business or any other place for which an entertainer's license is required shall first make application to the township clerk for a license as required in this article. At the time the application is filed, a nonrefundable application fee in the amount of one hundred dollars (\$100.00) shall be remitted to the township clerk, and shall be in addition to any other fee required by this section. Any applicant for a license pursuant to this section shall submit the following information and submittals to the township clerk:

- (1) The full correct name, social security number and present address of the applicant.

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- (2) The two (2) previous addresses immediately prior to the present address of the applicant and the dates of residence.
 - (3) A complete description in writing of the services to be performed.
 - (4) The location, name, and mailing address of all prospective employers.
 - (5) Written proof (by birth certificate or sworn affidavits) that the applicant is at least eighteen (18) years of age.
 - (6) The individual applicant's height, weight, color of eyes and hair, sex.
 - (7) One (1) recent portrait photograph depicting a reasonable likeness of the applicant that is at least two (2) inches by two (2) inches and a complete set of the applicant's fingerprints, which shall be taken by the Monroe County Sheriff or his designee.
 - (8) All criminal convictions other than traffic violations and the specifics thereof.
 - (9) The application shall be signed and its truthfulness sworn to by the applicant.
 - (10) A complete list of all stage names, pseudonyms, aliases or nicknames under which the applicant has or will appear and documentation of any legal name changes by any court of record within the last seven (7) years, or name changes resulting from marriage or divorce.
 - (11) Such other identification and information necessary to discover the truth of the matters specified in this section, as required by the township clerk and/or the Monroe County Sheriff or his designee.

(Ord. No. 9-95, § 4, 9-11-95)

Sec. 9.5-55. Issuance.

The township clerk shall issue or renew an entertainer's license after the Monroe County Sheriff's Department has completed a criminal record check of local and state police records. A record of conviction for an offense involving gambling, narcotics, prostitution, pandering, pornography, or any crime involving moral turpitude, or a violation of any provision of this section within the preceding two (2) years shall be grounds for refusal to issue or renew an entertainer's license.

(Ord. No. 9-95, § 5, 9-11-95)

Sec. 9.5-56. Renewal.

A dancer or entertainer must file an application for renewal with the township clerk's office on or before the first Monday in June of each year along with a nonrefundable renewal fee of one hundred dollars (\$100.00).

(Ord. No. 9-95, § 6, 9-11-95)

Sec. 9.5-57. Revocation.

A license issued pursuant to this section shall remain the property of the township and shall be revoked and surrendered upon demand when proof is submitted to the township clerk or the Monroe County Sheriff's Department of any violation of the conditions of its issuance.

(Ord. No. 9-95, § 7, 9-11-95)

Secs. 9.5-58—9.5-70. Reserved.

ARTICLE IV. PAWNBROKER LICENSING

Sec. 9.5-71. Title.

This chapter shall be known as and referred to as the Berlin Charter Township Pawnbroker Licensing Ordinance.

(Ord. No. 02-19, § 1, 8-26-19)

Sec. 9.5-72. Purpose.

This chapter shall regulate and require the licensing of all pawnbrokers within Berlin Charter Township.

(Ord. No. 02-19, § 2, 8-26-19)

Sec. 9.5-73. State law adopted.

The township hereby adopts by reference Pawnbrokers Act No. 273 of the Public Acts of 1917, as amended, being sections 446.201 through 446.219 of the Michigan Compiled Laws (the "Act").

(Ord. No. 02-19, § 3, 8-26-19)

Sec. 9.5-74. Definitions.

As used in this article:

Chief executive officer means the Berlin Charter Township Supervisor or his or her designee.

Local governmental unit means Berlin Charter Township or its designee.

Local police agency means the Monroe County Sheriff's Office or its designee.

Pawnbroker means a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing or other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

(Ord. No. 02-19, § 4, 8-26-19)

Sec. 9.5-75. License required.

A person, firm or corporation shall not conduct business as a pawnbroker in Berlin Charter Township without first having obtained a license from the township as required by the Act. The license shall designate the particular place in the township where the licensee will conduct business.

(Ord. No. 02-19, § 5, 8-26-19)

Sec. 9.5-76. License application, information required.

To obtain a pawnbroker's license, a written application shall be made to the township clerk upon forms provided by the clerk. The application shall be under oath and shall contain the following information:

- (1) The name, address, and telephone number of the business entity for which the license is sought.
- (2) The names, addresses, telephone numbers, dates of birth, thumbprints and types of legal interest in the business of all owners, co-partners, stockholders or managers.
- (3) The criminal record, if any, of all owners, co-partners, stockholders or managers, giving the date, place and nature of all felonies and misdemeanors, including violations of local ordinances with the exception of traffic offenses.
- (4) The names, addresses, dates of birth, thumbprints and picture identification of all agents or employees of the pawnbroker.
- (5) Within forty-eight (48) hours of the occurrence of any addition, deletion or modification of the data indicated above, the licensee shall notify the Township Clerk of such change.

(Ord. No. 02-19, § 6, 8-26-19)

Sec. 9.5-77. Annual license fee and bond.

The annual fee for a pawnbroker's license shall be two hundred fifty dollars (\$250.00) and the initial annual fee shall be due and payable at the time of the filing of the application for the pawnbroker's license. The applicant shall also be required to provide a bond to the township in a form acceptable to the township in the penal sum of three thousand dollars (\$3,000.00) with at least two (2) sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of costs and damages incurred by the township for the violation of this article or for other purposes permissible under the Act.

(Ord. No. 02-19, § 7, 8-26-19)

Sec. 9.5-78. License denial; refund; probationary license revocation.

- (a) *Denial.* In the event that the report of the local police agency establishes that the proposed licensee constitutes a threat to the public health, welfare or morals, the chief executive officer of the township, in his or her judgment shall refuse to issue a license to the applicant and the applicant's license fee shall be refunded except for an administrative service charge of seventy-five dollars (\$75.00).
- (b) *Probationary license.* The township shall have the authority to issue conditional or probationary licenses. The failure to provide any information for a license, or the falsification of any information on the application shall constitute sufficient reason to refuse issuance of a license.
- (c) *Revocation.* Upon a violation of this article by a person conducting business as a pawnbroker, or a violation of any clerk, agent, servant, or employee of the person, the township supervisor shall revoke the license of the person and no part of the license fee shall be returned to him or her. The township shall not issue a license as a pawnbroker to that person for a period of one (1) year from the date of the revocation.

(Ord. No. 02-19, § 8, 8-26-19)

Sec. 9.5-79. License term.

In the event the application and subsequent report indicate that the issuance of a license to the applicant under this article would not be detrimental to the public welfare and morals, the chief executive officer of the township shall grant a license for the term of one (1) year ending December 31st of the succeeding year. Such license shall not be transferable and shall be subject to suspension, probation or revocation for cause after notice and hearing.

(Ord. No. 02-19, § 9, 8-26-19)

Sec. 9.5-80. Record of transaction.

A pawnbroker shall maintain and provide records of transactions to the local police agency in the form required by and in accordance with the provisions of the Act including but not limited to a record of property received, a statement to local policy agency of articles received and purchaser's memorandum of pawn.

(Ord. No. 02-19, § 10, 8-26-19)

Sec. 9.5-81. Compliance with local zoning, ordinances and laws.

The provisions of this article and the Act shall not exempt a pawnbroker from complying with the township zoning ordinance or any other township ordinance or requirements and county and state laws.

(Ord. No. 02-19, § 11, 8-26-19)

Sec. 9.5-82. Penalty.

Any person, firm or corporation violating any section of this article shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not to exceed one hundred dollars (\$100.00) or by being imprisoned in the county jail for not less than ten (10) days nor more than three (3) months or both such fine and imprisonment at the discretion of the court. Each day of violation shall constitute a separate offense.

(Ord. No. 02-19, § 12, 8-26-19)

Chapter 10 OFFENSES

ARTICLE I. IN GENERAL

Sec. 10-1. Nudity in liquor-licensed establishments.

- (a) *Legislative findings and interest.* The township board recognizes and concludes that undesirable behavior and disorderly behavior stem from the combination of nudity and alcohol in public places and that unless properly regulated the combination of nudity and alcohol in public places poses a threat to the health, safety and welfare of the persons within the township. The purpose and intent of this section is to eradicate the effects of undesirable behavior stemming from the combination of alcohol and nudity.
- (b) *Short title.* This section shall be known as the "Berlin Charter Township Entertainment and Nudity Prohibition Ordinance."

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- (c) *Nudity defined.* "Nudity" shall be defined to be the exposure to view of persons, of any of the following body parts, either directly or indirectly, including but not limited to by exposure, see through clothing articles or body stockings;
- (1) The whole or part of the pubic region;
 - (2) The whole or part of the anus;
 - (3) The whole or part of the buttocks;
 - (4) The whole or part of the genitals;
 - (5) The breast area including nipple, or more than one-half of the area of the breast.
- (d) *Nudity prohibited.* Nudity as defined in subsection (c), above, is prohibited at any time in any establishment licensed or subject to licensing by the state liquor control commission.
- (e) *Covenant required and civil penalties.* All applicants for issuance of a license or a renewal of a license through the state liquor control commission shall be required to execute a covenant which provides for compliance with the provisions of this section. Such covenant shall further provide that the township shall be entitled to all actual attorney fees and costs associated with the enforcement of the covenant. The execution of and enforcement of any such covenant shall be a cumulative remedy and shall not prohibit the enforcement and imposition of penalties elsewhere provided in this section. Any violation of the terms of this section, its amendments or successors or violation of the covenant executed in connection herewith shall serve as a basis for either revocation or nonrenewal of any liquor license and permit applied for or issued. Any violation of the terms of this section, its amendments or successors shall serve as a basis for the revocation of any occupancy permit.
- (f) *Dancing with touching for compensation prohibited.* Dancing by employees, contractors, patrons or others on the premises where dancers touch or are touched by persons and dancers are compensated directly or indirectly including but not limited to wages, tips or voluntary gratuities is prohibited in establishments licensed or subject to licensing by the state liquor control commission.
- (g) *Explicit sexual activity prohibited.* No person shall engage in, nor shall a licensee, owner or occupant allow in or upon the premises, a person who performs or simulates the performance of sexual intercourse, masturbation, sodomy, bestiality, fellatio, or cunnilingus. No person shall display and no licensee, occupant or owner shall allow the display or showing of films, television, slides, or other electronic reproductions which depict scenes wherein a person performs or simulates performance of sexual intercourse, masturbation, sodomy, bestiality, fellatio, or cunnilingus. This prohibition does not apply to any publicly broadcast television transmission from a federally licensed station. The provisions of this section apply to establishments licensed or subject to licensing by the state liquor control commission.
- (h) *Wet tee shirts, lingerie, fashion shows, mud wrestling and similar displays prohibited.* Wet tee shirt contests, the wetting of clothing articles in the area of the breasts, buttocks, and/or genitalia exposed to view by patrons, lingerie fashion shows, mud wrestling or similar displays and contests are prohibited in establishments licensed by or subject to licensing by the state liquor control commission.
- (i) *Enforcement.* Officers, employees, and representatives of the state police department, the county sheriff's department, the building official and his designated agents are hereby authorized to issue citations to any person violating the provisions of this section. Any article or articles of clothing worn by the person may be seized and held as evidence pending final disposition of any civil or criminal proceedings brought pursuant to this section.
- (j) *Criminal penalties.* Any person, corporation and the owner or occupant of any establishment, their shareholders, directors and officers violating any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500.00) and/or by imprisonment in the county jail for a period not to exceed ninety (90) days or by both fine and imprisonment within the discretion of the

court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this section.

- (k) *Nuisance per se.* The owner or operator of any establishment or business upon which a violation of this section occurs shall be deemed to be permitting the existence of a nuisance per se injurious to the public health, safety and welfare of the citizens of the township, which shall be subject to abatement, including but not limited to a permanent injunction in the discretion of the court.

(Ord. No. 9-97, §§ 1—11, 12-14-97)

Cross reference(s)—Adult entertainment, ch. 3; licenses, ch. 9.5

Sec. 10-2. Marihuana establishments prohibition.

- (a) *Title.* The ordinance from which this section derives shall be known as the "Berlin Charter Township Prohibition of Marihuana Establishments Ordinance."
- (b) *Prohibition.* Pursuant to Michigan Regulation and Taxation of Marihuana Act (MRTMA), Section 6.1, Berlin Charter Township elects to prohibit marihuana establishments within its boundaries and any such marihuana establishments as defined in section 3 of the MRTMA are hereby completely prohibited.

(Ord. No. 01-19, §§ 1, 2, 1-28-19)

Secs. 10-3—10-25. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC PROPERTY

Sec. 10-26. Definitions.

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

Litter means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

Public or private property or waters includes, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, or the shores or beaches thereof, including the ice above such waters; any park, playground, building, refuge or conservation or recreational area; and any residential or farm properties or timberlands.

(Rev. Comp. Ords. 1979, §§ 48.010, 48.030)

State law reference(s)—Similar definition, MCL 752.902.

Sec. 10-27. Littering generally.

It is unlawful for any person knowingly, without consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of, litter on any public or private property or waters, other than property designated and set aside for such purposes.

(Rev. Comp. Ords. 1979, § 48.010)

Sec. 10-28. Accident debris.

It is unlawful for any person who removes a vehicle, wrecked or damaged in an accident on the highway, road or street, to fail to remove all glass and injurious substances dropped on the highway, road or street as the result of the accident.

(Rev. Comp. Ords. 1979, § 48.010)

Sec. 10-29. Littering on highways.

It shall be unlawful for any person to knowingly cause any litter or any object to fall or to be thrown in the path of or to hit a vehicle travelling upon a highway.

(Rev. Comp. Ords. 1979, § 48.020)

State law reference(s)—Similar provisions, MCL 752.901, 752.901a.

Sec. 10-30. Penalty for violation.

Violation of this article shall be deemed a municipal civil infraction and shall be punishable by the fine schedule set forth in the municipal civil infractions ordinance as restated herein:

First offense: \$50.00.

First repeat offense: \$250.00.

Second (or any subsequent) repeat offense: \$500.00.

In addition, the township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article.

(Rev. Comp. Ords. 1979, § 48.040; Ord. No. 9-00, § 2, 12-2-00)

Sec. 10-31. Receptacles may be provided.

All public authorities having supervision of public property in the township may establish and maintain a receptacle for the deposit of litter on the property and publicize the location thereof.

(Rev. Comp. Ords. 1979, § 48.050)

Sec. 10-32. Publication of provisions.

All public authorities having supervision of public property of the state or any political subdivision thereof, may post signs or otherwise publicize the requirements of this article.

(Rev. Comp. Ords. 1979, § 48.050)

Secs. 10-33—10-50. Reserved.

ARTICLE III. OFFENSES AGAINST PUBLIC PEACE

Sec. 10-51. Loitering.

- (a) In this section the following words and phrases shall have the meanings respectively ascribed to them:
- (1) *Loitering* means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and also includes the colloquial expression "hanging around."
 - (2) *Public place* means any place to which the general public has access and a right of resort for business, entertainment or for lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.
- (b) It shall be unlawful for any person within the township to loiter, loaf, wander, stand or remain idle either alone or in consort with others in a public place in such manner so as to:
- (1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians after having been told to move on by any authorized enforcement official.
 - (2) Commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress, therein, thereon and thereto after having been told to move on by any authorized enforcement official.
 - (3) Obstruct the entrance to any business establishment, without so doing for some lawful purpose, if contrary to the expressed wish of the owner, lessee, managing agent or person in control or charge of the building or premises.

State law reference(s)—Certain loiterers deemed disorderly persons, MCL 750.167(i—k).

Sec. 10-52. Emergency brake (engine brake) prohibited.

- (a) *Purpose.* The purpose of this section is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within designated areas along the various "truck routes" as those routes are defined in Township Ordinance No. 03-20.
- (b) *Definitions.* For the purposes of this section "engine retarding brake" means and is defined as an "engine brake", "engine retarder", "transmission retarder", or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression through an exhaust or venting system of the vehicle.
- (c) *Prohibitions.* It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas throughout the township, any engine retarding brake, compression brake or mechanical exhaust device designed to aid in the braking and/or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those "truck routes" designated in Township Ordinance No. 03-20 and marked by signage as set forth in subsection (d) of this section.
- (d) *Signage.* Signs stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKE ORDINANCE ENFORCED" shall be installed at locations deemed appropriate by the township board to advise motorists of the prohibitions contained in this section. All signs so installed shall be with permission and approval of the Monroe County Road Commission.

(e) *Exceptions.*

- (1) Emergency vehicles, including but not limited to fire engines, ambulances, and like emergency responders shall be exempt from the application of this section.
- (2) This section shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of the township, other motor vehicle operators, pedestrians, and the operator and/or passengers of the motor vehicle involved in said emergency situation.

(f) *Penalties.* Any violation of this section is deemed to be a municipal civil infraction. Any driver and/or the firm or corporation by whom the driver is employed who shall violate any provision of this section shall be responsible for the payment of a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) plus costs of not less than nine dollars (\$9.00) and not more than five hundred dollars and zero cents (\$500.00). Costs may include all expenses, direct and indirect, which the township has incurred in connection with said municipal civil infraction up to the entry judgment. The township may seek or employ any and all other remedies and sanctions which may be available to it under the state law for municipal civil infractions.

(Ord. No. 02-21, §§ 1—6, 5-24-21)

Cross reference(s)—Truck routes, §§ 13-226 et seq.

Secs. 10-53—10-70. Reserved.

ARTICLE IV. FALSE ALARMS

Sec. 10-71. Purpose and findings.

The township board is enacting this article to encourage security alarm users and alarm system monitoring companies to maintain the operational reliability and proper use of security alarm systems in order to reduce unnecessary police responses to false alarms. The township board finds that false alarms are not only a public nuisance but also a threat to public safety by diverting limited resources from legitimate requests for assistance and law enforcement matters.

The township board intends this article to provide for the health, safety and welfare of the general public and not to protect particular individuals or to otherwise designate a particular group of persons who should be especially affected by the terms of this article. The article imposes or creates no duties on the part of the township or its departments and employees, and the obligation of complying with the requirements of the article, and any liability for failure to do so is placed upon the parties responsible for owning, operating, monitoring or maintaining security alarm systems.

(Ord. No. 8-99, § 1, 5-21-99)

Sec. 10-72. Definitions.

For the purpose of this article, the following words have the meanings respectively ascribed to them in this section except where the context clearly indicates a different meaning:

Alarm system means an assembly of equipment and devices, or a single device such as a solid state unit, which uses electrical energy to signal the presence of a hazard requiring urgent attention such as a burglar, robbery, fire, smoke or need for medical assistance within a building, structure or facility for alerting others to the

commission of an unlawful act or hazard within the building, structure or facility and to which firefighters, police officers, EMTs or public safety officers are expected to respond, and which emits a sound or transmits a signal or message when actuated. "Alarm system" includes, but is not limited to the terms "audible alarm system", "automatic dialing telephone alarm", "automatic hold-up alarm system", "burglar alarm system", "fire alarm system" and "manual hold-up alarm system" as those terms are hereinafter defined. Excluded from the definitions of "alarm system" are systems used solely to alert or signal persons within the premises in which the alarm system is located that is not audible beyond the premises.

Alarm system monitoring company means any individual, partnership, corporation or other form of association that engages in the business of monitoring alarm systems and reporting any activation of such alarms systems to the police or fire departments.

Alarm user means any individual, partnership, corporation or other form of association that owns or leases an alarm system or on whose premises an alarm system is maintained for the protection of the premises.

Automatic dialing telephone alarm means an alarm system with a device that automatically dials the police or fire departments emergency assistance telephone lines without human activation of the device by the alarm user.

Automatic hold-up alarm system means an alarm system in which the signal transmission is initiated by the action of the robber.

Burglar alarm system means an alarm system signaling an entry or an attempt of entry in the area protected by the alarm system.

Chief means the Monroe County Sheriff's Department contract officer for Berlin Charter Township or the fire chief for Berlin Charter Township, or their designee.

Department means the Berlin Charter Township Monroe County Sheriff's Department contract officer or Berlin Charter Township fire department.

Dispatch or response means a discretionary decision whether to direct police, fire or rescue units to a location where there has been a request, made by whatever means, for police, fire or rescue assistance or investigation. There is no duty to dispatch under any circumstances, including to answer an alarm signal, and all dispatch decisions are made subject to completing priorities and available police, fire or rescue resources.

False alarm means an alarm signal eliciting notification to and a response by the police, fire or rescue when there is no evidence of a crime, fire, rescue or other activity that warrants a call for immediate assistance and no person who was on or near the property or has viewed a video communication from the property called for the police or fire dispatch or confirmed the need for assistance. "False alarm" does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user.

Fire alarm system means an alarm system signaling fire and/or smoke in the area protected by the alarm system and shall include, but not be limited to, all fire alarms, smoke alarms or sprinkler alarms.

Manual hold-up alarm system refers to an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

(Ord. No. 8-99, § 2, 5-21-99)

Sec. 10-73. Audible alarm standards.

An alarm system that emits an audible signal that may be heard outside of the protected premises shall conform to the following requirements:

- (a) Audible alarms shall automatically discontinue emitting the audible sound within ten (10) minutes after activation of the alarm; and

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- (b) With respect to alarm systems in existence prior to the enactment of this article that do not comply with subsection (a) above, the alarm user shall have ninety (90) days from the enactment of this article in which to make the necessary modifications to the alarm system in order to comply with the requirement.

(Ord. No. 8-99, § 3, 5-21-99)

Sec. 10-74. Violation of audible alarm standard.

- (a) The sounding of an audible signal from an alarm system that can be heard continuously off the premises for more than ten (10) minutes is a municipal civil infraction and the alarm user, in addition to any other penalties specified herein, shall be penalized by a fine of seventy-five dollars (\$75.00) for each offense, or such other fine as may be adopted by resolution of the township board.
- (b) It is a defense to a violation of this section that the continuous sounding of the alarm:
 - (1) Assisted in saving a life or avoiding injury; or
 - (2) Was activated by an unauthorized entry or criminal activity.

(Ord. No. 8-99, § 4, 5-21-99)

Sec. 10-75. Automatic dialing telephone systems prohibited.

Beginning ninety (90) days after the effective date of this article, it shall be unlawful for any individual, partnership, corporation or other form of association to sell, offer for sale, install, maintain, operate or assist in the operation of any alarm system with an automatic dialing or digital alarm communicator feature that automatically calls the police or fire dispatch in the event of an alarm.

(Ord. No. 8-99, § 5, 5-21-99)

Sec. 10-76. Alarm users.

An alarm user shall:

- (a) Maintain the premises and alarm system in a manner that will minimize or eliminate false alarms.
- (b) Review all alarm systems' operating instructions, including those for verification of an alarm;
- (c) Notify the alarm system monitoring company of a false alarm activation as soon as the user is aware of the false alarm; and
- (d) Not manually activate an alarm except when needing an immediate police response to an emergency.

(Ord. No. 8-99, § 6, 5-21-99)

Sec. 10-77. Alarm system monitoring companies.

An alarm system monitoring company engaging in business activities in the township shall:

- (a) Obtain all necessary business licenses as required by the township and the State of Michigan;
- (b) Maintain a current record, accessible to the chief at all times, that includes: the names of the alarm users serviced by the company; the addresses of the protected properties; the type of alarm system,

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- original installation date and subsequent modifications, if any, for each protected property; and a record of the false alarms at each property;
- (c) Provide the chief such information as the chief requests regarding: the nature of the company's alarms; the company's method of monitoring the alarms; the company's program for preventing false alarms, including education programs for alarm users; and the company's method for disconnecting audible alarms;
 - (d) Provide each of its alarm system users with: operating instructions for the alarm system, including an explanation of the alarm company's alarm verification process; a telephone number to call for assistance in operating the system; and a summary of the provisions of this article relating to penalties for false alarms and the possibility of no response to alarm systems experiencing excessive false alarms;
 - (e) Maintain a verification process, as specified in section 10-78, for all monitored security alarm systems in order to prevent unnecessary police, fire and rescue dispatches resulting from false alarms;
 - (f) Communicate requests for police, fire and rescue responses to the department in a manner specified by the chief;
 - (g) Communicate requests for cancellations of police, fire and rescue responses in a manner specified by the chief;
 - (h) Maintain a record of all requests for police, fire and rescue responses to an alarm, including: the date and time of the alarm and request for response; the alarm system user's name and address; evidence of the company's attempt to verify the alarm; and, to the best of its knowledge, an explanation of the cause of any false alarm; and
 - (i) Work cooperatively with the alarm system user and the department in order to determine the cause of any false alarm and to prevent recurrences.

(Ord. No. 8-99, § 7, 5-21-99)

Sec. 10-78. Alarm verification process.

A verification process is an independent method of an alarm system monitoring company for determining that a signal from an alarm system requires immediate police, fire or rescue response. The verification process shall not take more than five (5) minutes, calculated from the time that the alarm company receives the alarm signal until the alarm company determines whether to request a police dispatch. The means of verification shall include at least one (1) of the following:

- (a) The establishment of voice communications with the alarm user or a person authorized by the user at or near the premises with the alarm who may indicate whether there is an immediate need for police, fire or rescue response;
- (b) A feature that permits the alarm user or a person authorized by the user to send a special signal to the alarm company that will cancel the alarm immediately after the signal has been sent and prevent the alarm company from calling for assistance;
- (c) The installation of a video system that provides the alarm company when the alarm signal is received with the ability to ascertain whether activity is occurring that warrants immediate response;
- (d) A confirmation that an alarm signal reflects a need for immediate response from either the alarm user or a person authorized by the user or an alternate response agency made before dispatching the police, fire or rescue services; or
- (e) An alternate system that the chief determines has or is likely to have a high degree of reliability.

(Ord. No. 8-99, § 8, 5-21-99)

Sec. 10-79. Unlawful activation or report of alarm.

- (a) No person shall activate a security alarm system for the purpose of summoning the police, fire or rescue except in the event of an unauthorized entry, robbery, or other crime being committed or attempted on the premises, or if the person needs immediate assistance in order to avoid damage to property as a result of smoke or fire or to avoid damage to property as the result of smoke or fire or to avoid injury or serious bodily harm, or need for rescue services.
- (b) Any person who shall notify the police of an activated alarm and have knowledge that such activation was apparently caused by an electrical or other malfunction shall at the same time notify the police or fire dispatch of the apparent malfunction.

(Ord. No. 8-99, § 9, 5-21-99)

Sec. 10-80. Determination of false alarm; rebuttable presumption.

For the purposes of this article, there is a rebuttable presumption that the following determinations made by the chief or by a police officer, fire or rescue personnel dispatched to the premises reporting an alarm signal are correct and that the alarm is false:

- (a) There is no evidence of a crime or other activity that would warrant a call for immediate assistance at the premises;
- (b) No individual who was on or near the premises or who has viewed a video communication from the premises called for a dispatch or verified a need for an immediate response; and
- (c) There is no evidence that violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user caused the activation of the alarm.

(Ord. No. 8-99, § 10, 5-21-99)

Sec. 10-81. Penalty for false alarm.

A false alarm is a municipal civil infraction, and the alarm system user shall be penalized by fine of seventy-five dollars (\$75.00) for each offense, or such other fine which may be adopted by resolution of the township board.

(Ord. No. 8-99, § 11, 5-21-99)

Cross reference(s)—Municipal civil infractions, § 1-12 et seq.

Sec. 10-82. No-response to frequent false alarms; appeal of no-response determination.

- (a) When the chief determines whether to make an immediate dispatch in response to notification of a signal from an alarm system, the chief may disregard a call for police, fire or rescue assistance when:
 - (1) The call for assistance comes from an alarm system for a premises that has a record of sending four (4) false alarms in a six-month period; and
 - (2) The call is the only basis for making the dispatch.

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- (b) The chief may consider a call for assistance as an additional factor in the chief's decision to order an immediate response when an in-person call, verification from a person at or near the premises, or other independent evidence shows a need for immediate assistance at the premises.
 - (c) To discourage false alarms, the chief shall adopt a process of sending a letter or delivering other written notice informing the alarm user who has had a false alarm of the consequences of excessive false alarms, the need to take corrective action, and the prospect that four (4) false alarms in a six-month period shall result in disregarding alarms from the premises and not responding to requests for immediate assistance unless there is an in-person call for assistance from someone at or near the premises or other independent information that verifies the need for an immediate response.
 - (d) Before determining not to respond to alarms from a premises as specified above, the chief shall send or deliver notice to the alarm user that:
 - (1) Four (4) false alarms have been received from the property within a six-month period;
 - (2) The remedy authorized in subsection (a) above may be taken;
 - (3) The alarm system user may request a hearing before the chief or the chief's designee and explain why the chief should not take the proposed action;
 - (4) If no hearing is requested, the department will after ten (10) days from the delivery of the notice disregard alarms from the premises unless there is an in-person call for assistance from someone at or near the premises or other independent information that verifies the need for an immediate police response; and
 - (5) A requirement of an in-person communication or other verification shall remain in effect for a period of one (1) year.
 - (e) If a hearing is requested, the chief shall schedule the hearing within ten (10) days of the receipt of the request. At the hearing, the chief may consider such factors as: the steps that the alarm user or alarm system monitoring company has taken, or is taking, to correct the problem; the incidence of crime in the area of the premises; the facts and circumstances of the false alarms; and other relevant information presented by the alarm user or the alarm system monitoring company.
 - (f) The chief may suspend or cancel the remedy under subsection (a) if the chief determines that the alarm user or alarm system monitoring company has taken appropriate actions to prevent the recurrence of false alarms.

(Ord. No. 8-99, § 12, 5-21-99)

Sec. 10-83. Violation; civil penalties.

- (a) An alarm system monitoring company's failure to comply with any requirements of this article shall be a municipal civil infraction, punishable by a fine of two hundred fifty dollars (\$250.00). Each day of noncompliance shall constitute a separate offense.
- (b) The violation of the other sections of this article shall be a municipal civil infraction and punishable by a fine of seventy-five dollars (\$75.00), unless otherwise specified.
- (c) There shall be a maximum penalty of seventy-five dollars (\$75.00) for any of the following:
 - (1) Failure to respond to a false alarm notice within fifteen (15) days of receipt of the notice;
 - (2) Failure to appear for a hearing requested pursuant to this article; and
 - (3) Failure to pay any fine imposed pursuant to this article.

(d) Notwithstanding the foregoing, the fine imposed as the result of admission of responsibility in response to a municipal ordinance violation notice, but prior to the filing of a citation with the court, shall be one hundred dollars (\$100.00) for an alarm system monitoring company and thirty-five dollars (\$35.00) for all other violations.

(e) The fines established herein may be amended from time to time by resolution of the township board.

(Ord. No. 8-99, § 13, 5-21-99)

Cross reference(s)—Municipal civil infractions, § 1-12 et seq.

Chapter 11 PARKS AND RECREATION²³

Sec. 11-1. Definitions.

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

Notice and/or sign refers to any writing posted in township parks by authority of the township board.

Parks means areas of land owned or controlled by the township for public recreation purposes, including but not limited to landscaped tracts, picnic grounds, playgrounds and athletic fields, and the personal property used in connection with such parks.

(Ord. No. 82D, § 1, 6-13-83)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 11-2. Dangerous or obnoxious materials or equipment.

- (a) No person shall deposit or abandon in or on any land or other area within township parks any garbage, sewage, bottles, refuse, trash, waste or other obnoxious materials, except in receptacles provided for such purposes.
- (b) No person shall have in his possession or control any glass bottle or glass container on any ball-playing area in township parks, or in any other locality in township parks where possession of glass bottles or containers may be prohibited by posted notices. Any person having in his possession in any area of the park, any glass bottle or glass container, which shall be broken, shall be responsible immediately thereafter for removing all parts of the broken items from the township park or immediately placing the same in a receptacle provided for refuse.
- (c) No person shall have in his possession or control within township parks any slingshots, pellet gun, air rifle, fireworks, crossbow, bow, arrow or archery equipment, explosives or dangerous materials unless he has obtained advance written permission of the township board.
- (d) No person shall discharge or have in his possession or control any rifle, shotgun, pistol, revolver or any other firearm of any other type, or ammunition therefor, within township parks. The provisions of this section shall not apply to any law enforcement officer who has been duly appointed by the government of the United

²³Cross reference(s)—Alcoholic liquors, Ch. 3; offenses, Ch. 10.

State law reference(s)—Authority to operate system of public recreation and playgrounds, MCL 123.51 et seq., MSA 5.2421 et seq.

States, the state, the county or any political subdivision of the state who possesses such items in the course of his official duty.

(Ord. No. 82D, § 2, 6-13-83)

Sec. 11-3. Signs and handbills.

No person shall post, fasten, paint or fix any placard, bill, notice, sign or handbill upon any structure, tree or automobile within township parks unless such person has obtained the advance written permission from the township board.

(Ord. No. 82D, § 3, 6-13-83)

Sec. 11-4. Unlawful fires.

- (a) No person shall start or maintain a fire within township parks, except in picnic stoves, fireplaces or spaces provided for such purposes.
- (b) No person shall dump any burning material or hot ashes into any trash containers, or elsewhere within township parks, unless such container or locality shall be marked as a receptacle for such material.

(Ord. No. 82D, § 4, 6-13-83)

Sec. 11-5. Closing of park.

- (a) *Park hours.* Park hours shall be established by the township board. Such park hours may be amended from time to time by resolution of the township board. No person shall enter or remain in the parks at any other time, except by advance written permission of the township board.
- (b) *Park closed.* No person shall use or occupy any area facility of a township park when such area or facility has been closed to the public by order of the township board.
- (c) *No parking signs.* The township has determined that a hazardous situation could exist as a result of vehicles parked at township parks during hours which the parks are closed. No parking-tow away zone signs shall be installed to advise persons that parking during hours which the park is closed is prohibited and that vehicles will be towed. No vehicle, except emergency, law enforcement, or vehicles parked temporarily for deliveries to the park, shall be allowed to park during hours which the park is closed and may be towed in accordance with MCL Section 257.252 as amended including specifically but not limited to subsections (d) and (k).
- (d) *Towing.* Any vehicle which shall be parked in areas marked 'no parking—Tow away zone', may be summarily removed without notice to the owner or operator at the owner's sole risk and expense, and stored in an appropriate impound facility. The towing company will make notice of the impoundment to the title owner of the vehicle in accordance with the requirements of MCL Section 257.252 as amended.
 - (1) All administrative fees, necessary costs and expense of towing, removing or storage of such vehicles shall be first paid to the person or persons designated by the law enforcement department, by the persons claiming the vehicles before release of same.
 - (2) The Township, its agent or its employees, shall not be responsible for any damages to such vehicles removed in accordance with the provisions of this [section].
 - (3) In the event that any vehicle held or stored under the direction of the township or an officer of the law upon which there are charges for storage or towing, or both, is not reclaimed, recovered or taken by the vehicle owner thereof, there shall be deemed to be imposed upon such vehicle a possessory lien in

the amount so charged and unpaid, and should the owner thereof fail to pay the same then the possessory lien may be foreclosed in the manner provided by law.

(Ord. No. 82D, § 5, 6-13-83; Ord. No. 82D-1, § 2, 12-8-14; Ord. No. 82D-2, § 2, 5-23-16)

Sec. 11-6. Dogs, pets, horses and livestock.

- (a) No person shall bring into or have in his possession or control within township parks any dog or pet unless the same dog or pet shall be kept on a leash not over six (6) feet in length, and under the immediate control of the person having custody of such dog or pet. This section shall not apply to leader dogs for the blind.
- (b) No person shall ride or lead any horse within township parks.
- (c) No person shall permit or allow the running at large, herding, grazing or driving of any livestock of any kind within township parks.

(Ord. No. 82D, § 6, 6-13-83)

Sec. 11-7. Alcoholic beverages.

No alcoholic beverages shall be allowed in township parks.

Consumption of alcoholic liquor in parks, MCL 436.34, MSA 18.1005.

Sec. 11-8. Commercial activities.

- (a) The township board may make leases or other arrangements for the sale of food, drink or other articles in the township parks, from fixed establishments or vehicles, or otherwise, under such terms and conditions and subject to such rents, fees, and restrictions as the township board may determine for the safety, health, comfort and enjoyment of the public.
- (b) Any person selling or in any way purveying food shall assume any and all liability incurred thereby and shall hold the township harmless from any such liability.

(Ord. No. 82D, § 8, 6-13-83)

Sec. 11-9. Motor vehicle and off-the-road vehicles.

There shall be no driving or parking of any motor vehicle in township parks, except in designated drives and parking areas.

(Ord. No. 82D, § 9, 6-13-83)

Sec. 11-10. Preservation of property, wildlife and natural resources.

- (a) No person shall injure, deface, disturb, defoul or in any manner destroy or cause to be destroyed any portion of the parks, or any facility, building, sign, notice, structure, equipment, utility or other property found therein.
- (b) No person shall dig for, remove or injure or destroy any trees, flowers, shrub, plant or growing thing, or any wildlife, except as otherwise provided by law, or any rock, mineral artifact or other material within township parks, without the advance written permission of the township board.

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- (c) No person shall kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any wild bird or animal within the township parks, without written permission of the township board.

(Ord. No. 82D, § 10, 6-13-83)

Sec. 11-11. Musical instruments, radios, record or tape players and sound amplifying devices.

No person shall operate or play any musical instrument, television, radio, mechanical record or tape player, loudspeakers, or public address systems or sound amplifying equipment within the boundaries of the township parks when the sound therefrom can be heard more than twenty (20) feet from the source, unless an advance written permit is secured from the township board.

(Ord. No. 82D, § 11, 6-13-83)

Sec. 11-12. Receipt of service, privilege or license without payment or fee.

Where a fee or charge is requested for any service, privilege or license offered by the township of its licensees within township parks, no person shall obtain or attempt to obtain such service, privilege or license without the payment of such fee or charge.

(Ord. No. 82D, § 12, 6-13-83)

Sec. 11-13. Disorderly conduct.

No person shall engage in any drunken, loud, boisterous, disorderly or indecent conduct, nor shall any person commit or engage in any assault or pushing or jostling of persons or other activity which shall endanger or annoy other persons or disturb the peace or good order within township parks.

(Ord. No. 82D, § 13, 6-13-83)

Sec. 11-14. Reserved.

Sec. 11-15. Penalty for violation.

Any person who acts in violation of this [section] shall be guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars (\$500.00) plus the costs of prosecutions or by imprisonment in the Monroe County Jail for a period not to exceed ninety (90) days or by both such fine and imprisonment in the discretion of the court together with the costs of prosecution.

(Ord. No. 82D-1, § 3, 12-8-14)

Chapter 12 PEDDLERS²⁴

²⁴State law reference(s)—Transient merchants, MCL 445.371 et seq., MSA 19.691 et seq.; home solicitations sales, MCL 445.111 et seq., MSA 19.416(201) et seq.; exemptions for a veteran's license, MCL 35.441, MSA 4.1241.

ARTICLE I. IN GENERAL

Sec. 12-1. Exemption.

Minors selling products pursuant to a school or tax exempt, nonprofit organization activity are exempt from the provisions of this chapter.

Secs. 12-2—12-25. Reserved.

ARTICLE II. LICENSE

Sec. 12-26. Required.

It shall be unlawful for any person to sell, offer for sale or peddle any commodity, goods, wares, or merchandise from residence to residence or from a movable vehicle within the limits of the township until a license authorizing such sale, offering for sale or peddling shall have been issued by the township clerk.

(Ord. No. 47, § 1, 10-24-83)

Sec. 12-27. Application.

Application for a license required by this article shall be made in writing and filed with the township clerk for presentation to the township board. Such application shall set forth the full name of applicant or applicants and of every person interested in the issue of the license applied for, together with the business and residence address of such person and, if the applicant be a corporation, this provision shall apply to the officers and directors of such corporation. Each application shall also set forth the nature of the articles to be sold, offered for sale, or peddled, and the method to be used to effect such sale, offering for sale or peddling, and shall be accompanied by the required fee.

(Ord. No. 47, § 2, 10-24-83)

Sec. 12-28. Fee.

Before any license shall be issued or renewed under the terms of this article, the applicant shall pay to the township clerk a license fee of ten dollars (\$10.00), plus any current inspection fees, as required.

(Ord. No. 47, § 4, 10-24-83; Ord. No. 12-92-6, § 1, 6-22-92)

Sec. 12-29. Consideration, issuance.

The township clerk shall make a record of all applications received for licenses under this article, and present such applications at the next regular meeting of the township board and keep a record of the action of the board on each application. If the township board, upon examination of the matter shall deem the issuing of a license

consistent with the safety and good government of the township and the welfare of its habitants, the clerk shall be directed to issue the license upon the payment of the required fee.

(Ord. No. 47, § 3, 10-24-83)

Sec. 12-30. Disclaimer.

The township, by issuance of a license under this article makes no endorsement, warranty or guaranty of the product or service.

(Ord. No. 47, § 4, 10-24-83)

Sec. 12-31. Additional copies.

Additional copies of a license issued under this article will be authorized and signed by the clerk, numbered in sequential order, at a fee equal to the reasonable cost of reproduction, set by the determination of the township board and on file in the township hall.

(Ord. No. 47, § 1, 10-24-83)

Sec. 12-32. Duration.

Each license issued under this article shall be valid for a period of thirty (30) days from its date of issuance.

(Ord. No. 47, § 4, 10-24-83)

Sec. 12-33. Possession.

A license issued under this article shall be in the possession of the licensee when soliciting.

(Ord. No. 47, § 1, 10-24-83)

Sec. 12-34. Enforcement, revocation.

A license issued under this article may be revoked by the township supervisor or ordinance enforcement officer for violation of the terms of this chapter or violation of any state or federal law. The supervisor and/or ordinance enforcement officer shall have the right to inspect any article sold or offered for sale, or any container, package, or vehicle from which goods are sold, offered for sale, or peddled, at any reasonable time, and if found unmarketable, such license may be revoked if conditions in or around place of sales are not kept and maintained in a sanitary condition.

(Ord. No. 47, § 6, 10-24-83)

Chapter 12.3 PENSION PLAN²⁵

Sec. 12.3-1. Title.

This chapter shall be known and cited as the "Township Pension Plan Ordinance."

(Ord. No. 19-92-7, § 1, 6-22-92; Ord. No. 2-98, § 1, 4-13-98)

Sec. 12.3-2. Establishment of plan.

Pursuant to Act No. 27 of the Public Acts of Michigan of 1960, as amended, and Act No. 77 of the Public Acts of Michigan of 1989, as amended, Berlin Charter Township hereby creates and establishes an annuity or pension plan and program for the pensioning of its officers and employees, and for such purposes, also hereby authorizes the township clerk and the township treasurer to contract, in the name of the township subject to approval of the township board, with any company authorized to transact such business within the state for annuities or pensions.

(Ord. No. 19-92-7, § 2, 6-22-92; Ord. No. 2-98, § 2, 4-13-98; Ord. No. 02-02, § 2, 4-5-02)

Sec. 12.3-3. Eligibility for plan.

The annuity or pension plan created, established and contracted for under this chapter shall cover all elected officials and each township employee who is employed an average of at least thirty (30) hours per week for the previous twelve (12) consecutive weeks.

(Ord. No. 19-92-7, § 3, 6-22-92; Ord. No. 2-98, § 3, 4-13-98)

Sec. 12.3-4. Payment of premium.

Berlin Charter Township shall annually contribute a percentage of the gross annual wage (based on a maximum of forty (40) hours per week) of that portion of the premium arising under such annuity or pension contract for each person within the class of officers and employees set forth in section 12.3-3 hereof. Such amount shall be as determined from time to time by resolution of the township board and as determined by any applicable collective bargaining agreement. Such contribution shall be secured from the general fund and the water and sewer funds of the township. Each person within such class of officers and employees shall be responsible for the remainder of the premium or charges and the township clerk is hereby authorized to deduct the same from each person's pay, salary or compensation and to contribute the same to the plan.

(Ord. No. 19-92-7, § 4, 6-22-92; Ord. No. 2-98, § 4, 4-13-98)

²⁵Editor's note(s)—Ord. No. 19-92-7, §§ 1—6, adopted June 22, 1992, amended the Code by adding a new chapter 19. In order to maintain alphabetical sequence of the Code, said Ord. No. 19-92-7 has been redesignated as chapter 12.3, at the discretion of the editor.

Sec. 12.3-5. Vesting schedule.

Each person so covered under the annuity or pension plan shall be one hundred (100) percent vested upon a participant's death, disability or normal retirement, or upon the termination of the plan. On termination of a participant's service, other than because of death, disability or normal retirement, such benefits shall vest one hundred (100) percent upon completion of twenty (20) months of service for such person.

(Ord. No. 19-92-7, § 5, 6-22-92; Ord. No. 2-98, § 6, 4-13-98; Ord. No. 02-02, § 3, 4-5-02)

Sec. 12.3-6. Validity.

Berlin Charter Township hereby ratifies and confirms the validity of any annuity or pension plan in existence on the effective date of this chapter.

(Ord. No. 19-92-7, § 6, 6-22-92; Ord. No. 2-98, § 7, 4-13-98)

Sec. 12.3-7. Requirements for eligibility.

- (a) Each employee who is employed on the effective date of the annuity or pension plan shall be eligible for coverage on that day provided he or she then meets the following requirements otherwise to be eligible on the first policy anniversary on which he/she meets them:
 - (1) a. He or she has completed a probationary period of at least thirty (30) days of service for non-union employees; or
 - b. He or she has completed a probationary period of at least ninety (90) days of service for union employees.
 - (2) He or she is at least eighteen (18) years old and not more than seventy-five (75) years of age.
- (b) Every employee who becomes subsequently employed shall be eligible on the first of the month following the required probationary period, on which he/she meets the following requirements:
 - (1) a. He or she has completed a probationary period of at least thirty (30) days of service for nonunion employees; or
 - b. He or she has completed a probationary period of at least one hundred eighty (180) days of service for union employees.
 - (2) He/she is at least eighteen (18) years old and not more than seventy-five (75) years of age.
- (c) Entry date.
 - (1) An individual who satisfies the eligibility requirements set forth above shall commence participation on the first day of the plan year or the corresponding day of any subsequent month coincident with or following the date the plan's eligibility requirements are met. (If the first day of the plan year is the 29th, 30th or 31st day of the month, the corresponding day in any subsequent month with fewer days shall be the last day of the month.
 - (2) Individuals shall be permitted to waive the right to participate in the plan.
- (d) For purposes of determining when an employee is eligible for normal retirement under the plan, normal retirement age is sixty-five (65) or, if later, completion of ten (10) years of participation in the plan, to a maximum of age seventy-five (75).

(Ord. No. 2-98, § 5, 4-13-98; Ord. No. 02-02, § 4, 4-5-02)

Chapter 13 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES²⁶

ARTICLE I. IN GENERAL

Secs. 13-1—13-25. Reserved.

ARTICLE II. FISHING FROM HIGHWAYS, ROADWAYS

Sec. 13-26. Findings.

The township board finds and declares that the interest of public health, safety and welfare of the citizens of the township requires the regulation and control of fishing from designated public highways and roadways in the township.

(Rev. Comp. Ords. 1979, § 34.510)

Sec. 13-27. Definitions.

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

Fishing means any action by a person for the purpose of catching, trapping, spearing or netting of fish.

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Regulate and control means to post those highways and roadways within the township where areas exist that will provide inadequate safety to both fishermen and vehicular traffic.

Roadway means that part of a highway improved, designated or ordinarily used for vehicular travel.

(Rev. Comp. Ords. 1979, § 34.520)

Sec. 13-28. When prohibited.

It shall be unlawful for any person within the township to fish upon any highway, bridge, or roadway within the township posted "No Fishing" pursuant to this chapter.

(Rev. Comp. Ords. 1979, § 34.530)

²⁶Cross reference(s)—Buildings and building regulations, Ch. 5; subdivision and site condominium control, Ch. 14; zoning, Ch. 18.

State law reference(s)—Authority to make public improvements and provide public service regarding streets, MCL 41.411.

Secs. 13-29—13-45. Reserved.

ARTICLE III. SIDEWALKS

Sec. 13-46. Definitions.

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

Owner means the party holding title to private property abutting upon public property.

Sidewalk means the portion of the street right-of-way designed for pedestrian travel within a platted subdivision.

Township representative means the building inspector, ordinance enforcement officer, supervisor or other person designated by the township board.

(Ord. No. 53-88, § I, 10-11-88)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 13-47. Maintenance generally.

The owner of property abutting or adjoining the sidewalk shall keep the sidewalk clear of obstruction, dirt, debris, snow and ice. Snow and ice shall be removed from sidewalks as soon as practical.

(Ord. No. 53-88, § II, 10-11-88)

Sec. 13-48. Duty of owner to maintain.

It shall be the duty of the owner of any property within the township to maintain and keep in good repair any sidewalk abutting, or adjacent to any property belonging to the owner, either through his own initiation or whenever a township representative shall determine that such is necessary for public health, safety or welfare.

(Ord. No. 53-88, § III, 10-11-88)

State law reference(s)—Authority to regulate sidewalk repair and maintenance, MCL 41.181, MSA 5.45(1).

Sec. 13-49. Inspection for repair.

- (a) The township representative will walk and visually inspect sidewalks within the township no less than once every two (2) years.
- (b) A sidewalk found in disrepair or to be in a condition that is a threat to public health, safety or welfare shall be noted by the placement of a five-inch red "X" placed in the north corner of such sidewalk.

(Ord. No. 53-88, § IV, 10-11-88)

Sec. 13-50. Notification to repair.

Whenever the township representative shall determine any existing sidewalk is in a state of disrepair and threatens public health, safety or welfare, the township representative shall provide written notification to the owner.

(Ord. No. 53-88, § V, 10-11-88)

Sec. 13-51. Declaration of disrepair.

A state of disrepair may be declared if one (1) or more of the following conditions exists:

- (1) Holes of one (1) inch or more in depth.
- (2) Loosened, crumbling or breaking surfaces.
- (3) A difference of one (1) inch or more in height of adjoining sections of sidewalk.
- (4) Insufficient slope to adequately drain water.
- (5) Other conditions existing which the township representative determines to be hazardous to public health, safety or welfare.

(Ord. No. 53-88, § VI, 10-11-88)

Sec. 13-52. Permit.

- (a) No sidewalk shall be repaired without a proper permit as required by the township.
- (b) The owner or contractor, after obtaining a proper permit from the township building department, may repair sidewalks abutting or adjacent to any property belonging to such owner.

(Ord. No. 53-88, § VII, 10-11-88)

Sec. 13-53. Maintenance and repair specifications.

The repair of any sidewalk shall include but not be limited to the following specifications:

- (1) A five (5) bag concrete mix.
- (2) Concrete will be poured only from May first through October thirty-first in order to safeguard against any future damage to the concrete due to ground or weather conditions.
- (3) All sidewalks shall be constructed to grade and width established by existing adjoining sidewalks.
- (4) Replacement of the sidewalk shall be at least four (4) inches in depth, except across driveways or roadways where such thickness shall be increased to six (6) inches.
- (5) All concrete sidewalks shall have expansion joints at lot lines, placed at right angles to the rails and extending to the bottom of the concrete, except that where the distance between lot line exceeds fifty (50) feet, additional expansion joints shall be placed so that in no case the distance between expansion joints exceeds fifty (50) feet.
- (6) Paving joints shall be true to line and grade at intervals consistent with adjoining or abutting sidewalks.

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- (7) The surface of the sidewalk shall be roughened with a mechanic's brush to prevent smooth and slippery surfaces.
 - (8) Such other specifications as may be established by the township building inspector.

(Ord. No. 53-88, § VIII, 10-11-88)

Sec. 13-54. Cost.

- (a) Where there is a large portion of concrete that needs to be repaired, the township may, upon request, secure estimates from three (3) qualified cement contractors and such estimates will be given to the property owner in writing.
- (b) All maintenance and repair costs will be the responsibility of the owner, with the exception that the township board may elect to participate in the cost of the repair of any sidewalk that is on a corner side lot. In the event the township board does so determine to participate in such cost, it shall notify the owner in writing of the share that the township will pay.

(Ord. No. 53-88, § IX, 10-11-88)

Sec. 13-55. Failure or refusal to repair.

If the owner of such property shall fail or refuse to repair such sidewalk, after proper notice has been given, the township representative shall proceed to have the sidewalk repaired. The cost of such repair shall be charged against the property which the sidewalk abuts or adjoins. If such charges are not paid within ninety (90) days after billing, a ten-percent administration fee will be charged and such charges shall be added to the next township tax bill and shall thereafter bear the same interest and penalties as such tax bill.

(Ord. No. 53-88, § X, 10-11-88)

Sec. 13-56. Written notification of repair.

- (a) Written notification shall be given to the owner not more than ten (10) business days after visual marking of the sidewalk.
- (b) Notification shall refer the owner to the availability of this article for inspection at the township office.
- (c) Notification shall be served upon the owner either personally or by certified mail, addressed to such owner under the name and at the address as is shown upon the township's current tax assessment roll.
- (d) The notification shall direct the owner to fulfill the ordinance requirements within forty-five (45) days from the date of notification during the months of May first through October thirty-first as outlined in section 13-53.
- (e) If the owner of such property shall fail or refuse to repair such sidewalk, the township representative shall proceed to have such sidewalk repaired. The cost of such repair shall be charged upon the property which such sidewalk abuts or adjoins. If the charges are not paid within ninety (90) days after billing, a ten-percent administration fee will be charged and such charges shall be added to the next township tax bill and shall thereafter bear the same interest and penalties as such tax bill.
- (f) If applicable, an estimate will be noted in accordance with section 13-54.

(Ord. No. 53-88, § XI, 10-11-88)

Secs. 13-57—13-70. Reserved.

ARTICLE IV. PRIVATE ROADS²⁷

DIVISION 1. GENERALLY

Sec. 13-71. Short title.

This article shall be known as, and may be cited as the "Berlin Charter Township Private Road Ordinance." Within the text hereof, it may be referred to as "this article."

(Ord. No. 7-97, § 1.02, 9-11-97)

Sec. 13-72. Purpose.

This article is intended to protect and promote the public health, safety, comfort, convenience, and general welfare of the township by regulating the location and design of private roads and establishing minimum standards and specifications for the construction of private roads. These regulations and minimum standards are necessary to ensure that private roads remain passible in all weather conditions and are adequate to provide safe, year-round access by fire, police and other public and emergency vehicles. They are also necessary to ensure proper layout and design of roads in order to form a functional street transportation network, to promote and coordinate effective and energy efficient development, and to prevent duplication of roads. It also is the intention of this article to discourage the use of private roads and encourage the use of public right-of-way.

(Ord. No. 7-97, § 1.01, 9-11-97)

Sec. 13-73. Definitions.

Whenever used in this article, the following words and phrases shall have the meaning ascribed to them in this section, and any terms not defined in this section shall have the meaning customarily assigned to them.

Acreage tract or acreage land means land which is not located in, or a part of, a recorded plat.

Applicant means any person who holds ownership interest in land on which approval is being sought for a private road.

Divide, partition, or assembly, means the splitting or separating of a parcel of land into parts, or the assembly of land into new parcels, by changing the boundaries and/or legal description, where such splitting, separating, or assembly of land is not accomplished pursuant to planning procedures under the Subdivision Control Act, Act No. 288 of the Public Acts of Michigan 1967, as amended or the Condominium Act which is Act No. 59 of the Public Acts of Michigan of 1978, as amended.

Front lot line means, in the case of a lot located on a private road, the line which separates the lot from the private road easement.

Land means the surface area known as real estate.

²⁷Cross reference(s)—Buildings and building regulations, Ch. 5; zoning, Ch. 18.

Lot means a piece of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Monroe County Register of Deeds.

Parcel means a measured portion of land which is described by virtue of a request to divide or partition it. A parcel may be a subdivision lot or an acreage tract or acreage of land.

Person means an individual, trustee, executor, or other fiduciary, corporation, firm, partnership, association or other similar legal entity acting as a unit.

Plat means a map or chart of a subdivision of land which has been approved in accordance with the Subdivision Control Act, Act No. 288 of the Public Acts of Michigan of 1967, as amended.

Proper frontage means that a lot is in compliance with the minimum lot width requirements for the zoning district in which the lot is located, as measured at the building setback line.

Road means any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, lane, court, or any similar designation. As used in this article, the definition of "road" does not include driveways that are intended to provide access to a single parcel or single dwelling unit.

- (1) *Private road* means any road that is to be privately maintained and has not been accepted for maintenance by the road commission for the county or the state, but which meets the requirements of this article or has been approved as a private road by the township under any prior ordinance or is located wholly within a condominium development.
- (2) *Public road* means any road or portion of a road that has been dedicated to and accepted for maintenance by the road commission for the county or the state.

(Ord. No. 7-97, § 2.01, 9-11-97; Ord. No. 2-00, § 2, 3-9-00)

Sec. 13-74. Notice to subsequent purchaser.

At the time that an owner of land in the township divides, partitions or assembles land which fronts on or is served by a private road, pursuant to township zoning, subdivision or condominium development regulations, the owner shall provide notice to the purchaser that the land abuts a private road. Such notice shall:

- (1) Explain the maintenance, care and other responsibilities concerning said private road and state that said maintenance, care and other responsibilities are not the responsibility of the township, the county, the state, the federal government, or any other governmental entity; and
- (2) Explain that the purchaser shall assume all responsibilities immediately upon purchase of the land which fronts on or is served by a private road.
- (3) If wholly within a condominium development, maintenance, care and other responsibilities shall be fully enumerated and provided for in the condominium documents submitted to the township and must be approved by the township.

(Ord. No. 7-97, § 4.01, 9-11-97; Ord. No. 2-00, § 3, 3-9-00)

Sec. 13-75. Interpretation.

The provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, comfort, convenience and general welfare. It is not intended by this article to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than the previous township private road ordinances, or with any rules, regulations or permits previously adopted or issued

pursuant to law relating to the use of buildings or premises; provided, however, that where this article imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this article shall control.

(Ord. No. 7-97, § 9.03, 9-11-97)

Sec. 13-76. Penalty.

Any violation of this article shall constitute a misdemeanor. Any person, persons, firm or corporation or anyone acting on behalf of the owner, who shall violate, neglect or refuse to comply with or who resist the enforcement of any of the provisions of this article or conditions of the planning commission or township board adopted pursuant thereto, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to punishment by a fine not to exceed five hundred dollars (\$500.00) and the cost of prosecution or by ninety (90) days imprisonment in the county jail or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution. Each day a violation of this article continues shall constitute a separate offense. In addition, any violation of the provisions of this article is hereby declared to be a public nuisance per se. The court shall order such nuisance abated and the person, persons, firm or corporation or anyone acting on behalf of the same violating said provisions shall be adjudged guilty of maintaining a nuisance per se.

(Ord. No. 7-97, § 9.01, 9-11-97)

Secs. 13-77—13-90. Reserved.

DIVISION 2. REGULATIONS AND PROHIBITIONS

Sec. 13-91. Scope of regulations.

No person shall construct or maintain a private road in the township except in accordance with the provisions of this article.

(Ord. No. 7-97, § 3.01, 9-11-97)

Sec. 13-92. Dividing, partitioning or assembling land and road frontage.

No person shall divide, partition or assemble any land, parcel or lot in the township, unless such land, parcel or lot has proper frontage on a public road or on an approved private road or private road easement and is in compliance with all other lot requirements for the zoning district in which the property is located. In determining compliance with lot area standards, land located within the private road easement shall not be counted.

(Ord. No. 7-97, § 3.02, 9-11-97)

Sec. 13-93. Building permits and road frontage.

No building permit shall be issued by the township or any department or official of the township, unless the structure, building or improvement for which such building permit is required, is on a lot or parcel of land which has its full minimum frontage as required by the zoning ordinance on a public road or an approved completed private road, or is a private road meeting the requirements of the township within a condominium development approved by the township and any other required departments or agencies.

(Ord. No. 7-97, § 3.03, 9-11-97; Ord. No. 2-00, § 4, 3-9-00)

Sec. 13-94. Extension of a nonconforming private road.

A private road that is not in compliance with current design, construction, or engineering or easement standards shall not be extended unless the existing road is brought into compliance with county road commission standards for roadways to be dedicated for public use.

(Ord. No. 7-97, § 3.04, 9-11-97)

Secs. 13-95—13-110. Reserved.

DIVISION 3. APPLICATION

Subdivision I. Procedure

Sec. 13-111. Filing.

- (a) To initiate review of a proposed private road, the applicant shall submit twelve (12) copies of the required application form along with any other required plans and materials as specified in subdivision II, below, (including the private road easement and easement maintenance agreement) to the township building department. If the proposed road is part of an application for division of land, the required information for a private road plan shall be provided with the land division application in accordance with the procedures required for land divisions.
- (b) The application shall be accompanied by a filing fee which shall be set by the township board of trustees and shall cover the cost of review and notification including but not limited to the costs of any consultants retained by the township for reviewing the application, mailing costs, newspaper publication costs, and other such costs. Said filing fee shall be deposited and held in an escrow account; the amount of the fee that is not used to cover the costs of administration and review of the proposed private road shall be returned to the applicant. If the cost of administration and review of the proposed private road exceed the amount of the fee, the township shall require an additional fee of an amount deemed by the township to be sufficient to cover the estimated additional administrative and review costs; the unused portion of this additional fee shall be returned to the applicant upon completion of the review process. The application shall be submitted at least fifteen (15) days before the planning commission meeting at which the proposal will be reviewed.

(Ord. No. 7-97, § 5.01, 9-11-97)

Sec. 13-112. Staff review.

As deemed necessary by the building official, the private road application and related plans and materials shall be forwarded to the township planner, the township engineer, the township fire department and other appropriate departments or persons for review. A private road which intersects a county road shall require review and approval from the county road commission. This staff review will consider compliance with this article, sound planning and engineering principles, and compliance with any other applicable ordinances. Furthermore, the township attorney shall review all private road easement and easement maintenance agreements. All reviews and recommendations shall be forwarded in writing to the township planning commission and the township board.

(Ord. No. 7-97, § 5.02, 9-11-97)

Sec. 13-113. Notice to adjacent property owners.

The township shall notify all property owners of record of property that abuts or that is within three hundred (300) feet of the edge of the private road easement. The notice shall describe the proposed private road, the time and place where a planning commission meeting will be held so the public comment will be heard, and invite the property owners to participate in the project. The notice shall also indicate that all comments, whether written or verbal shall be directed to the township planning commission, c/o the township clerk at the address of the township offices.

(Ord. No. 7-97, § 5.03, 9-11-97)

Sec. 13-114. Planning commission review and recommendation.

The planning commission shall review all private road applications, plans and other required materials along with all staff reviews and recommendations, at a public meeting. The planning commission shall consider compliance with this article, sound planning and engineering principles, and compliance with any other applicable ordinances. The planning commission may table any application which does not contain all the information required by this article. Upon certification by the township clerk that an application is complete, the planning commission shall, within sixty (60) days, make a recommendation to the township board to either deny, approve, or approve subject to conditions, the private road application. If the proposed private road is part of a land division application, the applicant shall then prepare road construction plans and obtain approval prior to final lot split approval.

(Ord. No. 7-97, § 5.04, 9-11-97)

Sec. 13-115. Variances.

Where there are practical difficulties preventing a property owner from conforming with the strict letter of this article, the zoning board of appeals shall have the power to authorize variances from the standards in this article, with such conditions and safeguards as it may determine to be necessary so that the spirit of this article is observed, public safety secured, and substantial justice done. In ruling on a variance related to this article, the zoning board of appeals shall follow the general guidelines for variances as set forth in the township zoning ordinance.

(Ord. No. 7-97, § 5.05, 9-11-97)

Sec. 13-116. Township board review and determination.

Upon a recommendation of the planning commission, the township board shall review the private road application, including the private road easement and easement maintenance agreement, at a public meeting. The township board shall consider the staff review and recommendations, and the planning commission recommendation, and shall, within sixty (60) days, make a determination, based on the provisions of this article, the provisions of any other applicable ordinance, and sound planning and engineering principles. The township board shall deny, approve, or approve with conditions the proposed private road application.

(Ord. No. 7-97, § 5.06, 9-11-97)

Sec. 13-117. Township board decision final.

The decision of the township board shall be final, but a person having an interest affected by the decision may appeal to the circuit court.

(Ord. No. 7-97, § 5.07, 9-11-97)

Sec. 13-118. Fees.

The township board shall by resolution determine a fee schedule for private road applications. The amount of such fee shall take into account the cost of the review, including any consultant reviews, required in this division. The township board may from time to time amend the fee schedule.

(Ord. No. 7-97, § 5.08, 9-11-97)

Sec. 13-119. Expiration of approval.

If construction has not commenced within twelve (12) months of final approval or if construction has not been completed within twelve (12) months after it was commenced, the private road approval becomes null and void and a new application shall be required. However, the applicant may apply in writing to the township board for a twelve-month extension of a private road approval. The township board may grant an exception if it finds that the approved site plan adequately represents current conditions and that the plan conforms to current ordinance standards.

(Ord. No. 7-97, § 5.09, 9-11-97)

Secs. 13-120—13-130. Reserved.

Subdivision II. Requirements

Sec. 13-131. Private road plan.

All private road applications shall include the following plans and documents and shall comply with the following information requirements:

- (1) *Application form.* The applicant shall submit a completed township application form with the other required materials.
- (2) *Specifications.* The private road plan shall be drawn by a registered professional engineer or land surveyor. The scale shall be not less than one (1) inch equals fifty (50) feet except that if the road is longer than one thousand five hundred (1,500) feet, the scale shall be not less than one (1) inch equals one hundred (100) feet. The following information shall be provided on the plan:
 - a. The exact location of the proposed private road easement in relation to intersecting streets and adjacent properties;
 - b. The location of existing structures on properties within one hundred (100) feet of the edge of the road right-of-way;
 - c. Topography on the site and within one hundred (100) feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark;

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- d. Road cross-section, showing type and depth of base and surface materials;
 - e. Proposed method of road drainage and, if necessary, proposed stormwater detention or retention systems;
 - f. Location of existing and anticipated utility lines, including, where applicable, electric, telephone, gas, cable television, water, and sewer lines;
 - g. Other information deemed necessary by the township to make the determination required by this article.
- (3) *Road easement.* A private road easement shall be submitted in recordable form which meets the minimum standards set forth in division 4 of this article.
 - (4) *Road easement maintenance agreement.* A private road easement maintenance agreement shall be submitted in recordable form which meets the minimum standards set forth in division 4 of this article.
 - (5) *Road name.* Street names shall be sufficiently distinct from other street names in the area to avoid confusion, particularly for emergency service providers. Private roads shall be named and, upon construction of the road, appropriate signage shall be erected to identify the road name. No road names shall be permitted which might cause confusion with existing roads in or near the township. Private roads which intersect with county roads shall be named as follows:
 - a. Streets with predominantly north-south direction shall be named "street";
 - b. Streets with predominantly east-west direction shall be named "avenue";
 - c. Meandering streets shall be named "drive," "lane," "path," "road," "trail," or a name of similar character approved by the township board;
 - d. Cul-de-sacs shall be named "circle," "court," "way," "place," or a name of similar character approved by the township board.

(Ord. No. 7-97, § 6.01, 9-11-97)

Sec. 13-132. Construction plan.

Prior to issuance of a land use permit or construction of any private road, private road construction plans shall be submitted in accordance with the following:

- (1) Construction plans must be signed and sealed by a registered professional engineer. Construction plans shall be submitted on a standard sheet size of twenty-four (24) inches by thirty-six (36) inches and be drawn to a scale of not less than one (1) inch equals fifty (50) feet horizontally and one (1) inch equals five (5) feet vertically. Each drawing shall have linear reference markings (stations) in units of one hundred (100) feet for both plan and profile views.
- (2) The construction plans shall show all pertinent data required to lay out and construct the proposed private road and to ensure proper storm water drainage. The construction plans shall contain the plan and profile of the private road and a typical cross section. The following information must be shown on the construction plans:
 - a. North arrow and scale of drawing.
 - b. Benchmarks to national geodetic vertical datum. At least two (2) benchmarks shall be labeled on each sheet. At least two (2) permanent benchmarks for each private road are required.

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- c. Horizontal alignment for each circular curve along the roadway center line. The information for each curve shall include the degree of curvature, deflection of tangents (delta), radius of curve, point of curvature, point of tangent, length of chord and tangent length.
 - d. Vertical alignment information shall be provided, including the existing and proposed center line or top of curb elevations labeled every fifty (50) feet. Vertical curve information shall include the point of curvature, point of tangent, point of vertical intersection and elevation, length of curve, K-value and percent of tangent grade in feet per hundred feet.
 - e. Proposed public and private utility locations:
 1. The location, type, class and size of all proposed underground drainage (culverts and storm sewers) in both plan and profile.
 2. Drainage structure location and type of structure (manhole, catch basin, inlet, etc.).
 3. Pertinent vertical control information clearly identifying the top of the structure, top of casting (rim) or top of curb, sump of footing elevation, invert or flow line elevation of each pipe, including edge drain under drain, in the structure. Existing ground elevations in the area of the roadway and within one hundred (100) feet of each side of the right-of-way shall be provided on a fifty-foot grid, at high points, low points, top of ditches and bottom of ditches.
 4. Elevations at each end of the proposed sewer or culvert run as well as the grade of the sewer or culvert run in feet of fall per hundred (percent of grade). Road crossings (culverts) in an open ditch section shall require only the inlet and outlet elevations labeled and the ending location relative to station and center line offset.
 - f. Existing and proposed topography of the land in the area of the proposed private road. The area of topography shown on the construction plans must be sufficient to indicate proper drainage.
 - g. Title block showing the private road name, applicant's name, engineer or firm, scale, date, revision number and page number.
 - h. Proposed typical road cross section.
 - i. Soil erosion and sedimentation control measures.
 - j. Design calculations for drainage facilities.
- (3) Payment of township review fees must be submitted with the construction plans. If a performance guarantee is required, a construction cost estimate for the private road (including costs for road layout, testing services during construction and engineering inspection) must also be submitted.

(Ord. No. 7-97, § 6.02, 9-11-97)

Sec. 13-133. Recording of easement and maintenance agreement.

All road easements and road easement maintenance agreements shall be recorded by the applicant at the office of the county register of deeds, and proof of the recording shall be submitted to the township prior to any construction work on the private road.

(Ord. No. 7-97, § 6.03, 9-11-97)

Secs. 13-134—13-150. Reserved.

DIVISION 4. MINIMUM DESIGN STANDARDS

Sec. 13-151. Right-of-way.

All private road easements shall have the minimum widths of right-of-way as required by the county road commission for public rights-of-way, provided that no private road easement shall be less than sixty (60) feet in width and no private road easement servicing commercial or industrial property shall be less than seventy (70) feet in width. Additional rights-of-way may be required by the township, for, including but not limited to, future development, projected traffic demand and drainage. The road surface and turnaround shall be centered in the right-of-way, except where otherwise deemed appropriate by the planning commission or township board because of unusual site features or conditions.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-152. Construction standards.

All private roads shall comply with design and construction standards, for the type and usage proposed, as adopted by the county road commission for roadways to be dedicated for public use.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-153. Drainage.

The right-of-way and road shall be adequately drained so as to prevent flooding or erosion of the roadway. Ditches shall be located within the road right-of-way and road drainage shall be conveyed to existing water courses and water bodies. The discharged water shall not be cast onto the land of another property owner unless the water follows an established watercourse. Underground cross-road drainage shall be provided where the proposed right-of-way crosses a stream or other drainage course. Drainage shall be submitted to appropriate governmental agencies for approval prior to construction.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-154. Permits.

Construction permits from the county road commission are required for connection to county roads. The applicant shall obtain all necessary permits from the county drain commission, state department of natural resources, state department of transportation, and other state, county, or local agencies. Evidence of required permits shall be submitted to the township building official.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-155. Road systems and connections.

All private roads shall be designed to form a safe and efficient road network and be constructed in accordance with the county road commission standards for roadways to be dedicated for public use. An extension

of a private road for new development, where the private road is the sole point of access to the site, is prohibited. All new development will need at least one point of access directly from a dedicated public road. Accordingly, private roads should connect to existing public or private roads. Private roads should also be designed to connect to planned or anticipated future roads. Cul-de-sacs longer than six hundred (600) feet should be avoided unless connection to a through street is likely in the future. To achieve these purposes, the following guidelines shall be adhered to:

- (1) Private roads longer than six hundred (600) feet shall provide one or more additional easements which shall extend more or less perpendicularly from the private road easement to the adjoining parcels on either side, unless the planning commission determines that it would be impractical or not beneficial to connect to existing or future roads on adjoining parcels. The purpose of this requirement is to facilitate the eventual development of a continuous road network.
- (2) Unless the proposed private road is designed to serve parcels on both sides of the road, the private road easement shall abut the side property line, thus making the private road available for use by adjoining property owners upon payment of a proportionate share of construction and maintenance costs, as specified in this article.
- (3) The proposed private road easement shall extend the full length of the lot to the rear property line.
- (4) Where a private road exists on an adjoining parcel, the applicant shall first determine the feasibility of using the existing private road to gain access to the subject parcel. Alternately, the proposed private road shall connect to the existing adjacent private road, wherever feasible.
- (5) The location of the private road on one side of the parcel or the other shall take into consideration the location of other private roads in the vicinity and the desire to maximize the spacing between successive private roads. Wherever possible, private roads shall be spaced apart as follows:
 - a. Spacing between private roads which are located on the same side of the intersecting public road: 600 feet.
 - b. Spacing between private roads which are located on opposite sides of an intersecting public road: 150 feet (centerline-to-centerline).
 - c. Private roads serving more than twenty (20) lots or twenty (20) dwelling units shall have at least two (2) points of access to a public road.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-156. Easements.

A private road easement agreement in recordable form shall be required. It shall meet the following minimum requirements:

- (1) *Legal description.* A detailed legal description of the private road easement shall be submitted with its application. In addition, legal descriptions, in a form acceptable to the county register of deeds, shall be provided that identify the properties served by the easement.
- (2) *Emergency and public vehicle access.* The easement shall provide for unrestricted access for emergency and public vehicles used in the performance of necessary public services.
- (3) *Non-interference.* The terms of the easement shall prohibit any property owner served by the road from restricting or interfering with the normal ingress and egress of other property owners, their families, guests, invitees, tradespeople, and others traveling to or leaving any of the properties served by the road.

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- (4) *Future connections.* The terms of the easement shall provide that the township board may require that future abutting private roads or public roads shall be connected to the existing private road.
- (5) *Method of apportioning costs of construction.*
- a. The easement shall describe the method by which initial construction will be paid for. If more than one (1) user will share in the cost of initial construction, then the easement shall specify the formula that will be used to apportion the costs.
 - b. The easement shall describe the method for charging new users for a proportionate share of the original cost of construction, and for rebating such charges to property owners who previously contributed to the cost of constructing the road.
 - c. The easement shall indicate that the method of apportioning costs applies whether the new users are a result of: (1) extension of the private road beyond its initial length, or (2) connection to another private road.
 - d. The method of apportioning costs shall be based on a ten-year period of full depreciation. The apportionment formula shall be designed to apportion costs in relation to the benefit to be derived from the private road, and therefore shall include two (2) variables: (1) the number of parcels to be served, and (2) the amount of frontage that each parcel has along the private road. For example, the formula could apportion fifty (50) percent of the costs on the basis of the number of parcels being served, and apportion the remaining fifty (50) percent of costs on the basis of frontage for each parcel.
 - e. The apportionment formula may include provisions to reduce the cost for parcels that have existing access to another public or private road and, therefore, would not derive full benefit from the private road.
- (6) *Continuing obligation.* The easement shall specify that the obligation to maintain the easement shall run with the lands to be served by the private road, and shall be binding upon the owner(s) of such land and their heirs, successors, and assigns.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-157. Easement maintenance agreements.

Continued maintenance of private roads shall be the responsibility of the property owner(s) served by the roads. Prior to issuance of construction permits, said property owner(s) shall enter into a legally binding easement maintenance agreement, which shall be subject to review and approval by the township attorney. In addition, legal descriptions, in a form acceptable to the county register of deeds, shall be provided that identify the properties served by the easement. At a minimum, the easement maintenance agreement shall contain the following:

- (1) *Maintenance costs.* The easement maintenance agreement shall acknowledge that the road surface and easement area are privately owned and, therefore, all construction and improvements within the easement will be contracted and paid for by the signatories to the agreement.
- (2) *Method of apportioning maintenance costs.*
 - a. The agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned among the original users.
 - b. The agreement shall describe the method for apportioning new users for a proportionate share of the maintenance costs and costs of improvements.
 - c. The agreement shall indicate that the method of apportioning costs applies whether the new users are a result of: (1) extension of the private road beyond its initial length, or (2) connection

to another private road, or (3) division of property that is served by the private road. The apportionment formula shall be designed to apportion costs in relation to the benefit to be derived from the private road, and therefore shall include two variables: (1) the number of parcels to be served, and (2) the amount of frontage that each parcel has along the private road. For example, the formula could apportion fifty (50) percent of the costs on the basis of the number of parcels being served, and apportion the remaining fifty (50) percent of cost on the basis of frontage for each parcel.

- d. The apportionment formula may include provisions to reduce the cost for parcels that have existing access to another public or private road and, therefore, would not derive full benefit from the private road.
- (3) *Township not responsible.* The provision in the easement maintenance agreement shall in no way be construed to obligate the township to perform regular inspections of the easement area or to provide necessary repairs or maintenance. The township may intercede in maintenance of a private road only if a potential health or safety hazard is brought to the attention of township officials, or if the road is not being maintained in accordance with township standards.
- (4) *Special assessment provision.* The easement maintenance agreement shall contain a provision to permit the township board to authorize the repair of any private road which is not being maintained adequately to permit safe access by users and emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the signatories to the agreement on an equitable basis. Such assessments shall be recorded as a lien against the property. The decision to authorize repair of a private road shall be at the township board's sole discretion in accordance with its legislative powers.
- (5) *Maintenance needs.* The easement maintenance agreement shall acknowledge the responsibility of the signatories to the agreement to maintain the following:
- a. Surface grading and resurfacing at regular interval;
 - b. Snow and ice removal;
 - c. Repair of potholes;
 - d. Maintenance of road drainage systems;
 - e. Maintenance of unobstructed vision at any intersection with another private road or with a public road; and
 - f. Regular cutting of weeds and grass within the easement.
- (6) *Continuing obligation.* The easement maintenance agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the private road, and shall be binding upon the owner(s) of such land and their heirs, successors, and assigns.

(Ord. No. 7-97, § 7.01, 9-11-97)

Sec. 13-158. Cul-de-sacs and T-turnarounds.

T-turnarounds shall be used only at the end of stub streets that have no dwelling units fronting on them. A cul-de-sac shall be constructed at the end of all dead-end private roads, regardless of whether the roads are expected to be extended in the future.

(Ord. No. 7-97, § 7.01, 9-11-97)

Secs. 13-159—13-170. Reserved.

DIVISION 5. INSPECTION

Sec. 13-171. Purpose; applicant obligations.

The applicant shall notify the township seventy-two (72) hours prior to commencement of construction to facilitate inspection at various stages of construction by the township engineer. Actions conducted by the township engineer are intended to ensure that the road is being constructed in accordance with the standards in this article and the approved plans. Inspections by the township engineer shall not relieve the applicant, his engineer, or the contractor from their obligations under this article.

(Ord. No. 7-97, § 8.01, 9-11-97)

Sec. 13-172. Generally.

Inspections shall be conducted by the township engineer during construction and upon completion of the private road as follows:

- (1) *During construction.* Spot inspections or full-time inspections during construction may be conducted to ensure proper completion of the following work items, including but not limited to:
 - a. Grade and alignment;
 - b. Preliminary drainage and utility structures;
 - c. Finished subgrade;
 - d. Base and paving materials;
 - e. Bituminous or concrete parking;
 - f. Curb and gutter;
 - g. Compaction of sub-soils.
- (2) *Effect of approval of a construction phase.* Approval of any construction phase by the township engineer does not guarantee approval of subsequent phases or final approval of the constructed road.
- (3) *Final inspection.* Upon completion of the private road, the applicant or his engineer shall submit a complete set of "as built" drawings to the township. The township engineer or agency designated by the township engineer shall review the "as built" drawings and conduct a final inspection to assure that all visible construction, including clean up, has been satisfactorily completed.
- (4) *Inspection costs.* All fees for inspection and testing shall be paid for by the developer. An escrow account, sufficient to pay for all inspection costs, shall be established prior to roadway construction. Estimated escrow costs shall be estimated in a manner similar to estimates for public roads.

(Ord. No. 7-97, § 8.02, 9-11-97)

Sec. 13-173. Performance guarantees.

To assure completion and/or maintenance of a private road in accordance with the requirements set forth in this article, the township may require the applicant to provide performance guarantees. The amount and form of

the performance guarantees shall be determined in amounts and formulas established from time to time by the township board. Performance guarantees shall be warranted by a surety licensed by the state. A performance bond in the amount of one hundred (100) percent of the construction cost of the private roadway shall be provided to guarantee road construction. A labor and material bond in the amount of one hundred (100) percent of the construction cost of the private roadway shall be provided to guarantee that materials and labor will be paid and to minimize the potential for liens against the property. A maintenance and guarantee bond in the amount of one hundred (100) percent of the construction cost of the private roadway shall be provided to repair or replace defective materials or workmanship for a period of two (2) years from the date of roadway construction completion.

(Ord. No. 7-97, § 8.03, 9-11-97)

Secs. 13-174—13-205. Reserved.

ARTICLE V. MICHIGAN VEHICLE CODE AND UNIFORM TRAFFIC CODE²⁸

Sec. 13-206. Adoption of the Michigan Vehicle Code by reference; identification system.

- (a) Berlin Charter Township hereby adopts by reference the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, MCL 257.1 to 257.923, including such amendments made thereto from time to time, excepting those provisions of the Michigan Vehicle Code as may be specifically amended or deleted in the ordinances of Berlin Charter Township.
- (b) All sections of the Michigan Vehicle Code adopted herein shall be identified and designated on a uniform law citation, with a prefix corresponding to the number assigned to the ordinance from which this article is derived.
- (c) References in the Michigan Vehicle Code to "local authorities" shall mean Berlin Charter Township.

(Ord. No. 03-03, § 1, 4-20-03)

Sec. 13-207. Adoption of the Uniform Traffic Code for Cities, Townships, and Villages by reference.

- (a) The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of Michigan of 1969, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state, are incorporated by reference.
- (b) References in the Uniform Traffic Code for Cities, Townships, and Villages to a "governmental unit" shall mean Berlin Charter Township.

(Ord. No. 03-03, § 2, 4-20-03)

²⁸Editor's note(s)—Ord. No. 03-03, § 4, adopted April 20, 2003 repealed the former Art. V, §§ 13-206—13-209, which pertained to the Uniform Traffic Code and derived from Ord. No. 7-99, §§ 1, 2, 4 and 7, adopted June 5, 1999. Sections 1-3 of said ordinance enacted provisions set out herein as §§ 13-206—13-208.

Sec. 13-208. Penalties; disposition of fines.

The penalties provided by the Michigan Vehicle Code and Uniform Traffic Code for Cities, Townships, and Villages, are adopted by reference herein; provided, however, that Berlin Charter Township may not enforce any provision of the Michigan Vehicle Code, as adopted herein by reference, for which the maximum period of imprisonment is greater than ninety-three (93) days.

(Ord. No. 03-03, § 3, 4-20-03)

Secs. 13-209—13-225. Reserved.

ARTICLE VI. TRUCK ROUTES²⁹

Sec. 13-226. Title.

This article shall be known and cited as the "Berlin Charter Township Truck Route Ordinance."

(Ord. No. 03-20, § 1, 8-24-20)

Sec. 13-227. Definitions.

For the purposes of this article:

Implement of husbandry means every vehicle and every kind of farm equipment, apparatus and/or machinery which is used for agricultural purpose by the owner thereof or his family, employees or contractors in the conduct of agricultural operations.

Person includes an agency, company, organization, firm, association, partnership, joint venture, corporation, trust or equivalent entity or a combination of any of them as well as a natural person.

Road means any street, highway or route within Berlin Charter Township.

Township roads are all roads not designated as a truck route in section 13-229.

Truck means every motor vehicle which is designed, used or maintained primarily for the transportation of property, including semi-trailers, truck-tractors, and trailers. "Truck" does not include pickup trucks, and vans designed to carry loads of no more than one (1) ton.

(Ord. No. 03-20, § 2, 8-24-20)

Sec. 13-228. Rule of construction.

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

(Ord. No. 03-20, § 3, 8-24-20)

²⁹Cross reference(s)—Emergency brake (engine brake) prohibited, § 10-52.

Sec. 13-229. Truck routes.

The following roads in Berlin Charter Township to the exclusion of all other roads, are hereby designated as truck routes, and are classified for truck traffic and will be designated as all-season, all weather or special designated routes which are not subject to seasonal weight restrictions according to the Monroe County Road Commission (MCRC) or Michigan Department of Transportation as appropriate:

- Swan Creek Road from I-75 to North Dixie Highway
- North Dixie Highway from Swan Creek Road to US Turnpike
- Reaume Road from North Dixie Highway to 0.39 miles south of North Dixie Highway
- US Turnpike from North Dixie Highway to North County Line

The attached Exhibit "A" depicts the roads on the above list, but in the event of any inconsistency, the above list supersedes Exhibit A.

(Ord. No. 03-20, § 4, 8-24-20)

Note(s)—Exhibit "A" referred to in this section is not set out at length in the Code, but may be found in the offices of the township.

Sec. 13-230. Prohibition against travel on non-truck route roads.

Except as expressly permitted under this article, no person shall operate a truck in Berlin Charter Township on any road other than a designated truck route.

(Ord. No. 03-20, § 5, 8-24-20)

Sec. 13-231. Exemptions.

The truck route limitations prescribed in this article shall not apply to:

- (1) Fire trucks or other emergency vehicles or vehicles on emergency business involved in the saving of life or property;
- (2) Implements of husbandry used in the transportation of produce from the field or farmstead to the point of sale or incidentally moved upon a road; provided that, the most direct route to a designated truck route is used;
- (3) Road repair, construction or maintenance vehicles while involved in the repair, construction or maintenance of road within Monroe County;
- (4) The operation of any vehicle while on any officially recognized established detour;
- (5) Garbage service vehicles while involved in the provision of services to residents of the township;
- (6) Trucks operated in accordance with a haul and maintenance agreement or special haul agreement applicable to that truck;
- (7) Delivery and service call vehicles may use township roads while making a delivery, pick-up or service call. This exemption does not apply if any of the following are true:
 - a. The truck is not using the most direct route to or from the location of the delivery, pick-up or service call and a road on the truck route;

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- b. The truck is violating a seasonal, posted or special weight restriction;
 - c. The truck is violating a haul and maintenance agreement, or a Special Haul Route Agreement; or
 - d. The truck is part of road usage that the county highway engineer has determined is "abnormal use."
- (8) Trucks leaving or returning to its customary storage location at the owner's or operator's personal residence location in the township, provided the most direct route to and from a designated truck route is utilized and provided that said vehicle is not loaded and provided it does not violate the township zoning ordinance; or
- (9) Trucks leaving or returning to its customary storage location at a commercial or industrial location in the township, provided the most direct route to and from a designated truck route is utilized and provided that said vehicle is not loaded.

(Ord. No. 03-20, § 6, 8-24-20)

Sec. 13-232. Haul and maintenance agreements.

When the county highway engineer determines that the volume of truck traffic on a township road or roads to or from a specific site is or will likely be "abnormal" for a short or defined period of time, the persons who own the property and the persons generating the truck traffic must obtain a haul route and maintenance agreement with MCRC. The agreement will specify the following elements:

- (1) The roads on the approved route;
- (2) The financial contribution to be used for routing maintenance, or protection, improvement or restoration of the infrastructure, including but not limited to cold patching, dust control, hand patching with hot mix asphalt, zone patching with hot mix asphalt, grading or paving of shoulders, chip sealing, and a final application of a surface treatment upon completion of abnormal truck traffic; and
- (3) An expiration date.

(Ord. No. 03-20, § 7, 8-24-20)

Sec. 13-233. Special haul agreements.

When the county highway engineer determines that the volume of truck traffic to or from a specific site is or will likely be "abnormal" for more than two (2) years, the persons who own the property and the persons generating the truck traffic must obtain a special haul agreement with MCRC. In addition to the elements listed in section 13-232, the agreement may contain provisions for the following terms:

- (1) Performance guarantee or other financial requirements, such as cash bonds or irrevocable letters of credit to guarantee the ongoing maintenance or repairs to the roadway(s);
- (2) A description of the trucks using the route;
- (3) The time and anticipated dates of travel.

(Ord. No. 03-20, § 8, 8-24-20)

Sec. 13-234. Maximum weight limit designated locations.

Pursuant to Public Act 122 of 2014, MCL 257.726, local authorities and county road commissions with respect to highways under their jurisdiction may "prohibit the operation of trucks or commercial vehicles" and "impose limitations as to the weight of trucks on designated highways or streets." No language within this article supersedes the county road commission's right and ability to post roads in the MCRC's sole discretion.

(Ord. No. 03-20, § 9, 8-24-20)

Sec. 13-235. Signs.

The MCRC and township board shall procure and have posted appropriate signs along the designated truck routes as required by the laws of the state.

(Ord. No. 03-20, § 10, 8-24-20)

Sec. 13-236. Penalties.

A violation of this article is a civil infraction, for which the fine as allowed by law, shall be two hundred fifty dollars (\$250.00), and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies provided by law in the discretion of the court. In addition to any other remedies available by law, any violation of this article or violation of language within a haul and maintenance agreement or special haul agreement may void any agreements or permits executed with the MCRC.

(Ord. No. 03-20, § 11, 8-24-20)

Chapter 14 SUBDIVISION AND SITE CONDOMINIUM CONTROL³⁰

ARTICLE I. IN GENERAL

Sec. 14-1. Purpose.

The purpose of this chapter is to regulate and control the subdivisions and site condominiums of land within the township in order to promote the public safety, health and general welfare.

Sec. 14-2. Authority.

This chapter is enacted pursuant to the authority granted by the Subdivision Control Act of 1967, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.102 et seq., MSA 26.430(102) et seq.), as amended and Act No. 246 of the Public Acts of Michigan of 1945 (MCL 41.181 et seq., MSA 5.45(1) et seq.), as amended, which authorizes township boards to adopt ordinances to secure the public health, safety and general welfare.

³⁰State law reference(s)—Subdivision control act, MCL 560.101 et seq., MSA 26.430(101) et seq.

Sec. 14-3. Interpretation.

The provisions of these regulations shall be construed to be the minimum requirements necessary for the preservation of public health, safety, and welfare within the township. These regulations are not intended to repeal, abrogate or supersede any existing regulations of the state or county, except that these regulations shall prevail in cases where these regulations impose a lawful restriction or requirement more severe than existing statutes, laws or regulations.

Sec. 14-4. Existing lots.

This chapter shall not apply to any lot or lots forming a part of a subdivision created or recorded prior to the effective date of the chapter, except for the further dividing of lots or parcels. This chapter shall apply, however, to existing outlots.

Sec. 14-5. Scope.

Subsequent to the effective date of these regulations, no plat within the township shall be approved by the township board unless it conforms to these regulations, nor shall any lot or parcel be split or otherwise divided unless it conforms with these regulations. Further, no site condominium shall be established and/or constructed unless it conforms with these regulations.

Sec. 14-6. Definitions.

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

Alley means a strip of land dedicated to public use, generally for the purpose of providing vehicular access to the rear or side of properties to which the principal access is provided by an abutting street.

Block means an area of land within a subdivision or site condominium that is entirely bounded by streets, highways, or ways, except alleys, and the exterior boundary or boundaries of the subdivision or site condominium.

Building line means a line established in a plat for the purpose of prohibiting construction of any portion of a building or structure between such line and any easement, right-of-way, or other public area.

Collector or *secondary street* means those streets used to carry traffic from local streets to major thoroughfares, including principal entrance streets to large residential developments.

Cul-de-sac means a minor street of short length having one (1) end permanently terminated by a vehicular turnaround.

Dead end street means a street with only one end open to vehicular traffic and not provided with a vehicular turnaround at the other end.

Easement means a grant by the property owner of the use of a strip of land by the public, a corporation, or private person for a specific purpose or purposes.

Final plat means a map of a subdivision of land made up in final form ready for approval and recording in conformance to the requirements of the Subdivision Control Act and this chapter.

Floodplain means that area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood caused by a storm of a ten-year interval which can be expected for this region, as defined by the department of natural resources.

Freeway means those streets designed for high speed, high volume through traffic, with completely controlled access, no grade crossings and no private driveway connections.

Improvements means any additions to the natural actual state of the land which increases its value, utility or habitability. Improvements include street pavements, with or without curbs and gutters, sidewalks, water mains, storm and sanitary sewers, street trees and other appropriate and similar items.

Land use plan means the land use plan for the township, including graphic and written proposals indicating the general location and recommendations for land use, streets, parks, public areas, zoning districts, and all physical developments existing or proposed for the township.

Lot means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

Lot depth means the horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

Lot width means the horizontal distance between the side lot lines measured at the front building line and at right angles to the lot depth.

Major thoroughfares means those streets and highways which are used as through routes for larger volumes of traffic and which have considerable continuity within the municipality and the region beyond.

Marginal access street means a local street which is parallel and adjacent to major streets and which provides access to abutting properties and protection from through traffic.

Minor or local streets means those streets which are used primarily for access to abutting properties and which have limited continuity.

Outlot means a lot in a subdivision or site condominium which is restricted from use for building purposes, whether or not deeded to the township, but which is not dedicated as a street or public reservation or private park. An outlot cannot be built on at a later date unless it conforms to this chapter.

Parcel means a unit of land under one ownership.

Parkway means a street designed for noncommercial, pleasure-oriented traffic moving at moderate speeds, between and through scenic areas and parks.

Performance guarantee means any security including performance bonds, escrow agreements, and other similar collateral or surety agreements, which may be accepted by the township board as a guarantee that required subdivision or site condominiums improvements will be made by the developer.

Planning commission means the township planning commission of the township.

Planning consultant means the planning consultant retained by the township planning commission and/or the township board to make recommendations on methods to provide for the orderly future development of the township, also referred to as township planner.

Planned residential development means a land area which has both individual building sites and common property, such as a park, and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community unit.

Plat means a map or chart of a subdivision of land.

Preliminary plat means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration, prepared in conformance with the Subdivision Control Act and this chapter.

Public reservation means a portion of a subdivision which is set aside for public use, made available for public use, or made available for public acquisition.

Public utility means a firm, corporation, or municipal authority providing gas, electricity, telephone, sewer, water, or other services of a similar nature.

Public walkway means a public right-of-way dedicated for the purpose of a pedestrian access, and located so as to connect to two (2) or more streets, or a street and a public land parcel.

Reserve strip means a strip of land in a subdivision which extends across the end of a street proposed to be extended by future platting or a strip which extends along the length of a partial width street proposed to be widened by future platting, to the minimum permissible width.

Sewer means a public sanitary sewage disposal system approved by the state department of health.

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

Street means a right-of-way which provides for vehicular and pedestrian access to abutting properties.

Street width means the shortest distance between the lines delineating the boundaries of the right-of-way of streets.

Subdivide or subdivision means the partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one (1) year, or of building development, where the act of division creates five (5) or more parcels of land each of which is ten (10) acres or less in area are created by successive divisions within a period of ten (10) years.

Subdivider or proprietor means any person, firm or corporation, estate, trust, or other group or combination acting as a unit, which subdivides or proposes to. The proprietor is also commonly referred to as the owner.

Subdivision Control Act means Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

Township board means the township board of the Township of Berlin, Monroe County, Michigan.

Township building inspector means the township building inspector of the Township of Berlin, Monroe County.

Township engineer means the engineering consultant retained by the township planning commission and/or the township board to make recommendations on methods to provide for the orderly future development of the township, also referred to as township engineer.

Water resources commission means the water resources commission of the state.

Zoning ordinance means the zoning ordinance of the township adopted as Ordinance No. 25-88 in 1988, as amended, in accordance with the provisions of Act No. 184 of the Public Acts of Michigan of 1943 (MCL 125.271 et seq., MSA 5.2963(1) et seq.), as amended, and which is now in effect as the Zoning Ordinance of the township.

Sec. 14-7. Penalty for failure to complete the construction of a public improvement.

If the subdivider or site condominium proprietor shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the township board to proceed to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost and expense thereof by appropriating the security deposit which the subdivider or site condominium proprietor has deposited with the township or it may take such steps as may be necessary to require performance in accordance with the deposit agreement executed by the proprietors.

Sec. 14-8. Subdivision lot division.

After a subdivision has been recorded, platted lots may thereafter be partitioned or devised with the approval of the township board into not more than four (4) parts, provided that the resulting lots or parcels or combinations (sic) or portions of two (2) or more divided lots shall not be less in width or size than the more restrictive of this chapter, the township zoning ordinance or the Subdivision Control Act of 1967, and provided further that such resulting lots shall each have direct access to a public roadway constructed to the standards of this chapter, and also to public utilities necessary or required to service such lot, and provided further, that all such resulting lots shall conform in all particulars to the requirements of the Subdivision Control Act of 1967 and all township ordinances.

Sec. 14-9. Variance procedure.

Where there are practical difficulties or unnecessary hardships in carrying out the strict letter of this chapter, the township planning commission shall have power in passing upon proposed subdivision or site condominium to vary or modify any of the terms and provisions of this chapter so that the spirit of the chapter shall be observed and public health, safety and welfare secured. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the planning commission shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision or site condominium and the probable effect of the proposed subdivision or site condominium upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds after a public hearing:

- (1) That there are such special circumstances or conditions effecting such property that the strict application of provisions of this chapter would clearly be impracticable or unreasonable. In such case, the subdivider or site condominium shall first state his reasons in writing as to the specific provision or proprietor requirement involved and submit them to the planning commission.
- (2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which such property is situated.
- (3) That such variance will not violate the provisions of the state Subdivision Control Act.
- (4) The planning commission shall include its findings and the specific reasons therefore, in its report of recommendations to the township board and shall also record its reasons and actions in its minutes.
- (5) That such variance will not have the effect of nullifying the interest or purpose of this chapter and the land use plan of this township.

Sec. 14-10. Enforcement and penalties for failure to comply with this chapter.

Violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00), plus costs, or imprisoned for not more than ninety (90) days or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the township board or public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or the Subdivision Control Act.

Secs. 14-11—14-25. Reserved.***ARTICLE II. PRELIMINARY PLATS***

Sec. 14-26. Submission of preliminary plat for tentative approval.

Every person who shall hereafter submit a proposed preliminary plat to the township clerk for tentative approval, shall submit ten (10) legible copies of the proposed preliminary plat. Such copies must contain, as a minimum, the following information and fees:

- (1) Show relief of area proposed to be platted with not more than two-foot contour intervals.
- (2) Indicate road layout.
- (3) Indicate lot layout, showing size and shape of proposed lots.
- (4) Indicate whether proposed plat will be served by sanitary sewer and/or water.
- (5) Indicate the general location and size of any floodplain possibly located within the area to be platted.
- (6) Indicate, in general, the methods proposed for stormwater disposal.
- (7) When the proprietor owns or plans to acquire and anticipates platting adjoining land, he shall submit, with the preliminary plat for tentative approval, a tentative plan showing the feasibility of the development of such adjoining land.
- (8) An administrative fee equal to the sum of one dollar (\$1.00) multiplied by the number of lots contained in the proposed subdivision, but not less than five dollars (\$5.00).
- (9) Preliminary and final plat review fees shall be paid by the proprietor as established by resolution of the township board.

Sec. 14-27. Review of preliminary plat for tentative approval.

- (a) Upon receipt of copies of the proposed plat for tentative approval, the township clerk shall refer the preliminary plat for placement on the agenda of the next regular meeting of the planning commission.
- (b) The planning commission shall review the preliminary plat and the comments of the township planner and shall make a recommendation to the township board as to approval if the proposed preliminary plat complies with all township ordinances and state statutes as well as makes adequate provision of the following:
 - (1) Streets.
 - a. Compliance with a major street thoroughfare plan adopted by the township, if any.
 - b. The arrangement of streets shall provide for a continuation of existing streets from adjoining areas into the new subdivision or site condominium.
 - c. Where adjoining areas are not subdivided, the arrangement of streets in the proposed subdivision or site condominium shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjoining areas; provided, however, that minor streets within the subdivision or site condominium shall be so laid out that their use by through traffic will be discouraged.
 - d. Where the proposed subdivision or site condominium abuts or contains a county primary road or major thoroughfare, the township board may, at its discretion, require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
 - e. Private streets are not permitted.

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- f. All new streets shall be named as follows: streets with predominant north-south direction shall be named, "Street"; streets with predominantly east-west direction shall be named, "Avenue"; meandering streets shall be named, "Drive," "Lane," "Path," "Road" or "Trail," etc., and cul-de-sacs shall be named, "Circle," "Court," "Way" or "Place," etc.
 - g. Street names shall not be permitted which might cause confusion within names of existing streets in or near the township. Streets that will be continuations of existing streets shall be called by the same names of such existing streets. All names shall be approved by the township planning commission, the county road commission and the township board.
 - h. Streets should intersect at ninety (90) degrees or closely thereto and in no case less than eighty (80) degrees.
 - i. Where the proposed continuation of a street at an intersection is not in alignment with the existing street, it must not intersect such cross street closer than one hundred seventy-five (175) feet from such opposite existing street, as measured from the centerline of such streets.
 - j. The maximum length allowed for residential blocks shall be one thousand (1,000) feet.
 - k. All primary road rights-of-way, as designated by the township board, within or abutting plats hereafter recorded, shall provide a fifty (500) foot half-width. All other rights-of-way within or abutting such plats shall be not less than sixty-six (66) feet in width. Permanent dead-end streets in excess of six hundred sixty (660) feet in length shall be prohibited except upon prior approval of the township board, to be granted only where the topography of the area, rivers, streams, other nature conditions or the prior development of the area prevents a through street from being constructed.
 - l. A subdivision or site condominium or extension of an existing subdivision or site condominium creating a total of fifty (50) or more lots must be developed so as to provide two (2) or more access streets.
 - m. An appropriate street sign shall be erected at each street intersection within the subdivision or site condominium. The type of sign and location thereof shall be subject to the approval and direction of the county road commission.
- (2) Lots.
- a. All lots shall be of such size so as to conform with the requirements of the applicable sections of the township zoning ordinance.
 - b. All lot, building and setback regulations shall conform to the requirements of the township zoning ordinance.
- (3) General provisions.
- a. Privately held reserve strips controlling access to streets shall be prohibited.
 - b. Existing natural features which add value to residential development, that enhance the attractiveness of the community (such as streams, watercourses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision or site condominium.
 - c. Lands subject to flooding or otherwise determined by the township board to be uninhabitable should not be platted for residential, commercial or industrial purposes. Such lands within a subdivision or site condominiums may be set aside for other purposes such as parks and/or open space.

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- d. If the township planning commission determines that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth above, it shall recommend tentative approval of the preliminary plat to the township board.
 - e. If the preliminary plat does not meet all requirements, the planning commission shall notify the proprietor of its disapproval by letter, giving its reasons and the earliest date for resubmission of the plat and additional information required. The township board shall receive a report of the findings by the planning commission and its recommendation for disapproval.
 - f. The planning commission shall give its report to the township board not more than sixty (60) days after submission of the preliminary plat. The sixty-day period may be extended if the applicant consents. If no action is taken within sixty (60) days, the preliminary plat shall be deemed to have been approved by the planning commission.
 - g. The township board, at their next regular meeting after receiving the recommendation from the planning commission, shall review the preliminary plat and within ninety (90) days of filing shall tentatively approve the preliminary plat or disapprove the plat. The township board shall record their approval of the plat, which approval shall confer upon the proprietor for a period of one (1) year from date of approval with regard to lot size, lot orientation and street layout. Such tentative approval may be extended at the discretion of the township board upon application of the proprietor. The township board shall return one (1) copy to the proprietor or set forth in writing its reasons for rejection and requirements for tentative approval.
 - h. The proprietor, upon receiving tentative approval from the township board, shall submit the preliminary plat to all authorities as required by sections 113 to 119 of the Subdivision Control Act, including for approval or rejection:
 1. County road commission.
 2. County drain commission.
 3. State department of state highways.
 4. State department of conservation.
 5. State water resources commission.
 6. State health department.
 7. The county plat board.
 8. All public utilities serving the area.
 9. The superintendent of the school district serving the area. Tentative approval shall not constitute final approval of the preliminary plat.

(Ord. No. 13-94, § 1, 11-14-94)

Sec. 14-28. Submission of preliminary plat for final approval.

Every person, firm or corporation which shall hereafter submit five (5) copies of a proposed preliminary plat to the township board for final approval shall submit the following relevant data and fees prior to the expiration of the tentative approval:

- (1) Evidence that all requirements imposed by the township board at the time of granting tentative approval have been incorporated into the proposed plan.

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- (2) Detailed working drawings showing grades, drainage structures, proposed utilities and road construction plans for public roads within and adjoining the plat. Prior to submitting copies of the preliminary plat to the township board for final approval, the developer shall document consultation with all public utilities which will be servicing the subdivision or site condominium to resolve any conflicts in location between public utility facilities and other improvements.
 - (3) An administrative fee equal to the sum of two dollars (\$2.00) multiplied by the number of lots contained in the proposed subdivision or site condominium, but not less than one hundred dollars (\$100.00).
 - (4) Preliminary and final plat review fees shall be paid by the proprietor as established by resolution of the township board.

Sec. 14-29. Preliminary plat review, final approval.

Upon receipt of all required copies of the preliminary plat for final approval, the township planning commission shall examine the same with such assistance and review by the township engineer and township attorney as the township planning commission shall request. Within twenty (20) days, the township planning commission shall determine whether the proposed preliminary plat complies with the requirements imposed by the township board at the time of tentative approval; has obtained the required statutory approval of other governmental agencies and in addition, meets the following requirements:

- (1) All road grades shall not exceed a seven (7) percent grade or be less than a one-half percent grade except upon special approval of the township board upon the recommendation of the township engineer.
- (2) All grades in excess of three (3) percent shall require installation of curb and gutter. Such curb and gutter to be set apart not less than thirty-five (35) feet as measured from back to back and fully paved between the lip of the gutters.
- (3) All road rights-of-way within or abutting such plat shall be constructed with not less than a six-inch compacted gravel base, twenty-two (22) feet wide, covered with not less than two (2) inches of bituminous aggregate pavement, twenty (20) feet wide.
- (4) All rights-of-way shall be graded to the full width thereof for proper drainage and prospective future widening and improving. Road grading shall be accomplished so as to establish a one-half foot higher elevation at the boundary of the right-of-way than at the crown of the traveled roadway. All trees or other obstructions within the right-of-way which interfere with the grading and/or drainage shall be removed. The foregoing one-half foot elevation and tree and obstruction removal may be varied or adjusted by the township board upon recommendation of the township engineer where valuable trees or obstacles are involved and as long as drainage and safety will not be impaired.
- (5) Permanent dead-end streets shall be provided at the closed end with a turnaround having an outside improved roadway diameter of at least one hundred (100) feet as measured from the centerline of the gutter or curb and a street property line diameter of at least one hundred twenty (120) feet. Temporary dead-end streets shall be provided at the closed end with a turnaround constructed the full width of the right-of-way.
- (6) All surface waters shall be adequately drained within each plat by a separate system of drainage structures or through the connection of such separate system to an adequate adjoining system. Where storm sewers are used, inlet basins must not be spaced further apart than three hundred (300) feet except upon express approval of the township board, upon recommendation of the township engineer, to be granted only where other equivalent and sufficient drainage inlets are provided. Where such outlets are not available, such drainage structures may consist of leaching basins so spaced that water

shall not be required to run on the surface of the road further than two hundred fifty (250) feet to such basin, or so spaced as to afford equivalent and sufficient drainage. The determination of what is equivalent and sufficient drainage shall be left to the township board upon the recommendation of the township engineer.

- (7) Connection to sanitary sewers and/or water mains may be required by the township board when the township board determines, in its discretion, that such sewers and/or water mains are reasonably available to the proposed subdivision or site condominium.
- (8) In the discretion of the township board, the proprietor shall make arrangements for all distribution lines for telephone, electric, television and other similar services distributed by wire or cable to be placed underground entirely through the residential subdivided area. Electric distribution lines shall be defined in accordance with the rules and regulations promulgated by the state public service commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards for construction approved by the state public service commission. Private easements for underground utilities shall be shown on the preliminary plat.
- (9) Stormwater disposal methods proposed for the subdivision or site condominium must be adequate to ensure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
- (10) No land within the subdivision or site condominium may be isolated from a public highway nor may any adjoining land of the proprietor or others be isolated from a public thoroughfare thereby creating land-locked parcels.
- (11) Street lighting shall be required by the township board when the board determines that street lighting is necessary for the public health, safety and welfare.
- (12) Sidewalks may be required by the township board when the township board determines, in its opinion, that sidewalks are necessary for pedestrian safety, public health, and welfare. Sidewalks shall be provided along all streets where lot widths are less than one hundred (100) feet. When required, sidewalks shall be constructed of concrete, four (4) feet in width, four (4) inches in depth, upon a two-inch minimum sand base with expansion joints set at a minimum of fifty (50) feet; sidewalks built across driveways shall be constructed of concrete, six (6) inches in depth.

If the township board determines that the preliminary plat has obtained the required statutory approval of other governmental agencies and complies with the requirements set forth above in this chapter, the township board shall grant final approval of the preliminary plat which shall confer upon the proprietor for a period of two (2) years from date of approval the conditional right that the general terms and conditions under which the approval was granted will not be changed. The two-year period may be extended in the discretion of the township board upon application by the proprietor.

Secs. 14-30—14-50. Reserved.

ARTICLE III. FINAL PLATS

Sec. 14-51. Submission of final plat for final approval.

Following final approval of the preliminary plat by the township board, the proprietor shall cause a survey and five (5) true plats thereof to be made by a surveyor and shall submit it to the township board prior to the date of expiration of the preliminary plat approval, along with the following:

- (1) An application.
- (2) Title insurance policy or commitment for a policy currently in force, covering all the land within the boundaries of the proposed subdivision or site condominium.
- (3) An administrative fee equal to the sum of two dollars (\$2.00) multiplied by the number of lots contained in the proposed subdivision, but not less than one hundred dollars (\$100.00).
- (4) Preliminary and final plat review fees shall be paid by the proprietor as established by resolution of the township board.

Sec. 14-52. Review by the township board; final plat; final approval.

- (a) The township engineer shall review the proposed final plat and determine that:
 - (1) All monuments required to be placed in the subdivision or site condominium have either been placed or a cash or equivalent deposit has been made with the township and a deposit agreement executed by the proprietors.
 - (2) All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the township and a deposit agreement executed by the proprietors.
 - (3) If the subdivision or site condominium has any waterways or lagoons, etc., as set forth in section 188 of the Subdivision Control Act, then all such waterways, etc., shall be installed or a cash or equivalent deposit made to the township and a deposit agreement executed by the proprietors.
 - (4) If any floodplains are involved in the proposed subdivision or site condominium, then such floodplains shall be restricted as provided by the Subdivision Control Act and such restrictions shall be submitted to the township board for review and approval prior to recording and thereafter shall be recorded in the office of the register of deeds contemporaneously with the recording of the plat.
 - (5) All utilities serving the plat have been installed and water and sanitary sewer mains have been stubbed to the lot line or a cash or equivalent deposit has been made with the township board sufficient in amount to insure completion thereof within the time specified and a deposit agreement executed by the proprietor.
 - (6) All underground utility installations, including lines for street lighting systems, which traverse privately owned property shall be protected by easements granted by the proprietor and approval by the public utility. These easements shall be recorded on the final plat as private easements for public utilities or easements provided by separate instrument. Easements across lots or centered on rear or side lot lines provided for utilities shall be at least twelve (12) feet wide, with six (6) feet dedicated from each lot or parcel, except side lot easements three (3) feet wide granted for street lighting dropouts. These easements should be direct and continuous from block to block.
 - (7) All public improvements such as street lights, fire hydrants, sidewalks, parks, etc., which have been required by the township board, have been completed and installed or a cash or equivalent deposit has been made with the township, sufficient in amount to ensure completion within the time specified and a deposit agreement executed by the proprietors.

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- (8) The proposed final plat complies with all applicable state statutes and township ordinances and has received the requisite statutory approval of other governmental agencies.
 - (9) That the dedication is executed by all required owners.
 - (b) The township board shall review all recommendations within twenty (20) days and take action on the final plat as soon as practicable after the filing of the plat if it is in proper form.
 - (c) Upon the approval of the final plat by the township board, the subsequent approvals shall follow the procedure set forth in the Subdivision Control Act. If disapproved, the township board shall give the proprietor its reasons in writing, as set forth in the minutes of the meeting, and return the plat to the proprietor.
 - (d) The township board shall instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection and to sign the township certificate of the approved final plat on behalf of the township board.
 - (e) The clerk shall transcribe a certificate of approval of the township board on the final plat and deliver all film copies to the clerk of the county plat board together with the filing and recording fee required by the Subdivision Control Act.
 - (f) A final plat received by the state treasurer more than one (1) year following the date of approval of the township or county treasurer shall be returned to the treasurer who shall make a new certificate currently dated, relative to paid or unpaid taxes, special assessments and tax liens or titles.
 - (g) The clerk shall transmit one (1) paper print copy to the planning commission, one (1) paper print to the township planner, and retain one (1) paper print copy temporarily in the files of the township board.
 - (h) After all the approvals mentioned in subsection (c) above are effectuated, and the state treasurer receives notification of the recording of such plat, he shall return one (1) completely transcribed copy to the township clerk for filing as a matter of permanent record.

Secs. 14-53—14-70. Reserved.

ARTICLE IV. RESERVED

Editor's note(s)—Ord. No. 01-20, § 18.08, adopted Feb. 10, 2020, repealed Art. IV, §§ 14-71—14-75, which pertained to condominium developments and derived from Ord. No. 4-95, §§ 1—5, adopted June 12, 1995.

Secs. 14-71—14-90. Reserved.

ARTICLE V. LAND DIVISION AND COMBINATION

Sec. 14-91. Title.

This article shall be known and cited as the "Berlin Charter Township Land Division and Combination Ordinance."

(Ord. No. 3-98, § 1, 8-20-98)

Sec. 14-92. Purpose.

The purpose of this article is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act as amended by P.A. 591 of 1996 and P.A. 87 of 1997), to prevent the creation of parcels of property which do not comply with said Act, to minimize potential boundary disputes, to provide for the combination of parcels or tracts, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the township by establishing reasonable standards for prior review and approval of land divisions within the township.

(Ord. No. 3-98, § 2, 8-20-98)

Sec. 14-93. Definitions.

For purposes of this article certain terms and words used herein shall have the following meaning:

Accessible, in reference to a parcel, means that the parcel meets one (1) or both of the following requirements:

- (1) Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or Monroe County Road Commission under Act No. 200 of the Public Acts of 1969, being MCL §§ 247.321 to 247.329, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
- (2) Is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the state transportation department or Monroe County Road Commission under Act No. 200 of the Public Acts of 1969, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

Applicant means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

Depth of a lot/parcel is the mean horizontal distance from the center of the front street or property line to the center of the rear lot/parcel line. In the case of a lakefront lot/parcel, it is from the lake frontage line to the street frontage line. In the case of an acreage parcel, it is from the front right-of-way line to the rear lot/parcel line.

Development site means any parcel or lot on which exists or which is intended for building development other than agricultural use or forestry use as defined in the State Land Division Act.

Divide or *division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" or "division" shall not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act and the requirements of other applicable local ordinances.

Exempt split or *exempt division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.

Forty (40) acres or the equivalent means either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.

Front lot/parcel line means, in the case of a lot/parcel not located on a corner, the line separating said lot/parcel from the street right-of-way. In the case of a corner lot/parcel or double frontage lot/parcel, the front lot/parcel line shall be that line that separates said lot/parcel from the street which is designated as the front yard on the site plan review application or request for a building permit.

Net area means the total horizontal area within the lot/parcel lines of the lot or parcel exclusive of any abutting public street right of way or private road easement.

Rear lot/parcel line means, ordinarily, that lot/parcel line which is opposite and most distant from the front lot/parcel line. In the case of lots/parcels that are pointed at the rear, the rear lot/parcel line shall be an imaginary line parallel to the front lot/parcel line, not less than ten (10) feet in length, lying farthest from the front lot/parcel line and wholly within the lot. In any case, when this definition does not apply, the building official shall designate the rear lot/parcel line.

Setback, street means the distance measured from the centerline of the road to establish the front, rear and/or side lot/parcel line for the purpose of establishing yard and/or the other requirements of the township zoning ordinance.

Setback, yard means the distance between a front, side or rear lot/parcel line and the nearest supporting member of a structure on the lot/parcel. The minimum required setback is the minimum distance between a front lot/parcel line (as determined by the street setback line) the side or rear lot/parcel line and the nearest supporting member of a structure in order to conform to the required yard setback requirements of the township zoning ordinance.

Side lot/parcel line means any lot or parcel line other than the front or rear lot/parcel lines. A side lot line separating a lot/parcel from a street is a side street lot/parcel line. A side lot/parcel line separating a lot/parcel from another lot/parcel or lots/parcels is an interior side lot/parcel line.

Township board means the Township Board of Berlin Charter Township.

Valid nonconforming dwelling means a dwelling that was lawfully in existence at the effective date of the township zoning ordinance and which does not conform to the provisions of the zoning ordinance in the zoning district in which it is located.

Width means the straight line distance between the side lot/parcel lines, measured at the two (2) points where the minimum front yard setback line required by the township zoning ordinance intersects the side lot/parcel lines.

(Ord. No. 3-98, § 3, 8-20-98)

Sec. 14-94. Prior approval requirement for land divisions.

Land in the township shall not be divided without the prior review and approval of the township building official and township supervisor or the Assessor in accordance with this article and the State Land Division Act. The following shall be exempted from this requirement:

- (a) A parcel proposed for subdivision through a recorded plat pursuant to the township's subdivision control ordinance and the State Land Division Act.
- (b) An exempt split as defined in this article, or other partitioning or splitting that results in parcels at twenty (20) acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the State Land Division Act.

(Ord. No. 3-98, § 4, 8-20-98)

Sec. 14-95. Application for land division approval.

An applicant shall file all of the following with the township assessing department for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one (1) year, or for building development:

- (a) A completed application with all required attachments on the application form provided by the township.
- (b) Proof of fee ownership of the land proposed to be divided.
- (c) A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Act No. 132 of the Public Acts of 1970, as amended, (MCL 54.211) by a land surveyor licensed by the state, and showing the dimensions and accurate legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the forty-five (45) day statutory requirement for a decision on the application until such survey map and legal description are filed with the township assessing department, and submit a tentative preliminary parcel map drawn to scale of not less than two hundred (200) feet per one (1) inch showing the boundary lines, dimensions, and the accessibility of each division as defined in this article, for vehicular traffic and public utilities, for preliminary review, approval, and/or denial by the township building official and supervisor or assessor prior to a final approval under section 14-95.

Notwithstanding the requirements of subsection (c), at the discretion of the township supervisor or assessor and township building official, the survey requirement may be waived in writing when considering a division of a lot in a recorded plat proposed to be divided in accordance with the township's subdivision control ordinance and the State Land Division Act.

- (d) Proof that all standards of the State Land Division Act and this article have been met. (See land division application.)
- (e) The history and specifications of any previous divisions of land of which the proposed division was a part, sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- (f) Signed affidavit on application that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full and proof of same upon request by supervisor, assessor or building official.
- (g) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights to be transferred.
- (h) Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under section 14-98 of this article, for all divisions of less than one (1) acre, proof or a letter of approval that each division or resulting parcel shall result in parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited therefrom, and with sufficient area to comply with all required setback provisions, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- (i) A fee of twenty-five dollars (\$25.00) per number of parcels to be reviewed pursuant to the township land division ordinance for land division reviews pursuant to this article must be paid to the township

treasurer to cover the costs of review and processing of the application and administration of this article and the State Land Division Act.

(Ord. No. 3-98, § 5, 8-20-98)

Sec. 14-96. Procedure for review of applications for land division approval.

- (a) The township building official and supervisor or assessor shall approve or disapprove the land division applied for within forty-five (45) days after receipt of a complete application package conforming to this article's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this article's requirements and the State Land Division Act, the application package shall be returned to the applicant for completion and re-filing in accordance with this article and the State Land Division Act. If refiled within thirty (30) days, no new application shall be required. After expiration of thirty (30) days, fees must be paid before filing of application.
- (b) A decision approving a land division is effective for ninety (90) days, after which it shall be considered revoked unless within such period a document is recorded with the Monroe County Register of Deeds office and filed with the township assessor accomplishing the approved land division or transfer.
- (c) The township assessing department shall maintain an official record of all approved and accomplished land divisions or transfers.
- (d) Approval of a division is not a determination that the resulting parcels comply with other ordinances or applicable regulations.
- (e) The township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

(Ord. No. 3-98, § 6, 8-20-98)

Sec. 14-97. Standards for approval of land divisions.

A proposed land division shall be approved if the following criteria are met:

- (a) All parcels to be created by the proposed land division(s) meet the minimum width requirement of the township zoning ordinance of the zoning district in which it is located.
- (b) All parcels to be created meet the minimum net area requirement of the township zoning ordinance for the zoning district in which it is located.
- (c) The proposed land division(s) comply with all requirements of the State Land Division Act and this article.
- (d) All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and vehicular access of emergency and other vehicles.
- (e) The ratio of depth to width of any parcel created by the division does not exceed a four (4) to one (1) ratio. Parcels which are access roads, easements, or non-development sites created under section 14-98 of this article and parcels added to contiguous parcels that result in all involved parcels complying with said ratio are excluded from this review requirement. Further, the four (4) to one (1) depth to width ratio shall not apply to any parcel created which is ten (10) acres or larger.

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- (1) The ratio of depth to width may be greater than four (4) to one (1) with the approval of the township land division board created pursuant to this article. The greater depth to width ratio shall be permitted based only on a showing of the following:
 - a. Exceptional topographic or physical conditions of the parcel with respect to the parcel.
 - b. Compatibility of the resulting parcel with the adjacent and surrounding lands.
 - c. Protection of the public health safety and welfare.
 - d. No undue hardship will result to neighboring properties.
 - e. Extenuating circumstances as to parcel which must be specified.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The permissible minimum width shall be as defined in this article and shall mean continuous frontage for the full width of the parcel.

- (f) There is hereby created a land division board which shall consist of five (5) members who shall be the individuals holding the positions of the township zoning board of appeals. The land division board shall sit to hear appeals for variances from the four (4) to one (1) depth to width ratio requirement of this article. The land division board shall meet as necessary to promptly address the requests for variances as they are received. The concurring vote of at least three (3) members of the board shall be necessary to vary from the requirements of this article as to the required depth to width ratio. In deciding each matter, the board shall state the grounds of its decision. The land division board shall fix a reasonable time for the hearing of the appeal, give notice of the appeal to the interested parties and decide the appeal within a reasonable time. There shall be no additional fee for requests for variances made within thirty (30) days after disapproval of a land division application.
- (g) The division does not isolate a cemetery such that it is not accessible as set forth in MCL 560.102(j)(i) or (ii).
- (h) One of the following are satisfied:
 - (1) All property taxes and special assessments due on the parcel or tract subject to the proposed division for the five (5) years preceding the date of the application have been paid, as established by a certificate from the county treasurer of the county in which the parcel or tract is located. If the date of the application is on or after March 1 and before the local treasurer of the local tax collecting unit in which the parcel or tract is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The official having authority to approve or disapprove the application shall not disapprove the application because the county treasurer's certification includes such a notation. The county treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the General Property Tax Act, 1893 PA 206, MCL 211.135 or;
 - (2) If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the township or city assessing officer as provided by section 53 of the General Property Tax Act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against the parcels or tracts as apportioned by the assessing officer and shall be treated in the same manner as property taxes and special assessments of the year of the

original assessment for the purpose of collection and sale for delinquent taxes under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.155.

(Ord. No. 3-98, § 7, 8-20-98; Ord. No. 03-19, § 2, 9-9-19)

Sec. 14-98. Allowance for approval of other land divisions.

Notwithstanding disqualification from approval pursuant to this article, a proposed land division which does not fully comply with the applicable width, accessibility and area requirements of the applicable zoning ordinance or this article may be approved in any of the following circumstances:

- (a) Where the applicant executes and records an affidavit or deed restriction with the county register of deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the township records, and shall not thereafter be the subject of a request to the zoning board of appeals for variance relief from the applicable width and/or area requirements, and shall not be developed with any building or above ground structure.
- (b) Where, in circumstances not covered by subsection (a) above, the township zoning board of appeals has granted a variance from the width and/or area requirements with which the parcel failed to comply.
- (c) Where two (2) or more valid nonconforming dwellings were lawfully in existence and recognized by the township as separate parcels on March 31, 1997, and which do not now conform to the provisions of this article and the zoning ordinance as to width and/or area in the zoning district in which they are located.
- (d) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this article, the zoning ordinance, or the State Land Division Act.

(Ord. No. 3-98, § 8, 8-20-98)

Sec. 14-99. Land combination.

- (a) Applications for the combination of land located in the township shall be made on applications provided by the township. No combination of any lot(s) or parcels of land shall be made or approved until all information requested in the application has been furnished to the township building department as well as with any additional information required by this article.
- (b) All applications for the combination of any lot or parcel of land located in the township shall have attached a survey containing the following information:
 - (1) Existing lot(s) or parcels of land prior to combination.
 - (2) Lot or parcel after combination.
 - (3) All existing structures on all lots or parcels and other physical features which would influence layout or description of lots or parcels to be combined.
 - (4) Legal descriptions of parcels described in subsections (b)(1) and (2) above.

All such surveys shall bear the seal of a licensed surveyor and said surveys shall comply with Act No. 132 of the Public Acts of 1970, as amended.

Notwithstanding the requirements of subsection (b), combinations of residentially zoned and used parcels and agriculturally zoned and used parcels may be exempt from the survey requirements of this section in the discretion

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of the township supervisor provided that the applicant sign a waiver concerning the accuracy of the legal description.

(Ord. No. 3-98, § 9, 8-20-98)

Sec. 14-100. Consequences of noncompliance with land division approval requirement.

Any parcel created in noncompliance with this article shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this article shall subject the violator to the penalties and enforcement actions set forth in section 14-101 of this article, and as may otherwise be provided by law.

Further, approval of a division under the article by the township is not a determination that the resulting parcels comply with other ordinances or regulations or that the property owner will receive a building permit for newly created parcels.

(Ord. No. 3-98, § 10, 8-20-98)

Sec. 14-101. Penalties and enforcement.

Any person, firm or corporation who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for not to exceed ninety (90) days or by both such fine and imprisonment.

Any person who violates any of the provisions of this article shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Ord. No. 3-98, § 11, 8-20-98)

Chapter 15 UTILITIES³¹

ARTICLE I. IN GENERAL

Secs. 15-1—15-25. Reserved.

ARTICLE II. WATER

Sec. 15-26. Definitions.

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

³¹Cross reference(s)—Buildings and building regulations, Ch. 5; flood damage control, Ch. 8; subdivision and site condominium control, Ch. 14.

State law reference(s)—Authority to provide for water and sewer systems, MCL 41.411.

Contract payments means the payments required to be made by the township and the village to the county under the provisions of the contract dated November 1, 1968.

User or users means any premises connected with and using or connected with and able to use any of the facilities of the water system.

Village means the Village of Estral Beach, Monroe County, Michigan.

Water system means all publicly owned and operated water mains and facilities now in existence in the unincorporated area of the township and in the village or hereafter acquired or constructed therein, together with all works, instrumentalities and properties used or designed for use in the obtaining of a water supply or the distribution thereof.

(Rev. Comp. Ords. 1979, § 113.010)

Sec. 15-27. Intent.

The water system shall be operated by the township on a public utility basis as authorized by law. It is hereby declared to be the intent and purpose of the township board to establish and maintain reasonable and uniform rates and charges applicable to various classifications of users so as to provide funds to:

- (1) Operate and maintain the facilities of the water system.
- (2) Make the contractual payments required by contracts heretofore entered upon or required by future obligations of the township incurred with respect to the acquisition or construction of additional facilities for the water system.
- (3) Make additions, extensions and improvements to the water system.

Sec. 15-28. Water system authority.

The water system shall be and remain under the supervision and ultimate control of the township board.

(Rev. Comp. Ords. 1979, § 113.030; Ord. No. 06-05, § 2, 7-22-05)

Sec. 15-29. Fiscal year.

The fiscal year of the water system shall extend from January first of each year until December thirty-first of same year.

(Ord. No. 1018-85A, 3-25-85; Ord. No. 15-92-4, § 1, 6-8-92)

Sec. 15-30. Rates and charges.

- (a) *Consumption rate for premises within township boundaries and miscellaneous charges.* The rates and charges for the services and benefits provided by the water system may be fixed and revised from time to time by the township board to provide for the payment of the expenses of administration and operation of the water system, and such expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order. Such revisions shall be by resolution of the township board. All rate changes shall be published at least twice in a newspaper of general circulation within the township.
- (b) *Consumption rate for premises located outside township boundaries.* Prior to the commencement of each fiscal year of the water system, the township board shall establish by resolution, consumption rates for premises located outside the township boundaries for the next such fiscal year, it being the intent of the

township board that premises located outside the township boundaries pay the same pro-rata portion of the cost of operating the water system and the debt service incurred by the township in connection with the acquisition and construction of the facilities of the water system as premises located within the boundaries of the township. Such consumption rates shall be determined by dividing the total principal and interest requirements on all debt of the water system for the next such fiscal year, less revenues from debt service charges for the next such fiscal year, by total billed water consumption for the fiscal year preceding the next such fiscal year.

(Rev. Comp. Ords. 1979, §§ 113.050, 113.200; Ord. No. 1018-87A, § 1, 7-13-87; Ord. No. 15-91-2, § 1, 12-9-91; Ord. No. 14-94, § 2, 11-28-94)

Sec. 15-31. Capital improvements charge.

A capital improvements charge in the amount of sixty dollars (\$60.00) annually, payable at a rate of fifteen dollars (\$15.00) per quarter, shall be charged to and collected from all structures and premises connected to the water supply system, pursuant to residential equivalent schedule adopted by resolution of the township board. The township board may by resolution, increase, decrease, revise or waive, for any given year, the water capital improvements charge provided for herein. Effective June 1, 2016 the water capital improvement charge shall be suspended and not collected thereafter.

Effective June 1, 2016 a readiness to serve charge in the amount of one hundred and twenty dollars (\$120.00) annually, payable at a rate of thirty dollars (\$30.00) per quarter, shall be charged to and collected from all structures and premises connected to the water supply system, pursuant to the residential equivalent schedule adopted by resolution of the township board. The township board may by resolution, increase, decrease, revise or waive, for any given year, the readiness to serve charge provided for herein.

(Ord. No. 6-00, § 2, 6-1-00; Ord. No. 02-16, § 2, 4-25-16)

Editor's note(s)—Ord. No. 6-00, § 2, adopted June 1, 2000, amended the former § 15-31 in its entirety, in effect repealing and reenacting said section to read as herein set out. The former § 15-31 pertained to debt service charge and derived from Rev. Comp. Ords. 1979, § 113.200.

Sec. 15-32. Tap-in requirements.

- (a) *Tap-in charge.* The tap in charge for connection to the water system shall be two thousand five hundred dollars (\$2,500.00) per residential equivalent unit.
- (b) *Installation of water service.* The installation of water service from the water main to the meter and the cost thereof shall be the responsibility of the property owner.
- (c) *Inspection and permit requirements.* The agent shall be required to be a licensed plumber or licensed contractor who has been approved by the Water Department for performing this type of work. The plumber or contractor shall be required to furnish evidence of a current license by the State of Michigan. All customer service lines shall be subject to inspection. The property owner or his agent shall be required to apply for and secure permits for the installation of the water service and all other plumbing permits required from Berlin Charter Township and to secure an inspection of the connection. The inspection fee for connections shall be fifty dollars (\$50.00) per tap. Inspection shall be made after the pipe is installed in the trench and before the trench is backfilled. Backfilling of the trench before visual inspection is made, may be grounds for requiring the uncovering of the pipe prior to approval. The township water department or its designated inspector must approve installation. The plumber or contractor shall (a) apply to the water department for a permit, (b) pay the permit fee established by the township, (c) does the work in accordance with the regulations of

the township, (d) applies to the water department for the water connection and (e) receives the approval of the township water department or its designated inspector.

- (d) *Meter and building connection requirements.* All details of a building connection to the system including service locations, valves and meter placement, shall be subject to the approval of the water department. Further, materials used for connections shall be as specified in the Berlin Charter Township Water Department or such other duly adopted policies, rules or regulations of the township or the water department. The meter setting shall be supplied by the township water department and installed by the property owner or his contractor. In cases where a larger meter is required, the water department shall supply the meter and the property owner shall be responsible for the additional cost thereof. All meters of sizes five-eighths ($\frac{5}{8}$) inch, three-fourths ($\frac{3}{4}$) inch, and one (1) inch shall consist of a meter together with a valve immediately before the meter and a suitable connection with the service pipe. The property owner or his agent shall be required to install such meters and to furnish and install gate valves immediately before and after the meter and a one and one-half ($1\frac{1}{2}$) plugged test outlet between the meter and the valve following. The water department shall approve the installation before the water is turned on.
- (e) *Connection requirements.* All connections of the public water supply to any premises including connection to the public main, pipelines to meters and meters shall be made by the water department or its designee upon payment of all fees and approval of all permits as required by this section and the water department. The water distribution system from the public main to and including the curb stop shall be controlled and owned by the township. The valve before the meter shall be maintained by and at the expense of the property owner. All construction work on a building connection to the system shall require a permit as set forth herein and shall be subject to the inspection of the township water department or its designated inspector. No back filling or other covering work shall be done without the work being inspected and approved. The township may require other testing of the connection as deemed necessary and appropriate by the township.
- (f) *Residential equivalents.* Residential equivalent units shall be as determined pursuant to the schedule of the rates and charges adopted by the township for residential equivalents. Such schedule of rates and charges may be amended from time to time by resolution of the township board.

(Rev. Comp. Ords. 1979, § 113.200; Ord. No. 1018-90A, 3-26-90; Ord. No. 6-95, 8-14-95; Ord. No. 4-99, § 2, 4-1-99; Ord. No. 10-99, § 2, 7-8-99; Ord. No. 6-00, § 3, 6-1-00; Ord. No. 03-02, § 2, 11-22-02)

Sec. 15-33. Billing and collection of charges.

All charges imposed under this article, other than those charges designated herein to be payable in advance or when incurred shall be collected in four (4) quarterly periods, corresponding as near as may be to the dates of billing for water by the City of Detroit. Bills for all services and charges shall be itemized and shall be payable within twenty (20) days from the postmarked date of the billing. For all such bills not paid when due, a collection charge of ten (10) percent of such bill shall be added thereto for each billing period, compounded quarterly. Failure to receive a bill does not excuse nonpayment nor avoid collection charges. The payment of all charges provided for herein may be enforced by shutting off the water supply to the user after a delinquency in payment of twenty (20) days. In the event that the water department is dispatched to a user, all turn-offs will be ten dollars (\$10.00) and all turn-ons will be ten dollars (\$10.00). Both the turn-off and the turn-on fees shall be payable forthwith. Charges for water supply as set forth in this article shall constitute a lien on the property served. On or before September first of each year, the water clerk shall deliver to the township supervisor and to the village president a certified statement of all water charges then over six (6) months due and unpaid. The supervisor shall place such charges as are applicable to the township users on the next general tax roll and the same shall be collected as part of the general township taxes. The village president shall, pursuant to the contract of November 1, 1968, place such charges as are applicable to village users on the next general tax rolls and the same shall be collected as part of the general village taxes and turned over, upon collection, to the township for placement in the water system receiving fund.

(Rev. Comp. Ords. 1979, § 113.060; Ord. No. 1018-85A, 3-25-85)

Sec. 15-34. Water meters.

- (a) *Meters required.* All premises using water shall be metered, except as otherwise provided in this article. No person except a department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter. The plant superintendent may authorize service on flat rate charges where it is not practical to install a meter.
- (b) *Meter location.* Meters shall be set in an accessible location and in a manner satisfactory to the plant superintendent. Where the premises contain no basement or cellar or other satisfactory inside location, the meter shall be installed outside in a meter pit or box, the location of which shall be approved by the plant superintendent. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the plant superintendent.
- (c) *Access to meters.* The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting the same. No person shall hinder, obstruct or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.
- (d) *Reimbursement for damage.* Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the township on presentation of a bill which shall be based on time and materials, and shall be collected as specified for the collection of service charges.
- (e) *Meter failure.* If any meter shall fail to register, the department shall estimate the consumption on the basis of the previous year's consumption for the same billing period.
- (f) *Inaccurate meters.* A consumer may require that the meter be tested. If the meter is found accurate, a charge of fifteen dollars (\$15.00) will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.
- (g) *Accuracy required.* A meter shall be considered accurate if, when tested it registers not to exceed five (5) percent more or five (5) percent less than the actual quantity of water passing through it. If a meter registers in excess of five (5) percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of five (5) percent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.
- (h) *Bill adjustment.* If a meter has been tested at the request of a consumer and shall have been determined to register "fast", the township shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by such consumer, within the three (3) months prior to the test, and if a meter so tested is determined to register "slow," the department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior three (3) months. When the department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the township for water used by him as above provided, if the meter is found to be "slow."

(Rev. Comp. Ords. 1979, § 113.070; Ord. No. 1018-85A, 3-25-85)

Sec. 15-35. Auxiliary water meter.

- (a) *Intent.* The township board recognizes that residents who are customers of both the township sanitary sewage system and water system may be paying for more sewage treatment than that which they actually contribute to the system due to the fact that sewage use is measured by water use and, occasionally, water is used for lawn sprinkling, car washing, etc., which does not flow into the sanitary sewer system. In light of this, it is the township board's desire to allow residents to install an "auxiliary water meter" which measures water use which does not eventually flow into the township sanitary sewer system.
- (b) *Auxiliary meter permitted.*
- (1) A residence may contain an auxiliary water meter in addition to a primary water meter. The auxiliary water meter authorized by this section shall be used solely to measure nonhousehold water which does not eventually flow into the township sewage system. Any person who causes waste measured by an auxiliary water meter to flow into the township sanitary sewage system shall be deemed in violation of this article. Prior to the installation of the auxiliary meter, the customer shall sign an agreement provided by the township and pay all fees as required by this article.
 - (2) A commercial or industrial business may contain an auxiliary meter in addition to a primary water meter based on the recommendation of the water/sewer commission, with each request determined on an individual basis with the final decision made by the township board. The auxiliary water meter authorized by this section shall be used solely to measure noncommercial or nonindustrial water which does not eventually flow into the township sewage system. Any person who causes waste measured by an auxiliary water meter to flow into the township sanitary sewage system shall be deemed in violation of this article. Prior to the installation of the auxiliary meter, the customer shall sign an agreement provided by the township and pay all fees as required by this article. The sewer rate for the commercial and industrial customer will be charged based on the sewer flow meter reading and subject to the following:
 - a. A sewer flow meter must be installed at the expense of the user.
 - b. The sewer meter will be checked and calibrated on a quarterly basis by the township.
 - c. The user shall be responsible for all costs incurred by the township in conducting the sewer meter checks.
 - d. If there is a disagreement as to sewer billing due to a malfunction of the sewer meter, all sewer charges for that period will be based on the primary water meter reading.
 - e. The user shall be responsible for all costs incurred by the township for maintenance and/or replacement of the sewer meter.If the user fails to comply with the terms of the agreement and/or this section, the township may base all charges on the primary water meter reading.
- (c) *Billing and fees.* Billing and fees for water measured by an auxiliary meter shall be as follows:
- (1) Auxiliary meter shall be read and billed quarterly, commencing at meter issuance. The service charge for use of such meter shall be identical to the service charge for the primary meter.
 - (2) A separate account shall be established for the water used as measured by the auxiliary meter.
 - (3) The consumption rate for the auxiliary meter:
 - a. Shall be one-half of the minimum quarterly charge and one-half of the minimum quarterly usage consumption of the primary meter.

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- b. Usage over the minimum quarterly charge shall be billed at the primary meter rate, per one thousand (1,000) gallons.
 - (4) Necessary equipment to install the auxiliary meter shall be purchased from the township by the resident. The items shall be priced at township cost, plus twenty-five (25) percent. The resident shall also pay an inspection fee and recording fee for each auxiliary water meter, as per subsection (h) below.
 - (d) *Plumbing.* In addition to other plumbing requirements as established from time to time by the township, all auxiliary meters shall have, within each residence, permanently installed backflow preventers as required by the township. An auxiliary meter shall be installed solely to a single outside accessible sillcock. Homeowners are solely responsible for the cost and effectiveness of all plumbing.
 - (e) *Underground sprinklers.* All underground sprinkling systems using township water are required to be inspected and approved by the township prior to being placed in operation. No such system shall be installed without a pressurized vacuum breaker.
 - (f) *Application of other provisions.* Unless otherwise provided for in this section, all township ordinances and regulations governing primary water meters shall also apply to auxiliary meters.
 - (g) *Denial.* At the discretion of the township board, a person may be denied the use of an auxiliary meter for a valid reason.
 - (h) *Charges.* The charges for water measured through an auxiliary water meter under this section shall be as follows:
 - (1) Installation fee\$ 25.00
 - (2) Plumbing permit/inspection fee25.00
 - (3) Recording fee, for first page9.00for each additional page2.00

(Ord. No. 1018-87B, 7-27-87; Ord. No. 15-92-4, §§ 2, 3, 6-8-92; Ord. No. 4-97, § 1, 4-6-97)

Sec. 15-36. Application of revenues.

The gross revenues of the water system derived from the collection of rates and charges to users thereof shall be applied to the water system.

(Rev. Comp. Ords. 1979, § 113.080; Ord. No. 1018-89A, 2-13-89)

Editor's note(s)—Ordinance Number 39 of November 14, 1977 is on file in the office of the township clerk.

Sec. 15-37. Contract payments.

Nothing contained in this article shall be construed in any way to restrict or limit the basic obligation of the township and village to levy the necessary ad valorem taxes annually to provide the necessary funds to meet their contract payments in full, when due, in accordance with the pledges of the full faith and credit of the township and village, and as provided in the contract and the law, the bonds of the county having been issued in anticipation of such contract payments, and being primarily secured thereby.

(Rev. Comp. Ords. 1979, § 113.090)

Sec. 15-38. Books of record, account.

The township shall cause to be maintained and kept proper books of record and account, in which shall be made full and correct entries of all transactions relating to the water system. Not later than four (4) months after the close of each fiscal year, the township shall cause to be prepared a statement in reasonable detail, showing the cash income and disbursements of the water system at the beginning and close of the operating year and such other information as may be necessary to enable any taxpayer of the township or village or user or beneficiary of the service furnished to be fully informed as to all matters pertaining to the financial operation of the water system during such year. Such annual statement shall be filed in the office of the township clerk, where it will be open to public inspection. Such books of record and account shall be audited annually by a certified public accountant, to be designated by the township board, and a copy of such audit shall be filed with the township clerk.

(Rev. Comp. Ords. 1979, § 113.100)

Sec. 15-39. Permit for connection.

No connection shall be made or permitted to be made to any water mains or fire hydrants of the water system without first obtaining a permit therefor. Application for such permit shall be made and filed with the water clerk, and the issuance of the permit approved by the township board or its authorized representative.

(Rev. Comp. Ords. 1979, § 113.110; Ord. No. 1018-85A, 3-25-85)

Sec. 15-40. Prohibited acts.

It shall be unlawful for any person, firm or corporation, unless authorized in writing by the township water department, to turn on water, tamper with water mains or water taps, meters, hydrants, or other property of the township or to tamper with or damage or destroy any property of the township water department. Persons violating this section will be subject to the penalties set out in section 15-43 of this Code.

(Ord. No. 1018-87C, 9-14-87; Ord. No. 4-93-1, § 2, 4-26-93)

Sec. 15-41. Payment for service.

No free service shall be furnished by the water system to any person, firm or corporation, public or private, or to any public agency or instrumentality, but service so furnished shall be paid for in accordance with the foregoing schedule of rates, or any revision thereof. The township shall pay from its general funds or from the proceeds of any taxes which it is authorized to levy within constitutional limits, at the rates herein set forth for any connections serving the township or its agencies and departments.

Sec. 15-42. Water supply service to premises outside township boundaries.

- (a) The township may allow connection to the water system by, and may provide water supply services to, premises located outside the boundaries of the township as set forth in this section. The township board reserves the right to approve or disapprove such connection and service.
- (b) Prior to connection to the water system, each owner of premises located outside the boundaries of the township and desiring such connection shall (1) submit a written request for connection, along with written permission from their unit of government, to the township board; (2) sign a water system agreement obligating the owner to pay the charges and fees for water service in advance and abide by the rules of the

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water system established by the township board; and (3) pay pro-rated charges and fees for the period from the tap-in date to the township's next billing date.

- (c) The township may continue to provide water supply service to premises located outside the boundaries of the township if such service has been provided prior to the enactment of this section even if not all of the requirements of subsection (b) of this section have been met.
- (d) The owner of each premises connected to the water system which are located outside the boundaries of the township shall be charged the same meter service, debt service and tap-in charges as charged to premises located within the boundaries of the township, in addition to consumption charges as determined pursuant to section 15-30(3).

(Ord. No. 15-91-2, § 2, 12-9-91)

Sec. 15-43. Penalties.

- (a) Violations of this article, or failure to comply with any of its requirements or provisions shall constitute a misdemeanor. Any person who violates this article or any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both and in addition, shall pay all costs and damages incurred. Each day such violation continues shall be considered a separate offense. The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, building, contractor, agent or any other person who commits, participates in, assists or in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided for by law.
- (b) The imposition of any fine or jail sentence, or costs or expenses to be paid, or any of them, shall not exempt the violator(s) from compliance with the provisions of this article.

(Ord. No. 4-93-4, § 3, 4-26-93)

Sec. 15-44. Main required for approval.

No application for water service will be approved unless a public water main is located at the front, side or rear of the property and within the public or private road right-of-way or within a recorded easement. If a public main does not exist in, on or near the public water front, side or rear right-of-way of his property, the owner must take the necessary steps to have a main constructed at the expense of the property owner and with the approval of the township. All water mains must be extended for the full width of the property unless otherwise approved by the township board or their designee. The construction or installation of a water main shall be subject to the Berlin Charter Township Water System Standards and Requirements adopted by the township board as well as the Berlin Charter Township Guidelines for Development. No service leads will be permitted to be tapped into the water system that do not extend to the property. No private water services will be permitted without approval by the township board.

(Ord. No. 1-97, § 1, 2-2-97; Ord. No. 07-17, § 2, 9-11-17)

Sec. 15-45. Allocation of water capacity.

- (1) Water capacity in the township will be allocated at such time as the Michigan Department of Environmental Quality (MDEQ) has issued a state construction permit for water. Applicants should not rely upon availability as determined or as appears at time of site plan review but rather capacity will be determined by township based on issuance of state construction permits for utilities. An approved site plan is approved subject to

availability of the required utilities including water which shall be determined at such time as the state construction permit for the construction of those utilities is secured.

- (2) If the water capacity of the township systems shall ever be exceeded, based on the determination of the township as set forth in subsection (1), it shall be the responsibility of the applicant to upgrade the utility system as determined and approved by the township as a condition precedent to any construction or development.

(Ord. No. 3-99, § 2, 4-1-99)

Secs. 15-46—15-55. Reserved.

ARTICLE III. SEWERS

DIVISION 1. GENERALLY

Sec. 15-56. Definitions.

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

Contract payments means the payments required to be made by the township to the county, which payments are pledged to the payment of the bonds of the county specified in such contract.

Sewer system means the totality of all sanitary sewers in existence in the township or acquired or constructed therein, together with all present or future works, plants, instrumentalities and properties used or designed for use in the collection, treatment and/or disposal of sewage and industrial wastes.

User means any premises connected with and using or able to use any of the facilities of the sewer system.

(Rev. Comp. Ords. 1979, § 111.010)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 15-57. Intent.

The sewer system shall be operated by the township on a public utility basis as authorized by law. It is hereby declared to be the intent and purpose of the township board to establish and maintain reasonable and uniform rates and charges applicable to various classifications of users so as to provide funds to:

- (1) Operate and maintain the facilities of the sewer system.
- (2) Make the contractual payments required by contracts heretofore entered upon or required by future obligations of the township incurred with respect to the acquisition or construction of additional facilities for the sewer system.
- (3) Make additions, extensions and improvements to the sewer system.

(Rev. Comp. Ords. 1979, § 111.020)

Sec. 15-58. Sewer system authority.

The sewer system shall be and remain under the supervision and ultimate control of the township board.
(Rev. Comp. Ords. 1979, § 111.030; Ord. No. 06-05, § 3, 7-22-05)

Sec. 15-59. Fiscal year.

The fiscal year of the sewer system shall extend from January first of each year until December thirty-first of same year.
(Rev. Comp. Ords. 1979, § 111.040; Ord. No. 15-92-4, § 4, 6-8-92)

Sec. 15-60. Rates and charges.

- (a) *Consumption rate for premises within township boundaries and miscellaneous charges.* The rates and charges for the services and benefits provided by the sewer system may be fixed and revised from time to time by the township board to provide for the payment of the expenses of administration and operation of the sewer system, and such expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order. Such revisions shall be by resolution of the township board. All rate changes shall be published at least twice in a newspaper of general circulation within the township.
- (b) *Consumption rate for premises located outside township boundaries.* Prior to the commencement of each fiscal year of the sewer system, the township board shall establish by resolution, consumption rates for premises located outside the township boundaries for the next such fiscal year, it being the intent of the township board that premises located outside the township boundaries pay the same pro-rata portion of the cost of operating the sewer system and the debt service incurred by the township in connection with the acquisition and construction of the facilities of the sewer system as premises located within the boundaries of the township. Such consumption rates shall be determined by dividing the total principal and interest requirements on all debt of the sewer system for the next such fiscal year, less revenues from debt service charges for the next such fiscal year, by total billed water consumption for the fiscal year preceding the next such fiscal year.

(Rev. Comp. Ords. 1979, §§ 111.050, 111.150; Ord. No. 23-86A, § 1, 7-14-86; Ord. No. 23-90-A, § 1, 8-27-90; Ord. No. 15-91-3, § 1, 12-9-91; Ord. No. 14-94, § 3, 11-28-94)

Sec. 15-61. Capital improvements charge.

A sewer capital improvements charge in the amount of seventy-two dollars (\$72.00) per residential equivalent unit annually, payable at a rate of eighteen dollars (\$18.00) per quarter shall be charged and collected from all structures and premises connected to the sewer system or an applicant approved for connection to the sewer system pursuant to residential equivalent schedule adopted by resolution of the township board. The township board may by resolution, increase, decrease, revise or waive, for any given year, the capital improvements charge provided for herein.

(Ord. No. 6-00, § 4, 6-1-00)

Editor's note(s)—Ord. No. 6-00, § 4, adopted June 1, 2000, amended the former § 15-61, in effect repealing and reenacting said section to read as herein set out. The former § 15-61 pertained to debt service charge and derived from Rev. Comp. Ords. 1979, § 111.150.

Sec. 15-62. Reserved.

Editor's note(s)—Ord. No. 4-99, § 4, adopted April 1, 1999, repealed § 15-62 which pertained to tap-in charges and derived from Rev. Comp. Ords. 1979, § 111.150.

Sec. 15-63. Billing and collection of charges.

All charges imposed under this article, other than those charges designated herein to be payable in advance or when incurred shall be collected in four (4) quarterly periods, corresponding as near as may be to the dates of billing for water by the City of Detroit. Bills for all services and charges shall be itemized and shall be payable within twenty (20) days from the postmarked date of the billing. For all such bills not paid when due, a collection charge of ten (10) percent of such bill shall be added thereto for each billing period, compounded quarterly. Failure to receive bill does not excuse nonpayment nor avoid collection charges. The payment of all charges provided for herein may be enforced by shutting off the water supply to the user after a delinquency in payment of twenty (20) days. If the sewer department is dispatched to a user, all turn-offs will be ten dollars (\$10.00) and all turn-ons will be ten dollars (\$10.00). Both turn-off and turn-on fees shall be payable forthwith. Charges for water supply and sewage disposal service as set forth in this chapter shall constitute a lien on the property served. On or before September first of each year, the sewer clerk shall deliver to the township supervisor a certified statement of all sewage disposal charges then over six (6) months due and unpaid. The township supervisor shall place such charges as are applicable to the township users on the next general tax roll and the same shall be collected as a part of the general township taxes.

Sec. 15-64. Use of receipts.

The gross revenues of the water system derived from the collection of the rates and charges imposed by this article shall be set aside as collected in a bank duly qualified to do business in the state as designated by the township board in an account to be designated water receiving fund (hereinafter referred to as receiving fund), such revenues so deposited to be transferred from such receiving fund monthly as per the accounting system.

- (1) *Operation and maintenance fund.* Out of the revenues in the receiving fund there shall be first set aside during each month of each operating year into a separate depository account designated operation and maintenance fund, a sum owed to the fund per the accounting systems, for the maintenance of the facilities of the sewer system which are the obligation of the township as may be necessary to preserve the same in good repair and working order and to provide for the timely replacement, improvement, extension and development of such facilities. The township board shall, prior to each fiscal year, adopt a budget to cover the foregoing expenses for the forthcoming year and such total expenses shall not exceed the total amount specified in such budget unless approved by a three-fifths vote of the members of the township board.
- (2) *Contract payment fund.* There shall next be established and maintained a separate depository account designated therein to be used and applied solely and only to the making of the contract payments. There shall be deposited into such fund, during each monthly period of each operating year, all moneys remaining in the receiving fund after the foregoing provisions have been made for the current requirements of the operation and maintenance fund, and also all moneys derived from tax levies that have been spread for the purpose of meeting the contract payments and all special assessments that have been spread for such purpose. For the purpose of determining the amount of the required tax levies each year to meet the contract payments in full, pursuant to the pledge of the full faith and credit of the township full credit shall be taken against such required levies for funds on hand in such contract payment fund on July first of each year.

(Rev. Comp. Ords. 1979, § 111.070)

Sec. 15-65. Investment of funds.

Monies in the several funds established pursuant to the provisions of this article may be invested and reinvested as set forth in the investment policy adopted by the township as required and provided for by state law. (Rev. Comp. Ords. 1979, § 111.080; Ord. No. 6-00, § 5, 6-1-00)

Sec. 15-66. Books of record, account.

The township shall cause to be maintained and kept proper books of record and account, in which shall be made full and correct entries of all transactions relating to the sewer system. Such books shall be substantially in conformity to the uniform system of accounts as prescribed by the state public service commission. No later than four (4) months after the close of each fiscal year, the township shall cause to be prepared detailed statements of income and disbursements of the sewer system during the fiscal year together with such other information as may be necessary fully to inform the bondholders and the taxpayers of the township of the fiscal operation and position of the system. Such statements shall be filed and available for inspection in the office of the township clerk. Such statements shall be annually audited by a certified public accountant selected by the township board and a copy of such audit shall be filed with the township clerk.

(Rev. Comp. Ords. 1979, § 111.090)

Sec. 15-67. Connections restricted.

No connection shall be made to any of the facilities of the sewer system otherwise than as prescribed by ordinance.

(Rev. Comp. Ords. 1979, § 111.100)

Sec. 15-68. Payment for service.

No free service shall be furnished by the sewer system to any person, firm or corporation, public or private, or to any public agency or instrumentality, but service so furnished shall be paid for in accordance with the foregoing schedule of rates, or any revision thereof. The township shall pay from its general funds or from the proceeds of any taxes which it is authorized to levy within constitutional limits, at the rates herein set forth for any connections serving the township or its agencies and departments.

Sec. 15-69. Storm sewers—Permit required.

No person shall construct, alter, divert, enlarge, enclose, tap into, connect to or in any manner tamper with any storm sewer, drain or outlet over which the township has ownership, control, regulation, or maintains either in its own name or by contract with any other municipality, commission or public body, without first obtaining a permit therefore from the township.

(Rev. Comp. Ords. 1979, § 111.510; Ord. No. 06-05, § 4, 7-22-05)

Sec. 15-70. Same—Plans, specifications.

Because the storm sewers, drains and outlets possess unique characteristics which do not lend themselves to categorical regulation, it is hereby required that specific plans and specifications be submitted to the township

sewer department setting forth the design criteria and construction details. The township board after considering the recommendation from the township plant superintendent and township engineer may alter, amend or approve such plans and issue a permit, therefore, and the township board shall set a fee for such permit a sufficient to defray the costs of review, inspections and supervision of such permit.

(Rev. Comp. Ords. 1979, § 111.520; Ord. No. 06-05, § 5, 7-22-05)

Sec. 15-71. Breaking, damaging, etc., structures, equipment.

No unauthorized person shall maliciously, willfully, or recklessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person knowingly violating this provision shall be subject upon conviction to punishment as prescribed in section 1-10 of this Code.

(Rev. Comp. Ords. 1979, § 111.560)

Sec. 15-72. Right of entry, inspection.

- (a) The plant superintendent of the township sewer department and other duly authorized employees and agents, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article and shall be empowered to procure all necessary legal process to gain entry to such properties. The plant superintendent of the township sewer department or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- (b) While performing the necessary work on private properties referred to in subsection (a) above, the plant superintendent of the township sewer department or duly authorized employees or agents, shall observe all established safety rules applicable to the premises.

(Rev. Comp. Ords. 1979, §§ 111.610, 111.620)

Sec. 15-73. Entry onto easements.

The plant superintendent of the township sewer department and other duly authorized employees and agents of the township bearing proper credentials and identification shall, subject to any pertinent restrictions to the easement, be permitted to enter all private properties through which the township holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work if any, on such easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(Rev. Comp. Ords. 1979, § 111.630)

Sec. 15-74. Sewage disposal service to premises outside township boundaries.

- (a) The township may allow connection to the sewer system by, and may provide sewage disposal service to, premises located outside the boundaries of the township as set forth in this section. The township board reserves the right to approve or disapprove such connection and service.
- (b) Prior to connection to the sewer system, each owner of premises located outside the boundaries of the township and desiring such connection shall (1) submit a written request for connection to the township

board, along with written permission from their unit government; (2) sign a sewage disposal system agreement obligating the owner to pay the charges and fees for sewage disposal service in advance and abide by the rules of the sewer system established by the township board; and (3) pay pro-rated charges and fees for the period from the tap-in date to the township's next billing date.

- (c) The township may continue to provide sewage disposal service to premises located outside the boundaries of the township if such service has been provided prior to the enactment of this section even if not all of the requirements of subsection (b) of this section have been met.
- (d) The owner of each premises connected to the sewer system which are located outside the boundaries of the township shall be charged the same debt service and tap-in charges as charged to premises located within the boundaries of the township, in addition to consumption charges as determined pursuant to section 15-60(a)(1).

(Ord. No. 15-91-3, § 3, 12-9-91)

Sec. 15-75. Allocation of sewer capacity.

- (1) Sewer capacity in the township will be allocated at such time as the Michigan Department of Environmental Quality (MDEQ) has issued a state construction permit for sewer. Applicants should not rely upon availability as determined or as appears at time of site plan review but rather capacity will be determined by township based on issuance of state construction permits for utilities. An approved site plan is approved subject to availability of the required utilities including sewer which shall be determined at such time as the state construction permit for the construction of those utilities is secured.
- (2) If the sewer capacity of the township systems shall ever be exceeded, based on the determination of the township as set forth in subsection (1), it shall be the responsibility of the applicant to upgrade the utility system as determined and approved by the township as a condition precedent to any construction or development.

(Ord. No. 3-99, § 3, 4-1-99)

Secs. 15-76—15-90. Reserved.

DIVISION 2. SEWER USE, CONNECTION AND EXTENSION

Sec. 15-91. Definitions.

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

Available public sanitary sewer system means a public sanitary sewer system located in a right-of-way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than two hundred (200) feet at the nearest point from the property line in which sanitary sewage originates.

B.O.D. (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system beginning five (5) feet outside of the inner face of the building wall which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both stormwater and sewage.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and the handling, storage and sale of produce.

Industrial wastes means the liquid wastes from industrial, manufacturing processes, trade or business as distinct from sanitary sewage.

Natural outlet means any drain, watercourse, pond, ditch, lake or other body of surface or ground water that drains naturally.

pH means the logarithm of the reciprocal of the weight of hydrogen ions expressed in grams per liter of solution.

Plant superintendent means the plant superintendent of the township sewer department or his authorized deputy, agent or representative.

Properly shredded garbage means wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and having no particle greater than one-half inch in any dimension.

Public sanitary sewer system means a sanitary sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal operated by the township.

Sanitary sewer means a sewer which carries sewage and to which stormwaters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works or *sewer system* means the totality of all sanitary sewers in existence in the township or acquired or constructed therein, together with all present or future works, plants, instrumentalities and properties used or designed for use in the collection, treatment and/or disposal of sewage and industrial wastes.

Sewer means a pipe or conduit for carrying sewage.

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation.

Storm drain shall mean any drain, either natural or artificial, which is intended expressly for the conveyance of stormwater and uncontaminated industrial wastes.

Stormwater means that part of the rainfall which reaches the drain as run-off from natural land surfaces, building roofs, pavements or as groundwater infiltration.

Structure in which sanitary sewage originates or *structure* means a building in which a toilet, kitchen, laundry, bathing or other facilities which generate water carried sanitary sewage, are used or are available for use for households, commercial, industrial or other purposes.

Suspended solids means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Uncontaminated industrial wastes means water which has not come into contact with any substance used in or incidental to industrial processing operations, e.g., unpolluted cooling water.

User means any premises connected with and using or able to use any of the facilities of the sewer system.

Watercourse means a channel through which water or other fluids flow either continuously or intermittently. (Rev. Comp. Ords. 1979, §§ 111.260—111.288, 111.820; Ord. No. 06-05, § 6, 7-22-05)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 15-92. Connections required.

- (a) *Tap-in fees for existing septic tank or other types of private sewer disposal systems.* Where a public sanitary sewer system exists, the continued use of private sewage systems or any such type of septic tank disposal systems are declared to constitute a health hazard. In order to protect the public health, safety and welfare of all persons residing within the township, any structure in which sanitary sewage originates shall be connected to available public sanitary sewer systems as specified herein. The tap-in charges shall be two thousand four hundred dollars (\$2,400.00) for the first residential equivalent and six hundred dollars (\$600.00) for each additional residential equivalent. (Residential equivalent as defined in section 15-60(b).)
- (b) *Tap-in fees, new structures.* Any new structures within the Township in which sanitary sewage originates, shall connect to the public sanitary sewer system. The tap-in charge shall be five thousand dollars (\$5,000.00) per residential equivalent. For applications made after August 31, 2005, the tap-in charge shall be eight thousand dollars (\$8,500.00) per residential equivalent.

(Residential equivalents shall be as established by the schedule of rates and charges adopted by the township board and as may be amended by resolution of the township board from time to time.) Structures within the township in which sanitary sewage originates shall be connected to the public sanitary sewer within the township within ninety (90) days of the availability of such public sanitary sewer system.

- (c) *Application for future sewer service and payment of connection charges.*
 - (1) *Requirements for reservation of future service.*
 - a. *Adequate capacity.* Adequate capacity must be shown to be available in the existing sanitary sewer system to handle the sewage flows identified in the application. The township engineer shall determine whether adequate capacity is available based on the sanitary sewer system basis of design and the requirements in the current edition of the Great Lakes Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers Recommended Standards for Wastewater Facilities (commonly referred to as the "ten states standards"). If the existing sewer system does not have adequate capacity, the property owner(s) would be required to pay the full cost for the necessary sewer system improvements to provide the required capacity. Such sewer system improvements would have to be completed and accepted by the township before the property owner(s) are allowed to tie into the sewer system.
 - b. *Number of sewer taps consistent with plan.* The number of residential equivalent units (REUs) or sewer taps included in the future sewer service request must be consistent with the proposed development plan and with the development density allowed under the Berlin Charter Township Zoning Ordinance and township regulations in effect at the time the request is made for the specific parcel or parcels of land. Where an existing facility is to be served, the future service request must be consistent with the zoning, the use of the existing facility and/or the regulations for non-conformities under the zoning regulations.
 - c. *Plan approval required.* For proposed developments, sewer tap in fees (or REUs) will be committed to a property and may be reserved only after the property owner has obtained one of the following approvals for the proposed development on the property:
 - 1. Preliminary site plan approval (for non-residential developments and for condominium developments).

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2. Tentative preliminary plat approval (for subdivision plat developments).
 3. Planned development rezoning approval (for planned developments).
 4. Lot split approval (for subsequent single-family house construction on the newly created parcels that does not require a site plan approval).
 5. Building permit approval (for a single-family house on property not part of an overall development).

For properties with an existing use that is to remain, sewer taps (or REUs) will be committed to a property upon written request of future sewage service. For property owners that are proposing to change an existing use, sewer taps (or REUs) will be committed to the property and may be reserved upon approval of the change in use for the property.

The sewer tap commitment and prepayment will follow the property or site plan and not the owners in the case of ownership changes. The approval shall be considered a reservation of sewer taps (or REUs) subject to the provisions of this section.

- (2) *Reservation of sewer tap.* Applications for future sewer service and taps are valid and reserved for the property by the property owner only upon payment in full to the township of the sewer tap in charges as established by township ordinance.
- (3) *Expiration of reservation of sewer taps.*
 - a. *Expiration.* For proposed developments (other than site plans, individual residential lots and lot splits), the township commitment and reservation of the future sanitary sewer taps (or REUs) will expire upon the expiration of the approvals set forth in subsection 15-92(c)(1)c. unless construction is commenced in accordance with that approval. For lot splits, the township commitment or reservation of the prepaid sanitary sewer taps (or REUs) will expire if a building permit is not approved for the newly created parcel(s) within one (1) year of the lot split approval. For site plans, the township commitment or reservation of the sanitary sewer taps (or REUs) will expire if a building permit is not approved for the newly created parcel(s) within one (1) year of the site plan approval. For individual building permits (on property not part of an overall development), the township commitment or reservation of the prepaid sanitary sewer taps (or REUs) will expire if construction on the property does not begin within one (1) year of the building permit approval. For properties with an existing use or a proposed change of use, the commitment or reservation of the prepaid sanitary sewer taps (or REUs) will expire if connection to the sanitary sewer has not been completed within one (1) year of the prepayment of the sewer tap to the township.
 - b. *Renewal of request for reservation for future sewer service.* Following the expiration of the reservation of the sewer tap-ins, the property owner may renew its request for a reservation of sewer taps for future sewer service at a later date. When the renewal request is made, the total amount of the tap fee at the prevailing rate with credit for any monies previously paid shall be required to be first paid to the township.
- (d) If the public sanitary sewer system shall become available to structures in which sanitary sewage originates outside of the township, such connection to the available public sanitary sewer shall be made after approval by both the township and the governmental agency in which the sewage originates within ninety (90) days after notice of the availability of such public sanitary sewer system.
- (e) The township shall publish a notice of the availability of the public sanitary sewer system in a newspaper of general circulation in the township. In addition to such publication, the township shall give written notice of availability to owners of property where there exists a structure on the date of availability of sewers, by a certified letter to such owner and by posting in a conspicuous place in the township. The notice of availability

shall require connection to the sewer system, and a certified letter shall be sent to the owner of such premises according to the latest tax assessment roll of the township. Connection to the sewer system shall be made not later than ninety (90) days after such mailing or posting of notice, or ninety (90) days after publication of the availability, whichever shall occur later.

- (f) After the exertion of the period provided for in subsection (e) above, it shall be unlawful for the owner or occupant of such premises to maintain or use a septic tank system, or any other type of private sewage disposal system. Every such owner or occupant shall disconnect from any such system and shall pump out, fill the same with sand, backrun gravel or other suitable fill material.
- (g) The inspection fee for tap-ins shall be fifty dollars (\$50.00) per tap.
- (h) All sewer lines must be constructed in accordance with the standards designated by the township engineering staff.
- (i) It is the responsibility of the customer to apply for the proper plumbing permits as required.
- (j) All costs shall be borne by and be the responsibility of the developer.

(Rev. Comp. Ords. 1979, §§ 111.810, 111.830—111.860; Ord. No. 7-95, 10-23-95; Ord. No. 4-99, § 3, 4-1-99; Ord. No. 10-99, §§ 4, 5, 7-8-99; Ord. No. 05-05, §§ 2, 3, 4-22-05)

Editor's note(s)—Fees for residential equivalent are currently set by resolution, and are on file in the township's offices.

Sec. 15-93. Private sewage disposal.

- (a) Where a public sanitary sewer is not available the building sewer shall be connected to a private sewage disposal system complying with the requirements of the county health department and any requirements which the township may by ordinance or resolution deem necessary to protect the public health.
- (b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the township.
- (c) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this division and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and filled with clean backrun gravel or other suitable material.
- (d) Temporary use of privies or privy vaults meeting the requirements of the county health department may be allowed.
- (e) No statement contained in this section shall be construed to conflict with any more stringent requirements that may be imposed by the county health department.

(Rev. Comp. Ords. 1979, § 111.320)

Sec. 15-94. Runoff into sanitary sewers prohibited.

No person shall intentionally discharge or cause to be discharged runoff, subsurface drainage, including footing drains or uncontaminated industrial waste to any sanitary sewer. In no case shall excavation for footings or basements be drained into a sanitary sewer system. The building sewer and building drain, immediately upon being placed, shall be tightly capped and thoroughly leaded, and all interior stacks and openings shall remain in this condition until the basement floor and basement walls have been laid to grade and that this requirement will necessitate the use of a temporary sump from which groundwater will be pumped to proper disposal. It is the

intent of this requirement that no sand, clay, or foreign matter incidental to building operations will at any time be permitted to reach the township sanitary sewer system or the connections thereto.

(Rev. Comp. Ords. 1979, § 111.330(1))

Sec. 15-95. Gravity building sewers, sump pumps.

- (1) If a building has a basement, a gravity sewer service is not allowed to be connected into the basement and must be connected into the building, thirty-six (36) inches below the first floor joist or with a minimum cover of forty-eight (48) inches on the outside of the basement. No connections other than as set forth herein shall be permitted unless it ensures the public health, safety and welfare and is otherwise approved in writing by the township sewer department. If any plumbing is to be installed in the basement, it must be hung and pumped into the sewer service.
- (2) If a building does not have a basement, the gravity sewer service must be connected into the building under the first floor, in the crawl space.
- (3) If the building is located in any flood plain, all sewer services must be installed according to the local, state, and federal regulations in effect at that time.

(Rev. Comp. Ords. 1979, § 111.330(2); Ord. No. 5-99, § 2, 4-15-99; Ord. No. 02-03, § 2, 3-7-03)

Sec. 15-96. Discharge of unpolluted drainage.

Stormwater and all unpolluted drainage shall be discharged upon approval of the township, county drain commissioner and other lawful authorities to such drains as are specifically designated as storm drains or to a natural outlet. Uncontaminated industrial waste may be discharged, upon approval of the township, county drain commissioner and state water resources commission and other lawful authorities to a storm drain or natural outlet.

(Rev. Comp. Ords. 1979, § 111.330(3))

Sec. 15-97. Prohibited discharges into public sewers.

No person shall knowingly discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity (either singly or by reasonably anticipated interaction with other wastes) to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create a hazard in the receiving waters of the sewage treatment plant (including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.)
- (3) Any waters or wastes having a pH lower than (5.5), or having any other corrosive property capable of causing damage to structures and equipment, or creating a hazardous condition for personnel of the sewage works.
- (4) Solid or viscous substances such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage

grinders, in quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewer works.

(Rev. Comp. Ords. 1979, § 111.330(4))

Sec. 15-98. Restricted discharges into public sewers.

No person shall knowingly discharge or cause to be discharged the following described substances, materials, waters or wastes into any public sewers unless it is determined by the township, county health department or water resources commission that such wastes cannot harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance.

- (1) Any liquid or vapor having a temperature upon discharge higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius).
- (2) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l; or containing substances which solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage shredder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the township plumbing inspector.
- (4) Any waters or wastes containing acid iron, pickling wastes or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the township or county health department.
- (6) Any waters or wastes, containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the township or county health department as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction of such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the township or county health department in compliance with applicable state or federal regulations.
- (8) Any wastes or waters having a pH in excess of 9.5.
- (9) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as but not limited to Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
 - c. Unusual B.O.D. chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting slugs.

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- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment to such degree that the sewage treatment plant effluent would meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(Rev. Comp. Ords. 1979, § 111.330(4))

Sec. 15-99. Discretionary authority of township.

- (a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in section 15-98, and which in the judgment of the plant superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the plant superintendent may:
 - (1) Reject the wastes.
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
 - (3) Require control over the quantities and rates of discharge.
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes and charges.
- (b) If the plant superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the township engineer.

(Rev. Comp. Ords. 1979, § 111.330(5))

Sec. 15-100. Interceptors.

Grease, oil and sand interceptors shall be provided when it is determined by the plant superintendent that they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters of dwelling units. All interceptors shall be of a type and capacity approved by the plant superintendent and shall be so located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(Rev. Comp. Ords. 1979, § 111.330(6))

Sec. 15-101. Maintenance of preliminary treatment, flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Rev. Comp. Ords. 1979, § 111.330(7))

Sec. 15-102. Control manhole.

When required by the plant superintendent, the user of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer as to facilitate observation, sampling and measurement of the wastes. Such a manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the township engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Rev. Comp. Ords. 1979, § 111.330(8))

Sec. 15-103. Measurements, tests, etc.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for, or upon suitable samples taken at such control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer from the point at which a building sewer is connected. All measurements, tests and analyses of waters and wastes are to be taken by the plant superintendent and the costs shall be paid by the owner.

(Rev. Comp. Ords. 1979, § 111.330(9))

Sec. 15-104. Special arrangements.

Nothing contained in this division shall be construed as preventing any special agreement or arrangement between the township board and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the township for treatment, subject to payment and indemnity therefor, by the industrial concern.

(Rev. Comp. Ords. 1979, § 111.330(10))

Sec. 15-105. Permits and connection requirements.

- (a) No person shall lay, alter or repair any building sewer, or make any connections whatsoever with any lateral sewer, trunk sewer or building drain or do any kind of work connected with the laying of building sewers or make any repairs, additions or alterations to any drain or sewer connected with or designated to be connected with the sanitary sewer system without first obtaining a written township permit therefor.
- (b) Application for permit shall be made on the application forms furnished by the township sewer department. All applications for permit, other than homeowner's permit as hereinafter defined, shall be made by a master plumber licensed by the state plumbing board and registered to do business by the township. Each application for permit shall be assessed an application and inspection fee to defray the cost of processing the application and the subsequent inspection of construction or installation. Should conditions require more than two (2) inspections or should a full time inspector be required, an additional inspection fee will be charged for all additional time, over and above the normally anticipated two (2) inspections. In the case of commercial, multiple dwelling or industrial developments, a review fee may be charged if the complexity of the waste disposal facilities warrant specific review of the detail plans by the township sewer department engineer. Each application shall be accompanied by a photograph of the site for which this work is to be performed.

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- (c) Application for a permit by a homeowner shall be made on the homeowner's permit form furnished by the township. Homeowner's who are not masters licensed to work in the township may obtain a permit for the laying of building sewers on premises occupied or to be occupied by the applicant at his residence upon payment of the application and inspection fee and the filing of the proper application forms; provided that the applicant complies with the other provisions of this division, including but not limited to the payment of any additional inspection or review fees, the connection and laying of the building sewer in accordance with the rules and regulations of the township sewer department and the township building department and the final inspection and approval of the building sewer prior to the covering of the installation.
 - (d) The application and inspection fee, the additional inspection fee and the review fee shall be prescribed from time to time by resolution of the township board.
 - (e) In addition to the application and inspection fee, the additional inspection fee and the review fee, all applicants for sewer connection permit shall be required to pay the applicable debt service charge, and tap in charge and any other charge provided by township ordinance or by subsequent resolution of the township board.
 - (f) No openings shall be made into the sewer system without first obtaining a sewer connection permit as specified under subsections (b) and (c) above. The removal of the cookie or stopper or any other type of connection to the sanitary sewer system shall be performed only in the immediate presence of the township sewer department inspector. Upon failure to comply with these requirements, the master plumber or any other person responsible for the work shall be served with a notice of violation as provided for under section 15-115. Any master plumber who shall knowingly neglect or refuse to comply with the requirements of this division, other rules and regulations hereinafter established or with the conditions of the permit shall be subject to the immediate revocation of this registration by the township, in addition to the other penalties set forth in this division. Any violation by agents, servants or employees of a master plumber under the terms of these regulations shall be deemed to be a violation by the master plumber in whose name the permit is issued.
 - (g) It shall be unlawful for any person, performing work under a permit for the laying of a building sewer to cover any portion of a building sewer until such time as same has been inspected and approved by the township sewer department inspector or his authorized agent. Such person shall give the township sewer department written notice when the work is ready for inspection and shall leave the premises in a condition convenient for examination by the inspector. The licensee shall remove and replace all rejected work, restore all public streets and alleys to a similar condition as existed prior to excavation, and shall make all adjustments necessary to fully meet the requirements of this division, other rules and regulations hereinafter established and the conditions of the permit to the reasonable satisfaction of the township.
 - (h) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the township to meet all requirements of these regulations.

(Rev. Comp. Ords. 1979, § 111.360)

Sec. 15-106. License.

Each person or company other than a homeowner applying for sewer connection permits shall be registered with the township as provided in the Michigan State Plumbing Code of June 28, 1935, as amended. This registration shall contain the following information:

- (1) The legal name of the person or company.
- (2) The type of ownership of the company.
- (3) The principal or principals of the company.

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- (4) The legal address and business phone number of the person or company.
 - (5) The name, address and state plumbing license number of the principal licensed master plumber in the company.
 - (6) The name, address and phone number of an individual in responsible charge who can be contacted in the event of an emergency on the project.

(Rev. Comp. Ords. 1979, § 111.370(1))

Sec. 15-107. Insurance, bond—Contractors.

Each person or company acting as principal contractor in the installation, alteration or repair of any building sewer, prior to commencing work shall place on file with the township sewer department evidence of the following insurance and bonds.

- (1) Employer's liability and workers' compensation insurance for all employees to be engaged in work on the project, as provided by the state workers' compensation law.
- (2) Contractor's public liability insurance in an amount not less than one hundred thousand dollars (\$100,000.00) for injuries to each person and three hundred thousand dollars (\$300,000.00) for each occurrence, and contractor's property damage insurance in an amount not less than fifty thousand dollars (\$50,000.00) for each occurrence and one hundred thousand dollars (\$100,000.00) aggregate.
- (3) Contractor's motor vehicle bodily injury insurance in an amount not less than one hundred thousand dollars (\$100,000.00) for injuries to each person and three hundred thousand dollars (\$300,000.00) for each occurrence and contractor's motor vehicle property damage insurance in an amount not less than fifty thousand dollars (\$50,000.00) for each occurrence.
- (4) Owner's and contractor's protective public liability and property damage insurance in the name of the township in an amount not less than one hundred thousand dollars (\$100,000.00) for injuries to each person, three hundred thousand dollars (\$300,000.00) for each occurrence and property damage in an amount no less than fifty thousand dollars (\$50,000.00) for each occurrence and one hundred thousand dollars (\$100,000.00) aggregate. Such insurance shall include motor vehicle exposure and shall include specific coverage, by endorsement, for the so-called explosion, collapse and underground hazards coverage.
- (5) Each such person or company shall procure or cause to be procured insurance coverage as provided in subsections (1) through (4) above with respect to each subcontractor with which it contracts.
- (6) A license bond in favor of the township in an amount of not less than five thousand dollars (\$5,000.00). The license bond shall be prepared on the form prescribed by the township sewer department and shall be renewed at least once each year. It is the intent of the bond to guarantee that the contractor shall faithfully observe and honestly comply with such ordinances, rules and regulations, and amendments thereto as may apply to the installation, alteration or repair of any building sewer and further, that the contractor shall keep all work undertaken within the period of such bond, whether done by himself or someone for him, free of defects due to faulty workmanship or defective materials, for a period of one (1) year from completion of such work. This work to be done at no expense to the township. The township shall give the contractor written notice of corrections needed on the project and in the event the contractor fails to undertake the correction of the work, as indicated in the notice within one (1) week, after the date of such notice, the township may cause the corrections to be made and charge all expenses therefor to the contractor or the surety.
- (7) A security cash deposit in the amount of five hundred dollars (\$500.00) shall be deposited with the township by each person or company. The cash deposit shall be a security deposit for indemnification

arising from minor surface damage to adjacent lands. In the event of such damage, the township shall give the contractor written notice of corrections needed on the project and in the event that the contractor fails to undertake the correction of the damage as indicated in the notice, within one (1) week, after the date of such notice, the township may cause the corrections to be made and deduct all expenses therefore from the security cash deposit. At such time as the cash deposit falls below three hundred dollars (\$300.00), the contractor will be required to renew the cash deposit to the full five-hundred-dollar amount before additional sewer connection permits will be issued to him.

All such insurance shall be written with an insurance company licensed to do business and maintaining an office within the state, which office shall have the authority to process and settle claims.

(Rev. Comp. Ords. 1979, § 111.370(2); Ord. No. 02-03, § 3, 3-7-03)

Sec. 15-108. Same—Homeowners.

All homeowners applying for a sewer connection permit under section 15-105 shall, as a condition of the homeowner's permit, and in lieu of the insurance and bond requirements (section 15-106) sign a homeowner's agreement as prescribed by the township.

(Rev. Comp. Ords. 1979, § 111.370(3))

Sec. 15-109. Use regulations requiring separate building sewer.

As provided in the county health department regulations, the state department of health regulations and the Michigan State Plumbing Code of June 28, 1935, as amended, there shall be a separate building sewer, independent of that for any other building, for every building connected to the sanitary sewer system, except for those instances where the township determines that one (1) of the following conditions prevails, in which case a multiple connection may be allowed:

- (1) Where one (1) building stands in the rear of a residential building on an interior lot and no sewer is available or can be made available for the rear building through an adjoining alley, court, yard or driveway and where both buildings are under common ownership.
- (2) Where a complex of commercial establishments or multiple dwelling units are situated under a common roof and share common interior walls. The interconnection of adjacent units by companionways or underground utility tunnels does not constitute sufficient physical connection to allow the use of a single building sewer.
- (3) Where an industrial complex consists of several adjacent buildings which are an integral part of an industrial process or production sequence and where all portions of the complex are under a common ownership. In the event of sale of a portion of the complex a separate and independent building sewer will be required for each portion of the divided complex.

(Rev. Comp. Ords. 1979, § 111.380)

Sec. 15-110. Building sewer construction methods, materials and standards.

The township board may adopt by resolution from time to time such rules and regulations relating building sewer construction methods, materials and standards as it may deem advisable, which rules and regulations shall be published and copies of which shall at all times be available at the sewer department.

(Rev. Comp. Ords. 1979, § 111.390)

Sec. 15-111. Use regulations requiring public sanitary extensions.

Except in those instances provided for in section 15-109, all sanitary sewers serving more than one (1) building shall be public sanitary sewers.

(Rev. Comp. Ords. 1979, § 111.410)

Sec. 15-112. Sanitary sewers extension procedure.

- (a) Except as hereinafter provided, all public sanitary sewers installed within the township shall be constructed under contract awarded by the township board. The construction of public sanitary sewers shall proceed as follows:
- (1) The township board, after considering the recommendation of the township plant superintendent, shall direct the township engineer to prepare and submit preliminary plans to the township board for their tentative approval. Preliminary plans are to consist of tentative sizes, locations and costs of the project.
 - (2) The township board shall review these plans with respect to their need and the availability of existing and anticipated funds to finance the project. Upon the giving of tentative approval, the township board shall direct the township engineer to prepare construction plans and to submit and obtain necessary approvals and permits.
 - (3) At such time as the township board may elect to establish a date for receipt of bids and shall direct the township engineer to prepare an advertisement for bid to be placed in the appropriate trade publications and also direct the township engineer to prepare the necessary bid documents for use by the prospective bidders.
 - (4) Following the receipt and tabulation of bids by the township engineer, but prior to the award of a contract, the project costs shall be reviewed by the township board to determine if the available and anticipated funds are adequate to construct the project.
 - (5) The township board shall act on the formal award and signing of the contract or the rejection of the bids.
 - (6) All administration, engineering and publishing costs incurred by a project shall be charged to the township sewer department.
- (b) When a person wishes to sponsor the construction of public sanitary sewers he shall proceed as follows:
- (1) The project sponsor shall submit preliminary plans to the plant superintendent and sewer commission for recommendation to the township board.
 - (2) Upon giving of tentative approval, the township board shall refer construction plans to the township engineer for technical review.
 - (3) In conjunction with each review by the township engineer, the project sponsor shall remit a sanitary sewer review fee to the township sewer department based on the costs of construction as estimated by the township engineer. This remittance is to cover the cost of:
 - a. Examination and engineering work to determine the adequacy of such plans.
 - b. Obtaining of the necessary approvals and permits.
 - c. The township sewer department administration.

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- (4) Upon notice by the township engineer, the project sponsor shall submit a complete set of reproducible mylar drawings for the project.
 - (5) The township engineer shall refer the project to the township board with recommendations regarding construction of the project.
 - (6) At such time as the township board may elect to establish a date for receipt of bids, the project sponsor shall be directed to remit to the township or to deposit or secure in such manner as is acceptable to the township board an amount equal to the entire project cost, including construction contingencies, field supervision, staking, inspection and administration as estimated by the township engineer.
 - (7) Upon receipt of the full remittance as defined under subsection (6) above, the township engineer shall cause an advertisement for bid to be placed in the appropriate trade publications and he shall prepare the necessary bid documents for use by the prospective bidders.
 - (8) Following the receipt and tabulation of bids, but prior to the award of a contract, the project costs shall be reviewed to determine if the construction funds previously deposited with the township are adequate to construct the project. In the event the construction deposit exceeds the adjusted project cost the surplus shall be refunded to the project sponsor. In the event the construction deposit is less than the adjusted project cost the project sponsor shall be given the option of either remitting sufficient additional funds to the township to cover the differences or directing that the bids be rejected, in which case an amount of money equal to the actual administrative, engineering and publishing cost incurred by the township in bidding the project but in no case less than one hundred dollars (\$100.00), will be charged the project sponsor by the township board.
 - (9) The township board shall act on the formal award and signing of the contract or the rejection of the bids as outlined in subsection (8) above.
 - (10) Upon completion of the project, the project costs shall be audited and all surplus funds returned to the project sponsor.
 - (11) In lieu of the procedure set forth in subsections (1) through (4) above the project sponsor may elect to request the township board to handle the entire project. In this case the project sponsor shall remit to the township sewer department ten (10) percent of the estimated project cost as a good faith deposit. The township board shall cause engineering drawings to be prepared and the necessary approvals and permits obtained. In the event the sponsor elects not to proceed with the project, the deposit, or so much as is necessary, shall be used to defray engineering and administrative costs incurred and the balance if any shall be refunded to the sponsor.
- (c) Those procedures set forth in subsection (b)(11) above may be waived when a person shall receive approval from the township board to construct sanitary sewer facilities for a subdivision, multiple development, or industrial park development, provided, a financial guarantee of performance is given the township board. Completion of sanitary sewers and acceptance by the township engineer and sewer department for use and maintenance shall be required prior to the issuance of occupancy permits. The two (2) required financial guarantees are as follows:
- (1) *Performance or surety bond:*
 - a. *Accrual.* The bond shall accrue to the township, covering construction, operation and maintenance of the specific public improvements.
 - b. *Amount.* The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the township board.

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- c. *Term length.* The term length in which the bond is in force shall be for a period to be specified by the township board for the specific public improvement.
 - d. *Bonding or surety company.* The bond shall be with a surety company authorized to do business in the state, acceptable to the township board.
- (2) *Cash deposit, certified check, negotiable bond or irrevocable bank letter of credit:*
- a. *Treasurer, escrow agent or trust company.* A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the township board, shall accrue to the township. These deposits shall be made with the township treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the township board.
 - b. *Dollar value.* The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the township board.
 - c. *Escrow time.* The escrow time for the cash deposit, certified check, negotiable bond or irrevocable bank letter of credit shall be for a period to be specified by the township board.
 - d. *Progressive payments.* The township board shall provide for the progressive payment out of the cash deposit or reduction of the certified check, negotiable bond, or irrevocable bank letter of credit to the extent of the cost of the completed portion of the sanitary sewer as determined by the township engineer. Except for the final payment, all progressive payments shall retain ten (10) percent of the completed portion of the sanitary sewer.

(Rev. Comp. Ords. 1979, § 111.420; Ord. No. 06-05, § 7, 7-22-05)

Sec. 15-113. Penalty for failure to complete construction of sanitary sewer.

In the event the person shall, in any case, fail to complete work under this division within such period of time as required by the conditions of the guarantee for the completion of a sanitary sewer, it shall be the responsibility of the township board to proceed to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, negotiable bond which the person may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the township board and the person.

(Rev. Comp. Ords. 1979, § 111.430)

Sec. 15-114. Construction methods, materials, standards and permit procedures.

The township board may adopt from time to time such rules and regulations relating to sewer construction methods, materials, standards, and permit procedures as it may deem advisable.

(Rev. Comp. Ords. 1979, § 111.440)

Sec. 15-115. Violations—Notice.

Any person found to be violating any provision of this division except section 15-71 shall be served by the township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice permanently cease all violation.

(Rev. Comp. Ords. 1979, § 111.660)

Sec. 15-116. Same—Penalty.

Any person who shall knowingly continue any violation beyond the time limit provided for in section 15-115, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) plus costs or ninety (90) days in jail or both, for each violation. Each day on which any such violation shall continue shall be deemed a separate offense.

(Rev. Comp. Ords. 1979, § 111.670)

Sec. 15-117. Same—Liability.

Any person violating any of the provisions of this division shall become liable to the township for any expense, loss, or damage occasioned the township by reason of such violation.

(Rev. Comp. Ords. 1979, § 111.680)

Secs. 15-118—15-150. Reserved.

ARTICLE IV. CROSS-CONNECTIONS WITHIN THE PUBLIC WATER SUPPLY SYSTEM

Sec. 15-151. Definitions.

[For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:]

Backflow means water of questionable quality, wastes, or other contaminants entering a public water supply system due to a reversal of flow.

Cross-connection means a connection or arrangement of piping or appurtenances through which a backflow could occur.

Safe air gap means the minimum distance of water inlet or opening above the maximum high water level overflow rim in a fixture, device, or container to which public water is furnished which shall not be less than two (2) times the inside diameter of the water inlet pipe, but shall not be less than one (1) inch and need not be more than twelve (12) inches.

Secondary water supply means a water supply system maintained in addition to a public water supply, including, but not limited to water systems from ground or surface sources not meeting the requirements of Act No. 399 of the Public Acts of 1976, being MCL 325.1001 to 325.1023, of water from a public water supply which in any way has been treated, processed, or exposed to any possible contaminant or stored in other than an approved storage facility.

Submerged inlet means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture, or appliance which may contain water of questionable quality, waste or other contaminant, and which is unprotected against backflow.

(Ord. No. 8-93, § 2, 1-10-94)

(Supp. No. 19)

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Sec. 15-152. Unlawful acts.

- (a) A cross-connection shall not be made between a public water supply system and a secondary water supply.
- (b) A cross-connection shall not be made by submerged inlet.
- (c) A cross-connection shall not be made between a public water supply and piping which may contain sanitary waste or a chemical contaminant.
- (d) A cross-connection shall not be made between a public water supply and piping emerged in a tank or vessel which may contain a contaminant.

(Ord. No. 8-93, § 3, 1-10-94)

Sec. 15-153. Corrections and protective devices.

- (a) A user of public water shall obtain written approval from the township water department or authorized inspection agency of any proposed corrective action or protective device before using or installing it.
- (b) The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install equipment. If the cross-connection has not been removed, after a reasonable period of time, the township water department shall physically separate the public water supply from the on-site piping system in such a manner that the two (2) systems cannot again be connected by any unauthorized person.

(Ord. No. 8-93, § 4, 1-10-94)

Sec. 15-154. Piping identification.

When a secondary water source is used in addition to a public water supply system, exposed public water and secondary water piping shall be identified by distinguishing colors or tags and so maintain that each pipe may be traced readily in its entirety. If piping is so installed that it is impossible to trace it in its entirety, it will be necessary to protect the public water supply at the service connection in a manner acceptable to the department of public health.

(Ord. No. 8-93, § 5, 1-10-94)

Sec. 15-155. Private water storage tanks.

A private water storage tank supplied from a public water supply system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.

(Ord. No. 8-93, § 6, 1-10-94)

Sec. 15-156. Enforcement.

- (a) The township may cause inspections to be made of all property served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the township water department and as approved by the state department of public health.

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- (b) The representative or designee of the township water department shall have the right to enter at any reasonable time, any property served by a connection to the public water supply system of the township, for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.
 - (c) The township water department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this article.

(Ord. No. 8-93, § 7, 1-10-94)

Sec. 15-157. Compliance with regulations and local codes.

A connection with the township water supply system shall comply with existing laws, ordinances and rules including:

- (1) Act No. 266 of the Public Acts of 1929, as amended, being MCL 338.901 through 338.917.
- (2) Local ordinances or rules providing acceptable protection against cross-connections.

(Ord. No. 8-93, § 8, 1-10-94)

Sec. 15-158. Plumbing code.

- (a) The potable water supply made available on the property served by the public water supply shall be protected from possible contamination as specified by this article and by the state and township plumbing code as adopted. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system, must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

- (b) This article shall not supersede the state plumbing code or the township plumbing ordinance as adopted, but is supplementary to them.

(Ord. No. 8-93, § 9, 1-10-94)

Secs. 15-159—15-180. Reserved.

ARTICLE V. ILLICIT CONNECTION ABATEMENT

Sec. 15-181. Title.

This article shall be known as the "Berlin Charter Township Illicit Connection Abatement Ordinance."

(Ord. No. 02-06, § 1, 7-1-06)

Sec. 15-182. Purpose and objectives.

- (a) The purpose of this article is to increase efforts to protect the environment, the health, safety, and welfare of the citizens of Berlin Charter Township, and to achieve the objectives enumerated hereinafter. Furthermore, it is the purpose of this article to comply with the township's responsibility to effectively control illicit connections and discharges, as described and set forth in National Pollutant Discharge Elimination System General Permit requirements, and as mandated by the township's certificate of coverage and state law, and to effect compliance with the provisions of the Public Health Code, Public Act No. 368 of 1978, as amended, being MCLA 333.1101 et seq.
- (b) The objectives of this article are:
 - (1) To protect the environment and to enhance the quality of the surface and groundwater resources of the township, county and state and to abate the adverse impact upon the public health, safety, and welfare by controlling sources of water contamination.
 - (2) To safeguard the water resources of the township, county and state against pollution and contamination, to prevent damage to property and injury to plant and animal life, and to preserve the public's enjoyment of recreational areas within the township.
 - (3) To establish the legal authority to carry out all abatement, inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

(Ord. No. 02-06, § 2, 7-1-06)

Sec. 15-183. Definitions.

As used in this article:

Enforcement agency means any enforcement agency, including, but not limited to, Berlin Charter Township, the County of Monroe, the Detroit Water and Sewerage Department, the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources, the Federal Environmental Protection Agency, or any court of competent jurisdiction of the State of Michigan or the United States of America.

Illegal discharge means any direct non-stormwater discharge, except those permitted in the township's certificate of coverage, into an enclosed or open storm drainage system located within the boundaries of Berlin Charter Township.

Illicit connection means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter a storm drainage system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or any drain or conveyance connected from commercial or industrial land use to the storm drainage system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

Non-stormwater discharge means any discharge to the storm drainage system that is not composed entirely of stormwater.

Person or property owner means any individual, association, organization, partnership, firm, corporation, or other entity recognized by township records and acting as either the owner or as the owner's agent and shall include tenants or occupants of a parcel, structure, or vehicle.

Pollutant means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, garbage, litter, or other discarded or abandoned objects and accumulations, which may cause pollution; floatables, pesticides, herbicides, hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes and residues that result from the preparation or service of food or that result from the construction of a building or structure; cement residue or wash off from cement application equipment; discharges from vehicles and recreational vehicles, and noxious or offensive matter of any kind.

Premises or property means any building, structure, garage, accessory building, dwelling, apartment, shed, vehicle, lot or parcel of land from which an illicit connection is located or created.

Sanitary sewer system means any facilities by which sanitary water is collected and/or conveyed, including but not limited to any structures which allow any non-stormwater discharges including sewage, process wastewater, pollutants, and wash water to enter the storm drainage system and any connections to the storm drainage system from indoor drains and sinks which empty into the storm drainage system.

Storm drainage system means any facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, catch basins, piped storm drains, pumping facilities, retention and detention basins, natural or human made or altered drainage channels, rivers, creeks, wetlands, or other drainage structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a premises.

(Ord. No. 02-06, § 3, 7-1-06)

Sec. 15-184. Illegal discharges or connection to the storm drainage system.

- (a) No person shall discharge or cause to be discharged into a storm drainage system of Berlin Charter Township, or any rivers or creeks in the township, any materials, except those permitted under the township's certificate of coverage, including but not limited to pollutants or waters containing any pollutants other than stormwater.
- (b) The construction, use, maintenance, commencement, or continuance of any illegal discharge into the storm drainage system is prohibited except as described as follows:
 - (1) The following discharges are exempt from discharge prohibitions established by this section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drainage systems, uncontaminated pumped ground water, foundation or footing drains, crawl space pumps, sump pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools, dye testing, discharge from flooded basements and/or crawl spaces, fire fighting activities, sprinkler systems, and any other water source generally not containing pollutants.
 - (2) Any other discharge specified in writing by an authorized enforcement agency including, but not limited to, the Michigan Department of Environmental Quality, the Michigan Department of Natural Resources, Federal Environmental Protection Agency, the Detroit Water and Sewerage Department, or by order or consent decree of the courts of Michigan or the United States.
 - (3) This prohibition shall not apply to any non-stormwater discharge permitted under a National Pollutant Discharge Elimination System (NPDES) permit, waiver, or waste discharge order issued to the

discharging person and administered under the authority of the Federal Environmental Protection Agency.

- (c) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (d) Any sanitary sewer system which is or has been connected to the storm drainage system, or which is or has been connected to the storm drainage system as a result of a false application, misrepresentation or non-disclosure on a construction permit, or which was connected to the storm drainage system by way of obtaining sanitary sewer system connection and plumbing permits through any means which circumvented the limitations created by this section, shall be disconnected, from the storm drainage system by the property owner or the township, unless:
 - (1) The property owner at his or her own expense sufficiently excavated the area and the location of the sanitary sewer system service line connection, in a manner which allows the township building official, the township engineer and/or the department of public works, the ability to reasonably and sufficiently inspect the condition, and upon the completion of the inspection, the building official, township engineer or department of public works representative, approves of the connection by issuing the property owner a fully executed and approved inspection certificate. Any and all fees associated with this inspection and the issuance of the inspection certificate shall be charged against the premises and to the property owner and shall be paid in full by the property owner before the commencement of the inspection.
 - (2) A dye test conducted by the township determines that the connection is not an illicit connection.
 - (3) The property owner, at his or her own expense, and after obtaining all necessary permits and approvals from the township connects the illicit connection to a sanitary sewer system.
 - (4) The township connects the illicit connection to a sanitary sewer system.

(Ord. No. 02-06, § 4, 7-1-06)

Sec. 15-185. Penalty.

- (a) Any property owner who has a known illicit connection to the storm drainage system shall be guilty of a misdemeanor and shall be subject to a fine not exceeding the sum of five hundred dollars (\$500.00) or by imprisonment in the Monroe County Jail for a period not to exceed ninety (90) days or both such fine and imprisonment in the discretion of the court. The enforcing agency may also seek the abatement of the violation through equitable proceedings in a court of competent jurisdiction. The enforcing agency may recover all attorney's fees, court fees, and other expenses associated with the enforcement of this section including any inspection, sampling and monitoring expenses.
- (b) If the property owner fails to disconnect the illicit connection or reconnect the illicit connection to the sanitary sewer system, the township building official, township engineer and/or the department of public works, or their designee, shall disconnect the illicit connection from the storm drainage system or shall reconnect the illicit connection to a sanitary sewer system.
- (c) The township building official, the township engineer or the director of the department of public works, or his or her designee, shall take all steps necessary to disconnect the illicit connection from the storm drainage system, or shall reconnect the illicit connection to a sanitary sewer system, and shall keep or cause to be kept an accurate record of all expenses associated with the disconnection or reconnection. A report of the work done and all expenses occurred abating the illicit connection from the storm drainage system shall be compiled by the building department, township engineer and/or the department of public works.

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(Ord. No. 02-06, § 5, 7-1-06)

Sec. 15-186. Cost for abatement of illegal discharge or connection.

- (a) Within thirty (30) days before the abatement of the violation under this article the owner of the property shall be notified of the cost of the abatement, including administrative costs, by certified mail.
- (b) If the amount due for the abatement is not paid within thirty (30) days after the abatement, the charges shall become a lien on the property for the amount of the assessment.

(Ord. No. 02-06, § 6, 7-1-06)

Sec. 15-187. Injunctive relief.

It shall be unlawful for any person to violate any provision of this article or to fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the enforcement agency may petition for a preliminary or permanent injunction in the Monroe County Circuit Court or Federal District Court, restraining the person from activities which would lead to further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. No. 02-06, § 7, 7-1-06)

Chapter 16 VEGETATION³²

ARTICLE I. IN GENERAL

Secs. 16-1—16-24. Reserved.

ARTICLE II. NOXIOUS WEED AND GRASS CONTROL³³

Sec. 16-25. Title.

This ordinance shall be known and referred to as the Berlin Charter Township Noxious Weed and Grass Control Ordinance.

(Ord. No. 1-12, § 1, 3-12-12)

³²State law reference(s)—Control and eradication of noxious weeds, MCL 247.61 et seq., MSA 9.631(1) et seq.; obnoxious plants and trees, MCL 124.151 et seq., MSA 12.270(1) et seq.; deposit of noxious weeds on highways, MCL 247.51, MSA 28.181.

³³Editor's note(s)—Ord. No. 1-12, §§ 1—8, adopted March 12, 2012, repealed the former Art. II., §§ 16-26—16-31, and enacted a new Art. II. as set out herein. The former Art. II. pertained to weed control subject matter. See Code Comparative Table for complete derivation.

Sec. 16-26. Definitions.

Building official shall mean the Berlin Charter Township Building Official, the township supervisor and/or their designee.

Exempt vegetation shall mean agricultural crops, cultivated trees, cultivated shrubs, flowers or other decorative ornamental plants under cultivation, wildflowers, vegetation in woodlands or wetlands, cultivated meadows and meadows and weeds in agricultural fields devoted to growing any small grain crop such as wheat, oats, barley or rye.

Weeds and grass shall include but not be limited to Canada thistle, dodders, milkweed, wild carrot, mustards, bindweed, perennial sow-thistle, hoary alyssum, ox-eye daisies, ragweed, goldenrod, burdock, poison ivy, poison sumac, any type of growth, brush, or plants that exist by reason of not being cut over a period of time and which are regarded as a common nuisance, including that which may have grown into trees or other types of plant life over the years, and any other types of weeds or grass as the terms are commonly used.

(Ord. No. 1-12, § 2, 3-12-12)

Sec. 16-27. Duty to remove.

It shall be the duty of every person who owns and/or occupies parcels of land within Berlin Charter Township or lots which are within a platted subdivision in which buildings have been erected on sixty (60) percent of the lots, to cut to a height not to exceed six (6) inches (except agriculturally zoned lands which are not farmed which shall be cut to a height not to exceed ten (10) inches) for a depth of one hundred and sixty-five (165) feet or the depth of the lot whichever is less and to remove from said lands all such weeds and grass growing thereon.

(Ord. No. 1-12, § 3, 3-12-12)

Sec. 16-28. Newspaper notice.

The Berlin Charter Township Clerk shall, publish a notice at least once per year in a newspaper having general circulation in Berlin Charter Township during the month of March giving notice that weeds and grass not cut by May 1 of that year may be cut by the Township and the property owner charged with the cost. Said notice shall be substantially in the following form:

To property owners and occupants of lands situated in Berlin Charter Township, Monroe County, Michigan:

Notice is hereby given that all weeds and grass growing and brush on any lands, except as noted below, within the Charter Township of Berlin must be cut, to a height not to exceed six (6) inches (except agriculturally zoned lands which are not farmed which must be cut to a height not to exceed ten (10) inches), and removed to prevent such weeds and/or grass from going to seed or to blossom, from becoming a fire hazard, and/or from creating a condition detrimental to the health, safety, and welfare of the citizens of Berlin Charter Township.

The provisions of the article shall apply to all parcels of land in the Township except agricultural lands which are being lawfully used for farming in a manner appropriate to such use, parcels of land containing exempt vegetation, or railroads situated within Berlin Charter Township.

Failure to comply with this notice on or before May 1 shall make the property owner liable for the costs of cutting and removing said weeds, grass, and/or brush by Berlin Charter Township, said cost to be levied and collected against said lands in the same manner as other taxes are levied and collected, and being a lien against said lands. The Township may cut the weeds and grass as many times as is deemed necessary to

achieve compliance with this article in the discretion of the building official and may charge the cost to the property owner.

(Ord. No. 1-12, § 4, 3-12-12)

Sec. 16-29. Notice.

Upon complaint of a violation of the provisions of this article, it shall be the duty of the township building official to investigate such complaint and the premises complained of, and after such investigation, if the building official shall determine that the condition of the premises are in violation of this article, the building official shall issue a notice directed to the owner of the land upon which said violation is committed to the address shown on the records on file with the township, requiring compliance with the terms and conditions of this article within ten (10) days after delivery of such notice by mailing the notice by first class mail to such owner at his last known address as indicated by the latest township tax rolls.

(Ord. No. 1-12, § 5, 3-12-12)

Sec. 16-30. Failure to comply.

If the owner of any land fails to comply with the order given as provided in this article within the ten (10) day time period, the building official shall cause such weeds and grass to be cut and removed together with any grading necessary to allow the removal of the same. The building official shall keep an accurate account of the expenses incurred in doing so with respect to each parcel entered upon therefore, and shall make a written statement of said account and deliver the same to the township treasurer. The actual cost of such cutting, removal, grading, and/or destruction, plus twenty percent (20) for supervision, administration, and overhead shall become a debt to the township from the owner of any such land, and the amount assessed, together with all charges thereon, and shall become a lien on the land assessed of the same character and effect as the lien created by general law for taxes, until paid. The township may provide written notice of the sums owing to the property owner prior to placing the amount on the tax bill of the property owner. The township may cut the weeds and grass as many times as is necessary to achieve compliance with this article and charge the cost to the property owner without any notice required in addition to that previously provided in accordance with sections 16-28 and 16-29 above.

(Ord. No. 1-12, § 6, 3-12-12)

Sec. 16-31. Exemption.

The provisions of the article shall apply to all land in the township except lands lawfully used for farming in a manner appropriate to such use, railroads, land areas within county drains which are cut or to be cut by another municipal agency and portions of land containing weeds, grass or other vegetation which is exempt pursuant to any other local state or federal law, situated within Berlin Charter Township.

(Ord. No. 1-12, § 7, 3-12-12)

Sec. 16-32. Penalty.

In the event that the building official causes any such weeds and grass to be cut and removed and is paid for by the property owner as provided for in this article, such action shall be the sole remedy provided for in this article. However, in the event that a property is unable to be cut by the township for the reason that is not accessible or other reason beyond the control of the township then violation of any of the provisions of this article,

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whether such person is the owner and/or occupant of said land or property, shall constitute a municipal civil infraction and subject the violator to a civil fine of one hundred (\$100.00) dollars. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 1-12, § 8, 3-12-12)

Chapter 17 WATERWAYS³⁴

ARTICLE I. IN GENERAL

Secs. 17-1—17-25. Reserved.

ARTICLE II. MARINAS AND BOAT LIVERIES

Sec. 17-26. Definitions.

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

Boat livery means an establishment which provides watercraft for public use on a rental or lease basis.

Marina means an establishment which, for fee or other consideration, maintains dockage, moorings or berths for seven (7) or more watercraft.

Personal dockage means dockage, moorings or berths for not more than six (6) watercraft maintained for the personal use of the owner, his family and/or invitees.

(Ord. No. 49, 7-9-84)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 17-27. Enforcement.

The township supervisor is charged with the enforcement of this article. The township supervisor may delegate this responsibility to any official or employee of the township. The township fire chief having fire-call responsibility for the establishment shall be responsible for the enforcement of section 17-33(3).

(Ord. No. 49, § X, 7-9-84)

³⁴Cross reference(s)—Zoning, Ch. 18.

State law reference(s)—Marine safety act, MCL 281.1001 et seq., MSA 18.1287(1) et seq.; inland lakes and streams act, MCL 281.951 et seq., MSA 11.475(1).

Sec. 17-28. Permit required.

No person shall establish or operate a boat livery or marina within the township without first complying with any and all federal, state or county laws, ordinances and administrative rules governing such establishments and this article. Nothing in this section shall apply to personal dockage.

(Ord. No. 49, § III, 7-9-84)

Sec. 17-29. Standards.

(a) The following standards shall apply to all marinas and boat liveries within the township:

(1) *Parking.* Off-street parking shall be provided as follows:

- a. *Boat liveries.* One (1) parking space for every two (2) rental units.
- b. *Marinas.* One and one-half (1½) parking spaces for each berth.
- c. *Boat livery or marina with public launching ramp available to the public on a day basis.* Parking for seventy-five (75) automobiles and trailers per ramp.

Parking provided under this provision shall meet the requirements of section 18-306.

(2) *Sanitary facilities.* Public restrooms will be provided at a setback and of a construction acceptable to the county health department but not more than two hundred, fifty (250) feet from the piers or landings. In addition, a marina accommodating watercraft having on-board sanitary facilities shall make provision for the dumping of such materials in a manner acceptable to the county health department.

(3) *Fire protection.* A marina or boat livery shall maintain on site fire suppression equipment and safe storage facilities for fuels, solvents, finishes and like materials. The township fire chief having first-call responsibility for the establishment shall determine the level of equipment and facilities necessary to the particular marina or boat livery. The township fire chief or his designee shall have the right to inspect any marina or boat livery for compliance with this section during the establishment's regular business hours. Consent to such inspection shall be a condition of all permits issued.

(4) *Safety and security.* The operator of any marina or boat livery shall make positive efforts to insure the safety of persons upon the premises and, in the case of a marina, the security of the property under the care of the establishment. This shall include, as a minimum, reasonable provisions to prevent the access of persons to the site during nonbusiness hours.

(b) The above constitute minimum standards and in no way relieve any applicant or operator of the responsibility of compliance with the township zoning ordinance, chapter 18 of this Code, and applicable building codes.

(Ord. No. 49, § VIII, 7-9-84)

Chapter 18 ZONING³⁵

³⁵Editor's note(s)—Ord. No. 01-20, § 18.08, adopted Feb. 10, 2020, repealed the former Ch. 18, §§ 18-1—18-3, 18-21, 18-46—18-49, 18-66—18-74, 18-86—18-89, 18-106—18-113, 18-131—18-135, 18-151—18-160, 18-176—18-179, 18-196—18-200, 18-216—18-220, 18-236—18-240, 18-256—18-260, 18-276, 18-301—18-325, 18-336—18-338, 18-381—18-391, 18-411—18-423, 18-441—18-446, 18-471—18-474, and enacted a new

- CODE OF ORDINANCES
Chapter 18 - ZONING
ARTICLE I. TITLE, PURPOSE, AND LEGAL CLAUSES

Ch. 18 as set out herein. The former Ch. 18 pertained to similar subject matter and derived from Ord. No. 25-88, §§ 100—102, 200, 300—303, 400—402, 500—502, 600—606, 700—703, 800—806, 900—902, 1000—1002, 1100—1102, 1200—1202, 1300—1303, 1500—1517, 1600—1602, 1700—1710, 1800—1811, 1900—1905, adopted Nov. 14, 1988; Ord. No. 18-92-1, § 1, adopted Jan. 13, 1993; Ord. No. 3-96, §§ 2—4, adopted Sept. 9, 1996; Ord. No. 3-97, § 2, adopted Feb. 2, 1997; Ord. No. 1-98, §§ 2—5, adopted Mar. 9, 1998; Ord. No. 4-98, §§ 2, 3, adopted Oct. 1, 1998; Ord. No. 5-98, § 2, adopted Jan. 7, 1999; Ord. No. 2-99, § 2, adopted April 8, 1999; Ord. No. 11-99, adopted Aug. 26, 1999; Ord. No. 3-00, §§ 2, 3, adopted April 20, 2000; Ord. No. 01-01, § 1, adopted Sept. 27, 2001; Ord. No. 04-02, § 3, adopted Nov. 22, 2002; Ord. No. 05-02, §§ 2—4, adopted Nov. 22, 2002; Ord. No. 01-03, §§ 4—8, adopted Feb. 13, 2003; Ord. No. 01-04, adopted Feb. 20, 2004; Ord. No. 01-06, §§ 2, 3, adopted Mar. 6, 2006; Ord. No. 03-06, §§ 3—19, adopted Oct. 27, 2006; Ord. No. 01-07, § 2, adopted June 15, 2007; Ord. No. 02-08, §§ 2, 3, adopted Mar. 27, 2008; Ord. No. 03-08, §§ 2, 3, adopted April 10, 2008; Ord. No. 2-10, § 2, adopted Feb. 19, 2010; Ord. No. 03-16, § 2, adopted Aug. 22, 2016; Ord. No. 04-16, § 2, adopted Sept. 26, 2016; Ord. No. 02-17, § 2, adopted June 26, 2017; Ord. No. 03-17, § 2, adopted June 26, 2017; and Ord. No. 04-19, § 2, adopted Sept. 9, 2019.

State law reference(s)—Township rural zoning act, MCL 125.271 et seq.; township planning, MCL 125.321 et seq.

ARTICLE I. TITLE, PURPOSE, AND LEGAL CLAUSES

Sec. 18-01. Title.

This chapter shall be known and may be cited as the "Berlin Charter Township Zoning Ordinance."

(Ord. No. 01-20, § 18.01, 2-10-20)

Sec. 18-02. Authority, findings, and purposes.

- (a) *Michigan Zoning Enabling Act.* The Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended) establishes the authority to adopt comprehensive zoning regulations and empowers the township to enact a zoning ordinance and provide for its administration, enforcement, and amendment.
- (b) *Necessity.* The township deems it necessary to enact said regulations for the purpose of promoting and protecting the health, safety, comfort, convenience, and general welfare of its residents.
- (c) *Master plan compliance.* The township has prepared and adopted a master plan designed to guide growth in a logical fashion; to provide for the establishment of districts in the township which regulate the use of land and structures; to protect and preserve its natural resources; and to ensure a well-balanced community considering its present and potential physical, economic, cultural, and environmental assets.
- (d) *Purposes.* The township has identified on a zoning map and prepared regulations in this zoning ordinance pertaining to such districts, in coordination with the Berlin Charter Township Master Plan for the specific purposes of:
 - (1) Promoting and protecting the public health, safety and general welfare.
 - (2) Providing for and protecting the character and the stability of all land uses within the unincorporated portions of the township and promoting the orderly and beneficial development of such.
 - (3) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light, air, privacy and convenience of access to property and to protect the public health.
 - (4) Lessening and avoiding congestion in the public highways and streets.
 - (5) Promoting adequate and efficient provisions for transportation systems, sewage disposal, water, energy, recreation, and other public service and facility requirements.
 - (6) Encouraging the use of lands and natural resources in the township in accordance with their character and adaptability.
 - (7) Fixing reasonable standards to which buildings and structures shall conform.
 - (8) Prohibiting uses, buildings or structures which are incompatible with the character of development or the uses, buildings or structures permitted within specified zoning districts.
 - (9) Protecting against fire, explosion, noxious fumes and odors, heat, dust smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards in the interest of the public health, safety, and general welfare.

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- (10) Preventing the overcrowding of the land and the undue concentration of buildings and structures so far as is possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
 - (11) Otherwise reduce hazards to life and property.
 - (12) Providing for the completion, restoration, reconstruction, extension or substitution of non-conforming uses and structures.
 - (13) Creating a zoning board of appeals and defining the powers and duties thereof.
 - (14) Designating and defining the powers and duties of the official in charge of the administration and enforcement of this chapter.
 - (15) Providing for the payment of fees for zoning permits.
 - (16) Providing penalties for violations of this chapter.

(Ord. No. 01-20, § 18.02, 2-10-20)

Sec. 18-03. Scope and construction of regulations.

- (a) *Scope.* This chapter shall be liberally construed in such manner as to best effectuate its purposes. In interpreting and applying the provisions of this chapter, the requirements shall be held to the minimum for promotion and protection of the public health, safety, convenience, comfort, prosperity, and general welfare.
- (b) *Construction of regulations.* No building or structure, or part thereof, shall be erected, constructed, reconstructed, or altered and maintained, and no new use or change of use shall be made or maintained to any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(Ord. No. 01-20, § 18.03, 2-10-20)

Sec. 18-04. Validity and severability.

- (a) *Validity.* If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in said ruling.
- (b) *Severability.* If any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular parcel, lot, use, building or structure such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

(Ord. No. 01-20, § 18.04, 2-10-20)

Sec. 18-05. Conflict with other laws.

- (a) *More restrictive.* Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this chapter or by the provision of any ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- (b) *Abrogate or annul.* This chapter is not intended to abrogate or annul any easement, covenant, or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher

standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

(Ord. No. 01-20, § 18.05, 2-10-20)

Sec. 18-06. Savings.

The repeal of any ordinance or part of ordinances effectuated by the enactment of this chapter shall not be constituted as abandoning any action now pending under or by virtue of such ordinance or as continuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the township under such pending action. All proceeds pending when the ordinance from which this chapter derives takes effect are saved and preserved, and shall continue all according to the terms, provisions, penalties of the ordinance in effect at the time they were commenced.

(Ord. No. 01-20, § 18.06, 2-10-20)

Sec. 18-07. Effective date.

This chapter shall become effective seven (7) days from the date of final publication.

(Ord. No. 01-20, § 18.07, 2-10-20)

Sec. 18-08. Repeal of prior ordinance.

All previous township zoning ordinances and amendments thereto and chapter 14, article IV, condominium developments of the Township Codified Ordinances are hereby repealed effective on February 21, 2020.

(Ord. No. 01-20, § 18.08, 2-10-20)

Secs. 18-09—18-20. Reserved.

ARTICLE II. DEFINITIONS

Sec. 18-21. Rules of construction.

The following rules of construction shall apply:

- (a) The particular shall control the general.
- (b) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.
- (c) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (d) A "building" or "structure" includes any part thereof.
- (e) Unless the context clearly indicates to the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.

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- (2) "Or" indicates the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (3) "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
 - (f) Words used in the present tense shall include the future tense; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - (g) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - (h) Illustrations, diagrams, and schedules herein shall have the same force and effect as written text.
 - (i) Terms not herein defined shall have the meaning customarily assigned to them.
 - (j) Days mean calendar days unless otherwise stated.
 - (k) A reference to a public official of the township is to that person who performs the function referred to and may include a designee of the public official.

(Ord. No. 01-20, § 18.21, 2-10-20)

Sec. 18-22. General definitions.

For the purpose of this chapter, certain words and terms are defined as follows:

Abut. To touch, to lie immediately next to, to share a common wall or lot line.

Access. A way or means of approach to provide vehicle or pedestrian entrance to a property.

Accessory dwelling unit. An accessory habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation.

Accessory use, building or structure. A use, building, or structure, whether attached or detached, which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

Adjoining. Touching or contiguous, as distinguished from lying near or adjacent.

Adult day care facilities.

- (1) *Adult day care family home.* A private home in which six (6) or fewer adults eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours per day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an on-going basis. An adult day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care facility.
- (2) *Adult group day care home.* A private home in which more than six (6) but not more than twelve (12) adults eighteen (18) years or older, receive care for periods of less than twenty-four (24) hours per day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an on-going basis. An adult day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care home.
- (3) *Adult day care center.* A facility, other than a private residence, receiving one (1) or more persons, eighteen (18) years of age or older, for care for periods of less than twenty-four (24) hours per day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically

handicapped that require supervision on an on-going basis. An adult day care center does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care center.

Adult foster care facility. A state licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701 et seq.; MSA 16.610(61), et seq., as amended. The following additional definitions shall apply in the application of this chapter:

- (1) *Adult foster care family home.* A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days per week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- (2) *Adult foster care small group home.* A private residence with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours per day, five (5) or more days a week, and for two (2) or more consecutive weeks.
- (3) *Adult foster care large group home.* A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care and protection in addition to room and board, twenty-four (24) hours per day, five (5) or more days per week, and for two (2) or more consecutive weeks.
- (4) *Adult foster care congregate facility.* An adult foster care facility with the approved capacity to receive more than twenty (20) adult to be provided with foster care.

Adult use business. Includes all of the following:

- (1) *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing or specified sexual activities or specified anatomical areas.
- (2) *Adult bookstore or adult video store* means a commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:
 - a. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of the material identified in paragraphs a. and b., above, and still be categorized as an adult bookstore or adult video store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or

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- more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.
- (3) *Adult cabaret* means a nightclub, bar restaurant, or similar commercial establishment that regularly features:
- a. Persons, (including dancers, strippers, male or female impersonators or similar entertainers, performers, or wait staff), who appear in a state of nudity;
 - b. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
 - c. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - d. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (4) *Adult entertainment business* means adult bookstores, adult cabarets, adult novelty businesses, adult motion picture theaters, adult personal service businesses, and restricted adult businesses. See also *sexually oriented business*.
- (5) *Adult motel* means a hotel, motel or similar commercial establishment that:
- a. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that 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 that advertises the availability of any of the above;
 - b. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
- (6) *Adult motion picture theater* means a commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (7) *Adult novelty business* means an establishment which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.
- (8) *Adult personal services business* means an establishment having a person or persons, while nude or while displaying specific anatomical areas, providing personal services for another person or persons, which include, but is not limited to, the following activities and services, if the person or persons providing the personal service are nude or display specific anatomical areas: massage parlors, exotic rubs, modeling studios, tattoo parlors, body painting studios, wrestling studios, and theatrical performances.
- (9) *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or by specified sexual activities.
- (10) *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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- (11) *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip, or other consideration.
- (12) *Establishment* means a business or enterprise which utilizes any building, structure, premises, parcel, place or area.
- (13) *Massage parlor* means any establishment where private massage is practiced, used, or made available as a principal use of the premises.
- (14) *Nude model studio* means any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.
- (15) *Nudity or a state of nudity* means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:
- a. A woman's breast feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
 - b. Material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, being MCL 752.362.
 - c. Sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, being MCL 722.673.
- (16) *Public place* means any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element. A public place shall also mean an establishment, a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
- (17) *Restricted adult business* means any of the above defined uses, which are not customarily open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
- (18) *Sexual encounter center* means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
 - b. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity.
- (19) *Sexually oriented business* means a business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.
- (20) *Specified anatomical areas* are defined as:
- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(21) *Specified sexual activities* means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks anus, or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. Masturbation, actual or simulated; or
- d. Excretory functions as part of or in connection with any of the activities set forth in subsections a. through c. above.

Agricultural/commercial tourism. A business venture on a working farm, ranch, or agricultural enterprise that offers educational and/or recreational experiences for visitors while generating supplemental income for the owner. Examples include but are not limited to u-pick operations, corn mazes, farm stands, or cider mills.

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

Alley. Any dedicated public way affording a secondary means of access to an abutting property, and not intended for general traffic circulation.

Alteration. Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building whether by increasing the height or extension or diminution; or the moving of a building from one location to another.

Ambient noise. Regularly occurring background noise not produced by the object or device in question.

Antenna. Any device or array that transmits and/or receives electromagnetic signals for voice data or video communications purposes including, but not limited to television, AM/FM radio, microwave, cellular telephone, and similar forms of communication.

Apartment. A residential structure containing three (3) or more attached one-family dwellings.

Awning. A fixed or retractable shelter constructed of non-rigid materials on a supporting framework which projects from the exterior wall of a building.

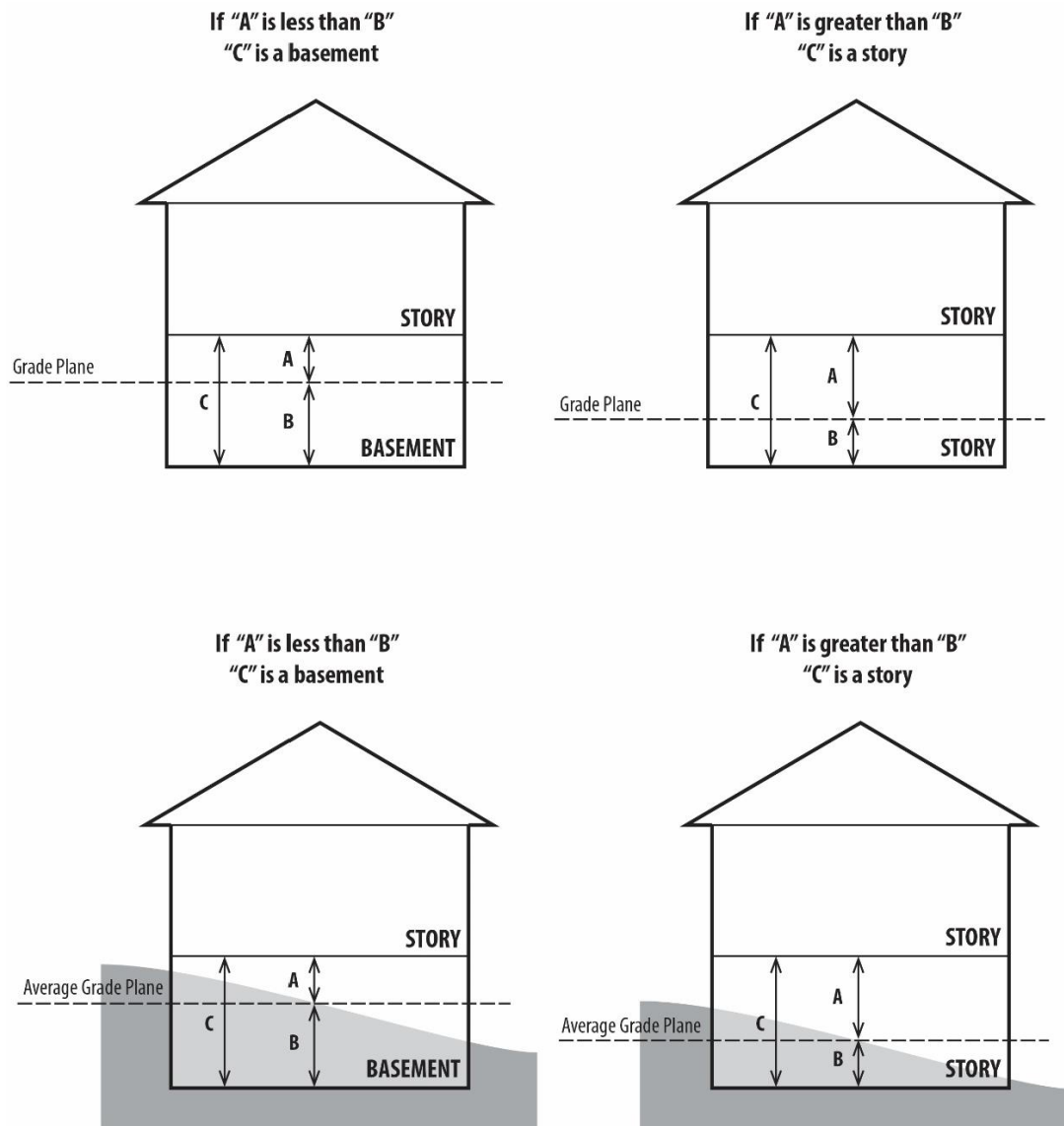
Base density calculation. The base density calculation is an estimated number of housing units that could reasonably be expected on a parcel or parcels if developed in a conventional manner.

Base flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year. This type of flood is also referred to as the 100-year flood.

Basement. That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the average grade to the ceiling is over five (5) feet, such basement shall be rated as a first story.

FIGURE 18-22 A. BASEMENT AND STORY

BASEMENT AND STORY



Basin.

- (1) *Detention.* A basin wherein water is stored for a relatively brief period of time, part of it being retained until the outlet can safely carry the ordinary flow plus the released water. Some basins have outlets usually without control gates and are used for flood regulation.
- (2) *Retention.* A basin wherein water is stored for a period of time until the outlet can safely carry the released water. Such basins have control gates which can be released at a given time. This type of basin is used for flood regulation.

Bed and breakfast establishment. A private, owner-occupied business in a single-family residence where overnight accommodations and a morning meal are provided to transients for compensation.

Berm. See "landscaping."

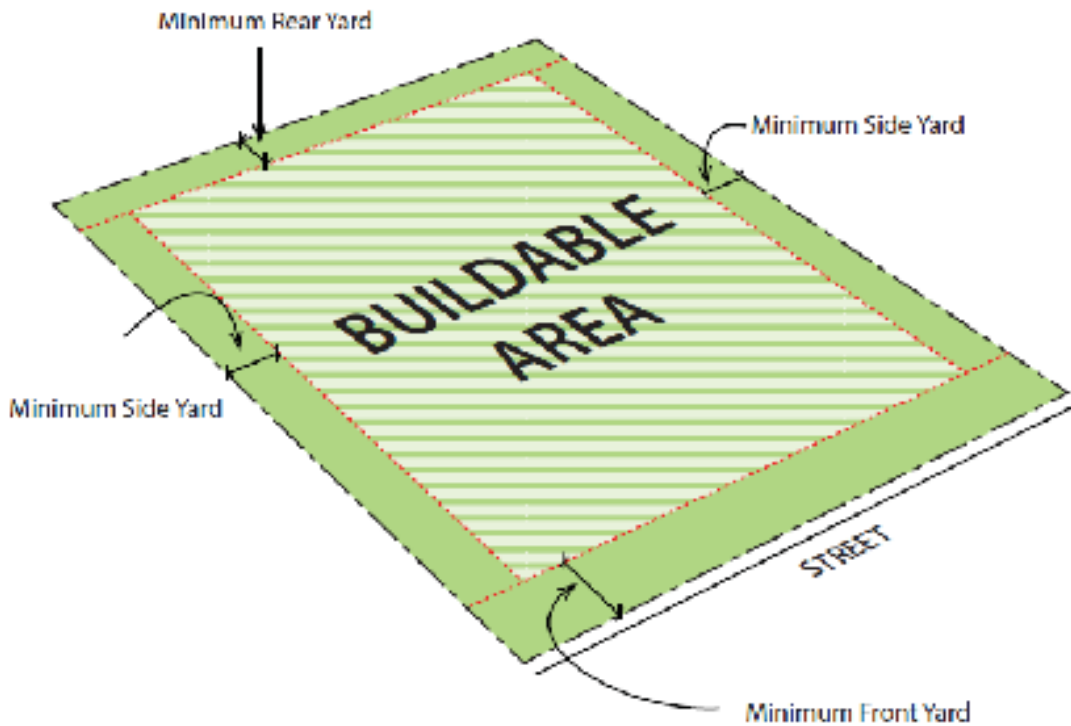
Best management practices. Structural and non-structural practices and techniques that mitigate the adverse impacts caused by land development on water quality and quantity.

Billboard. See outdoor advertising sign.

Buffer. See "landscaping."

Buildable area. The buildable area of a lot or parcel is the space remaining after setback requirements of this chapter are complied with.

FIGURE 18-22 B. BUILDABLE AREA



Building. A structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, excluding those used for personal recreational users, awnings or vehicles situated on private property and used for such purposes.

Building, accessory. See accessory use, building, or structure.

Building, principal. A building or structure in which the primary use of the property on which the building is located is conducted.

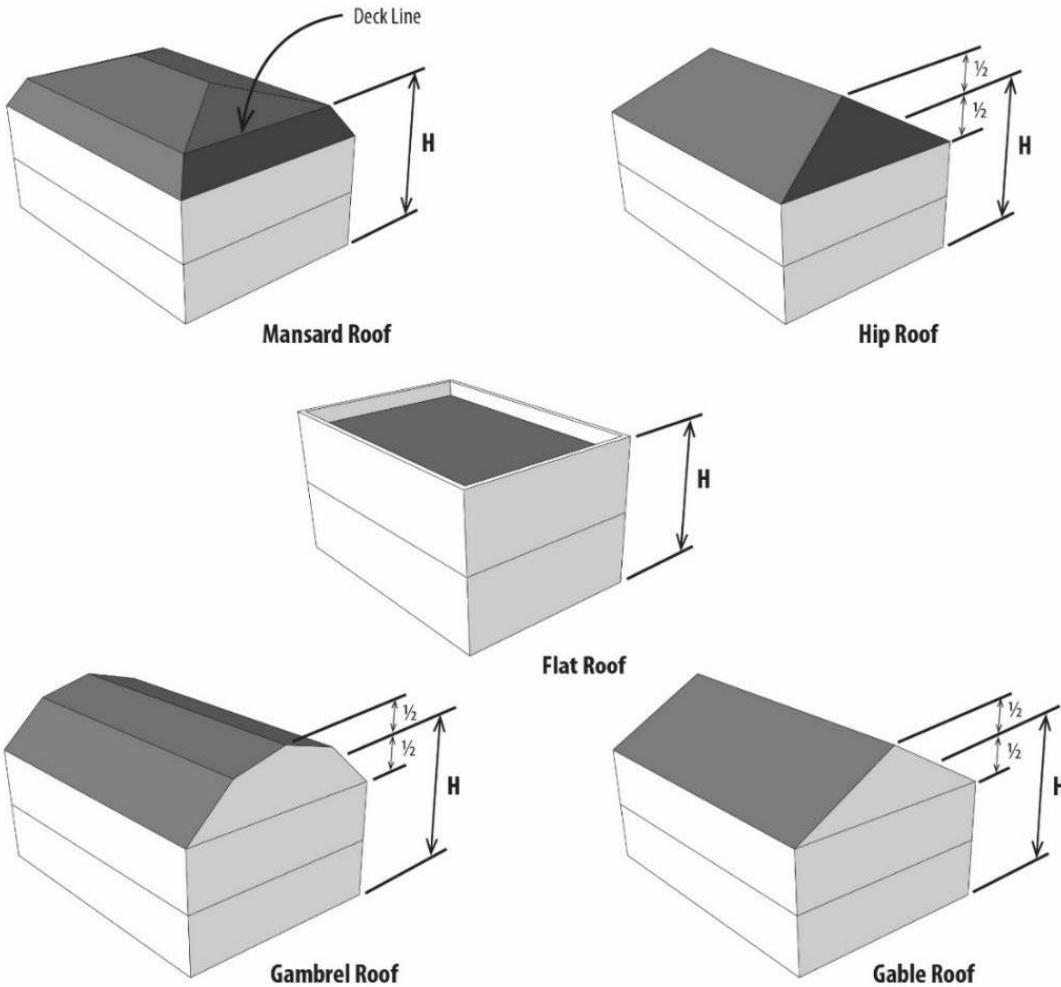
Building, temporary. Any structure erected on a property which is intended for limited duration.

Building Code. The currently adopted code or codes regulating building construction in Berlin Charter Township.

Building height. The vertical distance measured from the established grade of the center of the front of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs; and the average height between the lowest point and the highest point on a shed roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

FIGURE 18-22 C. BUILDING HEIGHT

BUILDING HEIGHT



Building official. The township official or officials principally responsible for the review and enforcement of construction regulations.

Building permit. A building permit is written permission issued by the building official for the construction, alteration, or expansion of buildings or improvements on the land in conformance with this chapter.

Building setback line. A line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building shall be located from a property line, existing street right-of-way, easement line of an approved private street, proposed right-of-way line as indicated in the township's master plan, or ordinary high water mark. See figure 18-22 H, lot lines.

Caliper. The method by which nursery tree stock is measured. Caliper is the diameter of the trunk of a tree measured in inches at a point six (6)-inches above the ground line if caliper measurement is four (4)-inches or less; if caliper measurement is larger, the measurement is taken twelve (12)-inches above the ground.

Campgrounds. An area or an establishment intended to contain temporary or permanent buildings, tents, recreation vehicles such as motor homes or travel trailers, or other structures established or maintained as temporary living quarters usually operated during the summer for recreation purposes. The term "campground" shall not include a "seasonal mobile home park" licensed under Public Act 96 of 1987 (MCL 25.2301 et seq.).

Cellar. See basement.

Cemetery. Property used for the interring of the dead. This may include structures and/or facilities for storing ashes of remains that have been cremated such as a mausoleum. It also may include structures for the internment of the dead in sealed crypts or compartments.

Certificate of zoning compliance. A document signed by the zoning official as a condition precedent to the commencement of a use or the construction/reconstruction of a structure or building which acknowledges that such use, structure, or building complies with the provisions of the zoning ordinance.

Child day care facilities. The following definitions shall apply in the construction and application of this chapter:

- (1) *Child family day care home.* A private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours per day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
- (2) *Child group day care home.* A private residence in which seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours per day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoptions. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.
- (3) *Child care center.* A facility, other than a private residence, receiving more than one (1) or more children for care and supervision of periods less than twenty-four (24) hours per day, and where the parents or guardians are not immediately available to the child.

Child foster care facilities. Means the following:

- (1) *Child foster care family home.* A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being MCL 710.21 to 710.70, are given care and supervision for twenty-four (24) hours per day, for four (4) or more days per week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- (2) *Child foster care group home.* A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to Chapter X of Act No. 288 of Public Acts of 1939, are provided care for twenty-four (24) hours per day, for four (4) or more days per week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

Club or lodge. An organization and its premises catering to members and their guests for social, intellectual, recreational, cultural, or athletic purposes not operated for profit.

Colocation. The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building.

Commercial recreation facility. A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure activities, and other customary recreational activities either indoors (within an enclosed

building) or outdoors (outside of an enclosed building) operated as a business and open for use by the public for a fee.

Community supported agriculture (CSA). A market strategy in which a farm produces farm products for the group of farm members or subscribers who pay in advance for their share of the harvest. Typically, the farm members receive their share once per week, sometimes coming to the farm to pick up their share, or farms deliver to a central point.

Condominium. A building or lot governed under Act 59, Public Acts of 1978, as amended. The following condominium terms shall apply in the application of this chapter.

- (1) *Condominium documents.* The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
- (2) *Condominium subdivision plan.* The drawings and information prepared in accordance with Section 66 of the Condominium Act.
- (3) *Condominium unit.* The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
- (4) *Consolidating master deed.* The final amended master deed for a contractible or expandable condominium project or a condominium project containing convertible land or convertible space, which the final amended master deed fully describes the condominium project as completed.
- (5) *Contractible condominium.* A condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under Section 7 of the Condominium Act.
- (6) *Expandable condominium.* A condominium project to which additional land may be added in accordance with this chapter and the Condominium Act.
- (7) *General common elements.* A portion of the common elements reserved in the master deed for the use of all co-owners.
- (8) *Limited common elements.* A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
- (9) *Master deed.* The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project, the condominium subdivision plan for the project and all other information required by Section 8 of the Condominium Act.
- (10) *Notice of proposed action.* The notice required by Section 71 of the Condominium Act, to be filed with Berlin Charter Township and other agencies.
- (11) *Site condominium.* A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which the condominium development is located, in which each co-owner owns the exclusive right to a volume of space within which each co-owner may construct a structure or structures.

Conservation easement. A legal agreement in which the landowner retains ownership of private property but conveys certain specifically identified rights to a land conservation organization or public body.

Construction. Any assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities, or similar property.

dB(A). A-weighted decibels; the standards used to measure environmental noise.

D.B.H. (Diameter at breast height). A measurement of the diameter of a tree trunk taken on the outside bark at breast height. Breast height is defined as four and one-half (4.5) feet from the uphill side of the tree.

Deck. A structure without a roof having a foundation to hold it erect and attached to or abutting one (1) or more walls of a building or constructed separately from a building, with or without direct access to the ground. The floor of which is above finished grade and intended for use as an outdoor living area.

Dedicated open space. Open land that is permanently set aside by the owner for retention in a generally undeveloped state which preserves natural features, scenic or wooded conditions, agricultural uses, open space, or similar conditions.

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

Drainage.

- (1) Surface water run-off.
- (2) The removal of surface water or groundwater from land by drains, grading, or other means which include run-off controls to minimize erosion and sedimentation during construction or development. The means for preserving the water supply and the prevention or alleviation of flooding.

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

Drive-through. A business establishment or portion thereof where the design, method of operation, or any portion of whose business use eliminates the requirement that the customer leave the motor vehicle in which the customer is riding in order to obtain the delivery of the goods or services being offered.

Dwelling area. The area of a dwelling unit composed of sleeping rooms, kitchen, dining room, den, studio, bathrooms, family room and living room.

Dwelling, multiple-family. A building, structure, or portion thereof, designed exclusively for three (3) or more families living independently of each other.

Dwelling, single-family. A detached building or structure designed and occupied by one (1) family.

Dwelling, single-family attached. A building containing not less than three (3) nor more than six (6) single-family dwelling units erected side by side as a single building, each being separated from the adjoining unit or units by an uninterrupted wall extending from the basement floor to the roof. No more than one (1) dwelling unit may be served by a single stairway or by a single exterior door.

Dwelling, two-family. A building or structure designed for, or occupied by two (2) families only, with separate entrances, housekeeping, and cooking facilities.

Dwelling unit. One (1) or more rooms with principal kitchen facilities designed as a unit for residence by only one (1) family for living and sleeping purposes.

Easement. The granting of one (1) or more property rights by a property owner to and/or for use by the public, or another person or entity.

Erect. Build, construct, alter, reconstruct, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, installation of utilities included.

Essential services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in

connection herewith, but not including buildings, which are necessary for the furnishing of adequate services by such utilities or municipal departments for the general health, safety, or welfare.

Excavation. Any breaking of the ground to hollow out by cutting, digging or removing soil or rock matter, except for common household gardening and general farm care.

Family. One (1) or two (2) persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two (2) persons not so related, living together in the whole or part of the dwelling unit comprising a single housekeeping unit.

Farm market. A place or an area where transactions between a farm market operator and customers takes place. This includes roadside stands. It does not include a physical structure such as a building and is considered part of a farm operation. The products marketed for sale at a farm market must be produced on and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales.

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 production, harvesting, and storage of farm products, and includes, but is not limited to:

- (1) Market 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 operation on the roadway as authorized by the Michigan Vehicle Code, Act No. 300 of the Public Acts of 1949, being MCL 257.1 to 257.923.
- (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 livestock.
- (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 pond. See "pond, farm."

Fence. An accessory structure intended for use as a barrier to property ingress or egress, a screen from an objectionable vista, noise, and/or for decorative use.

Filing date. The date upon which any application and all required supporting documentation pursuant to this chapter is submitted and the required filing fee is paid.

Filling. The permanent depositing or dumping of any matter onto or into the ground, except common household gardening and general farm care.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters.
- (2) The unusual and rapid accumulation of runoff or surface water from any source.

Flood hazard area. Land which, on the basis of available floodplain information, is subject to a one percent (1%) or greater chance of flooding in any given year.

Flood insurance rate map (FIRM). A map of the township prepared by the Federal Emergency Management Agency, which identifies the 100- and 500-year floodplain and other related flood information; and which is used as the official floodplain map for flood insurance purposes.

Flood insurance study. The official report provided by the Federal Emergency Management Agency containing flood profiles, as well as the flood hazard boundary-floodway map and other water surface elevations of the base flood.

Floodplain. That portion of land adjacent to or connected to a water body or water course which is subject to periodic inundation in accordance with the one hundred (100)-year flood cycle as determined by the U.S. Army Corps of Engineers or other applicable federal agency.

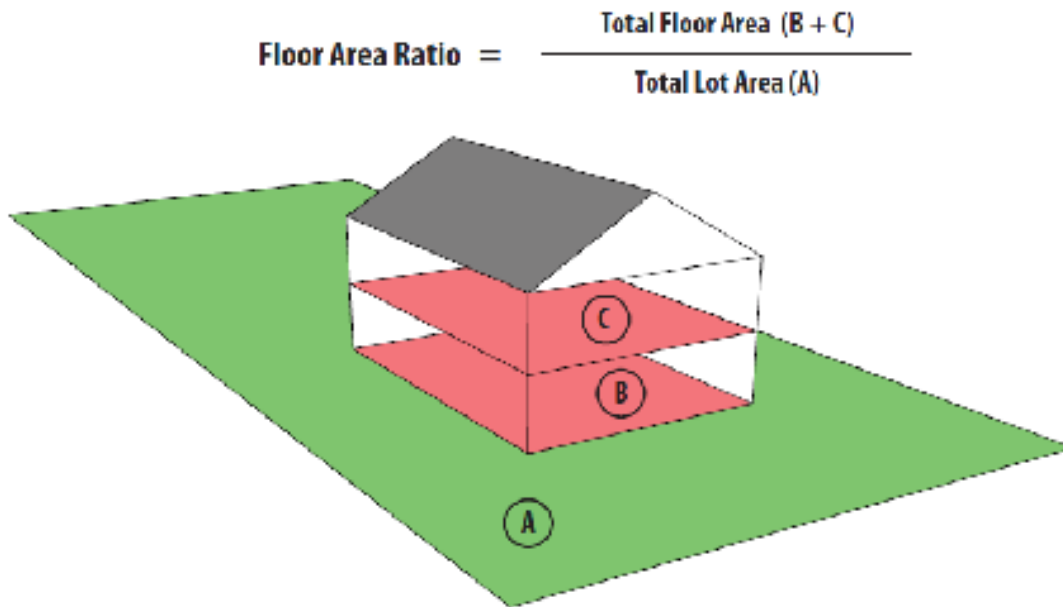
Floodway. The channel of a river or other watercourse and the adjacent land areas designated in the flood insurance study which shall be reserved in order to discharge the base flood. Floodway is also the same as the regulatory floodway.

Floor area. The sum of the gross horizontal areas of each story of the building as measured from the exterior walls; exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

Floor area ratio (FAR). The ratio of the floor area of a building to the area of the lot on which it is located calculated by dividing the floor area by the lot area and expressing it as a percentage. In calculating the floor area, the floor area of accessory buildings shall be included.

FIGURE 18-22 D. FLOOR AREA RATIO

FLOOR AREA RATIO

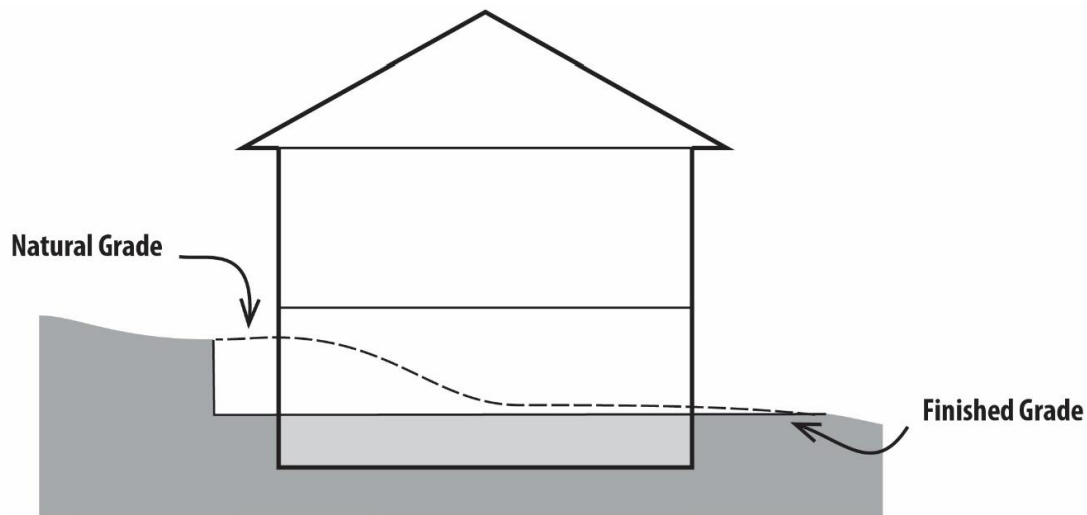


Floor area, usable. For the purposes of computing parking requirements, all ground and non-ground floor area used for, or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of "usable floor area." Useable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

Grade. The degree of rise or descent of a sloping surface.

FIGURE 18-22 E. GRADE

GRADE



Grade, average. The arithmetic average of the lowest and highest-grade elevations in an area within five (5) feet of the foundation line of a building or structure.

Grade, finished. The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

Grade, natural. The elevation of the ground surface in its natural state, before man-made alterations.

Greenbelt. A landscaped area which is intended to provide a transition between a public road right-of-way and an existing or proposed use.

Greenway. A contiguous or linear open space, including habitats, wildlife corridors, and trails, which link parks, nature reserves, cultural features, or historic sites with each other, for recreation and/or conservation purposes.

High water mark. The common, recurrent recorded highest level of a body of water including but not limited to a lake, river, stream or pond.

Home occupation. An occupation carried on by resident members of the family (no outside employees) being clearly incidental and secondary to the principal residential use provided:

- (1) That such home occupation shall be carried on within the dwelling or within a building accessory thereto;

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- (2) That no article shall be sold or offered for sale on the premises, except such as produced within the dwelling or accessory building or is provided incidental to the service or profession conducted within the dwelling or accessory building;
 - (3) That there shall be no exterior storage of materials or equipment;
 - (4) That no nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matter at any time; and
 - (5) That no hazard of fire, explosion, or radioactivity shall exist at any time.

Hospital. A state licensed medical establishment whose facilities provide in-patient accommodation; a wide range of medical and surgical care; and other in-patient health services for sick, ailing or injured persons, rather than a limited scope of services provided for through special purpose hospitals; and including such related facilities as laboratories, out-patient departments, training facilities, central service, and staff offices and residences which are integral with and accessory to the principal use of the establishment.

Impervious surface. Any surface which does not allow water to be absorbed so it may percolate into deeper ground. Such surfaces are those constructed of cement, bituminous asphalt, paving brick, composed stone or gravel, or any other surface that allows no water penetration.

Impervious surface ratio. The percentage covered by all building, pavement, driveways, parking lots, and all other structures (area of all structures, pavement, and parking lots divided by the gross lot area).

Industrial park. A group of two (2) or more lots or parcels devoted to industrial, research, warehousing, or business park uses, developed according to an overall plan for the park, sharing a common public or private street system, and usually identified by a name for the park.

Kennel, commercial. Any building, structure, enclosure, or premises where five (5) or more dogs or cats, six (6) months old or over are kept for commercial purposes, including: for sale, breeding, boarding or rendering of services for profit. For the purposes hereof, five (5) animals or more over six (6) months in age kept and maintained as a hobby kennel or for any other purpose, shall be deemed and considered a commercial kennel.

Kennel, hobby. Any building, structure, enclosure, or other premises where four (4) or fewer dogs or cats, six (6) months in age or older, are kept, harbored or maintained, without remuneration:

- (1) For showing in recognized dog shows, obedience trials, or field trials.
- (2) For working or hunting.
- (3) For improving the variety or breed with a view to exhibition in shows and trials.
- (4) For household pets.

Laboratory. A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.

Landscaping. The following definitions shall apply in the application of this chapter:

- (1) *Berm.* An erection of earthen material appropriately capped and planted to prevent erosion which is acceptable to the township engineer and planning commission.
- (2) *Buffer.* A landscaped area composed of living materials, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.
- (3) *Conflicting non-residential land use.* Any non-residential use, including, but not limited to office, commercial, industrial, research, parking, or public road right-of-way land use which abuts a residential land use.

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- (4) *Conflicting residential land use.* Any residential land use developed at a higher density which abuts a residential land use developed at a lower density.
 - (5) *Opacity.* The state of being impervious to sight.
 - (6) *Plant material.* A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines, and ground cover.
 - (7) *Screen.* A structure providing enclosure, including, but not limited to, a fence, and/or visual barrier between the area enclosed and the adjacent property. A screen may also consist of living materials including but limited to trees and shrubs.

Livestock. Animals including, but not limited to, horses, cattle, sheep, goats, swine, poultry, and rabbits.

Livestock production facility. All facilities where livestock are kept with a capacity of fifty (50) animal units or greater and/or the associated manure facilities. Sites such as loafing areas, confinement areas, or feed-lots which have livestock densities that preclude prominence of desirable forage species are considered part of a livestock production facility. This does not include pastureland.

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

Lodging facility. A facility such as a motel or hotel, which provides living and sleeping accommodations for transient occupancy for a fee. The following additional definitions shall apply:

- (1) *Hotel.* A series of attached, semi-detached, or detached rental units which provide lodging on a temporary basis and are offered to the public for compensation.
- (2) *Motel.* An establishment providing sleeping accommodations for compensation with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Lot. A parcel of land, excluding the portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for lot area, and to provide such yards and other open spaces as herein required. In no case of division or combination shall any lot or parcel created, including residuals, be less than that required by this chapter. Such lots shall have frontage on a public street, or on an approved private road.

Lot area. The total area within the lot lines of a lot, excluding any road right-of-way, a street drive or easement shall not be included in measuring minimum lot area necessary to meet district regulations.

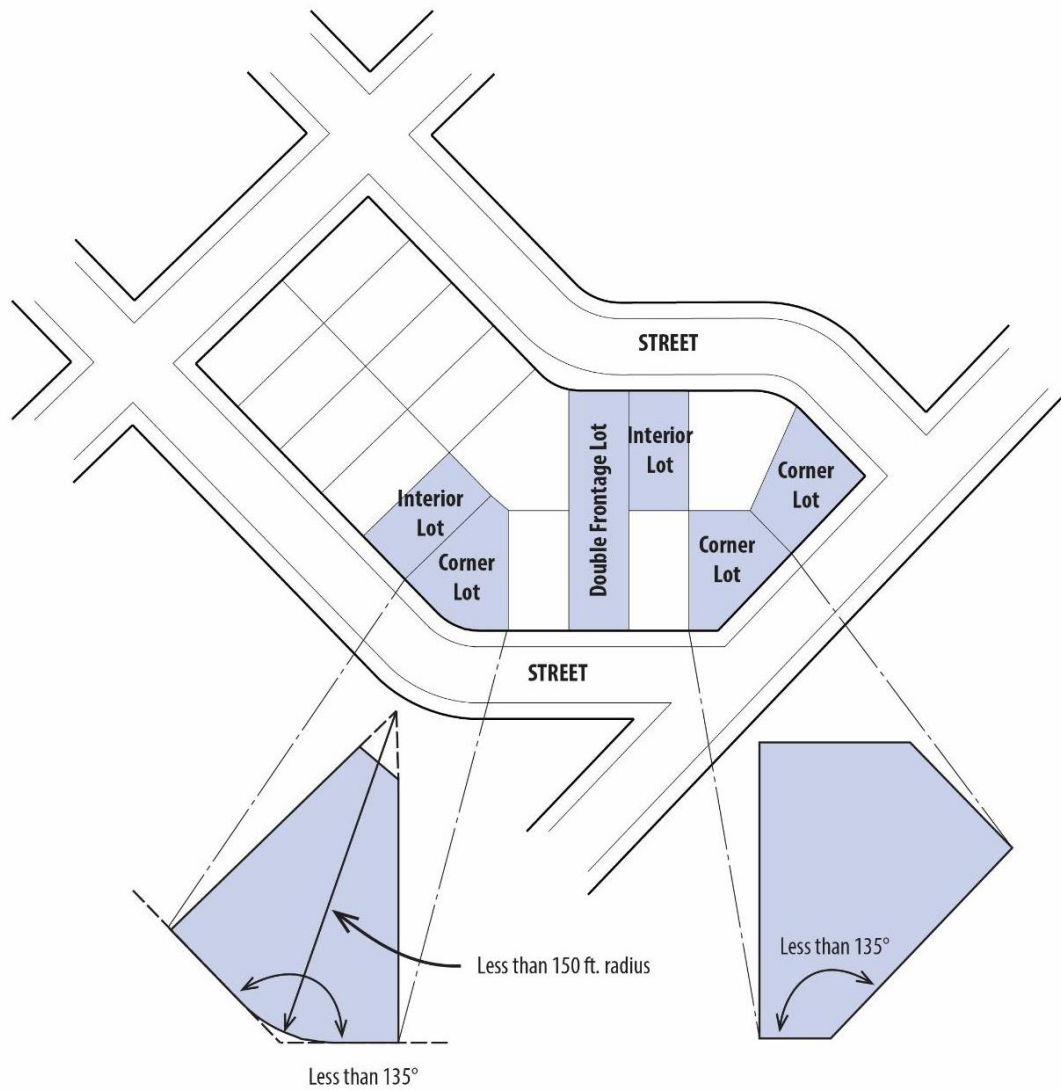
Lot, corner. A lot located at the intersection of two (2) or more streets.

Lot, double frontage (also called through). An interior lot having frontage on two (2) more or less parallel streets. All sides of such lot adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot, interior. Any lot other than a corner lot with only one (1) lot line fronting on a street.

FIGURE 18-22 F. LOT TYPES

LOT TYPES



Lot coverage. The part or percent of the lot occupied by buildings or structures, including accessory buildings.

Lot depth. The horizontal distance between the front street line to the rear lot lines.

FIGURE 18-22 G. LOT DEPTH

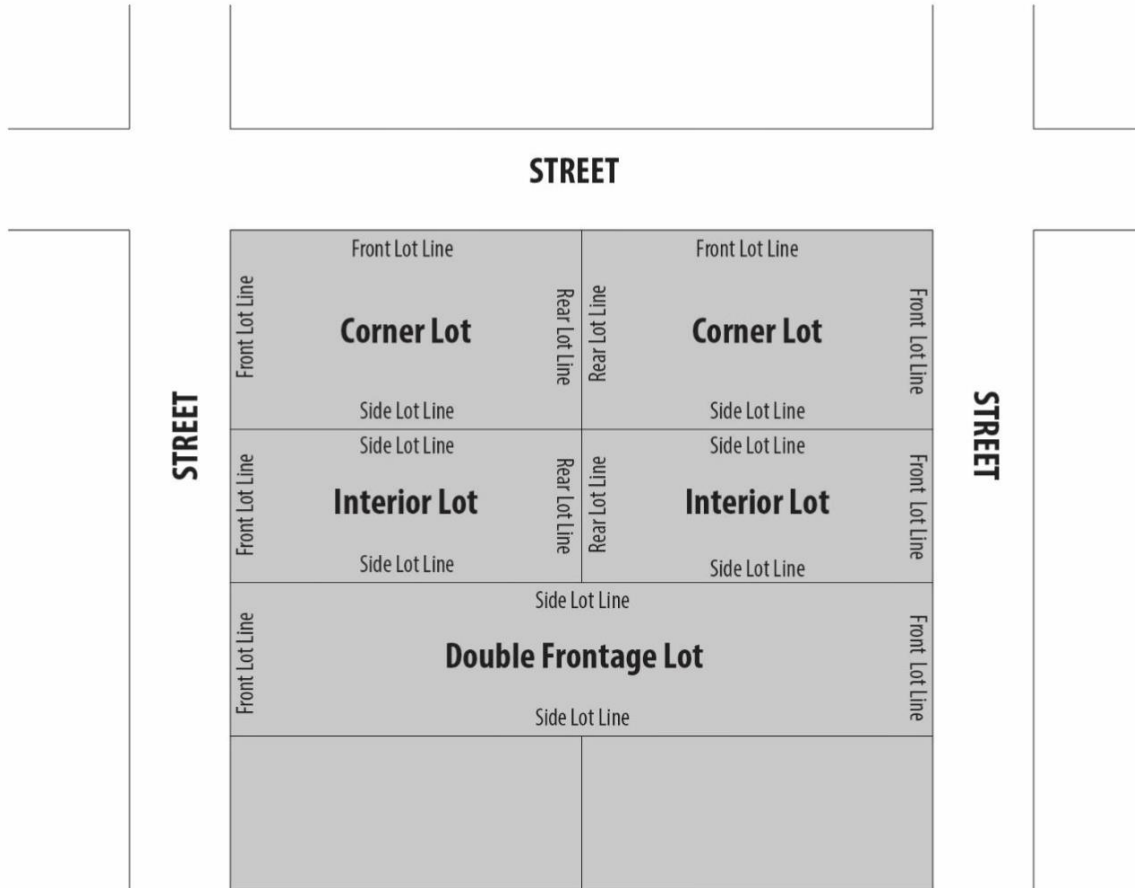


Lot frontage. The length of the front lot line.

Lot lines. The lines bounding a lot or parcel as defined herein:

- (1) *Front lot line.* The line(s) separating the lot from any street right-of-way, private road, or other access easement.
- (2) *Rear lot line.* Ordinarily, the lot line opposite and most distant from the front lot line. In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet within the lot parallel to the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard.
- (3) *Side lot line.* Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from a street is a front lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

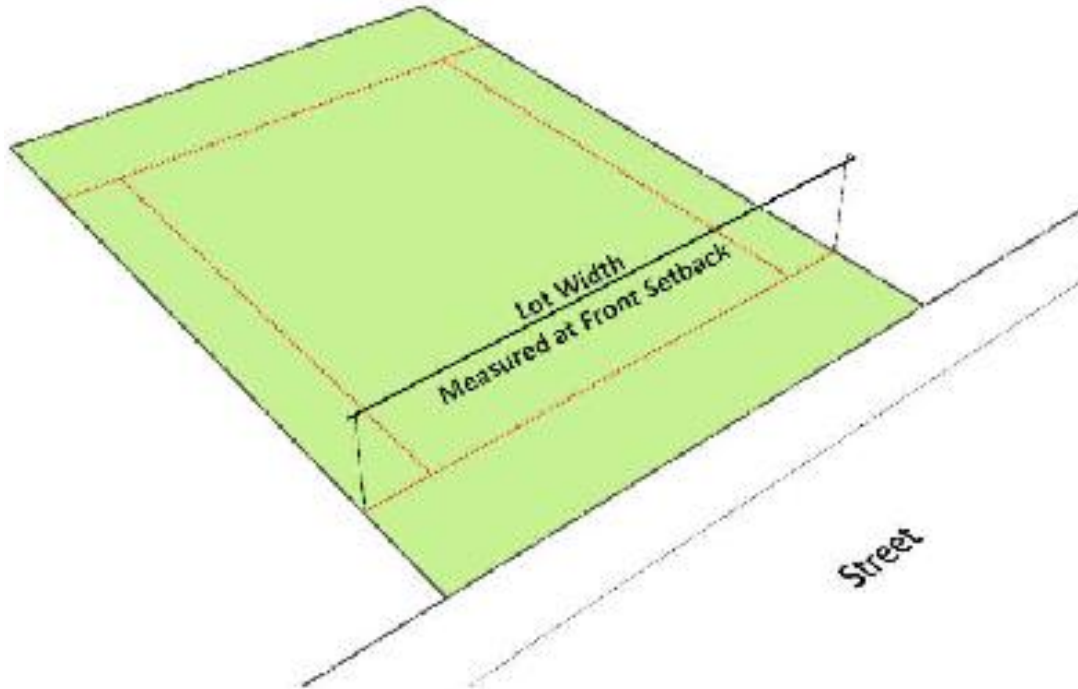
FIGURE 18-22 H. LOT LINES



Lot of record. A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the office of the register of deeds of Monroe County, or a tract of land described by metes and bounds which is subject of a deed or land contract which has been recorded in said office which existed prior to the effective date of the ordinance from which this chapter derives or amendments thereto.

Lot Width. The horizontal, straight line distance between the side lot lines, measured at the required front setback.

FIGURE 18-22 I. LOT WIDTH



Low water mark. The minimum recorded level of water for a body of water including but not limited to a lake, river, stream or pond.

Manufactured home. A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a single-family dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A manufactured home does not include a recreational vehicle.

Manufactured housing community. Any parcel or tract of land under the control of any person or entity, upon which three (3) or more manufactured homes are located on a continual or non-recreational basis, or which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

Manufactured home site. Means a parcel of ground within a manufactured housing community designed for accommodating one (1) manufactured home single dwelling unit and meeting the requirements of this chapter for a manufactured home site.

Manufacturing. The process of making products by hand, by machinery, or by other agency, often with the provision of labor and the use of machinery.

Master plan. A document containing the future development policies and map for Berlin Charter Township, together with supporting documentation, as most recently adopted or amended by the Berlin Charter Township Planning Commission pursuant to the Michigan Planning Enabling Act, 2008 PA 33 (MCL 125.3801 et seq.), as amended.

Medical clinic. Facilities for medical, dental, or psychiatric diagnosis and treatment, exclusive of major surgical procedures, for sick, ailing, and injured persons who are not kept overnight on the premises.

Mezzanine. An intermediate floor in any story occupying not to exceed one-third ($\frac{1}{3}$) of the floor area of such story.

Mixed use development. Development of a tract of land, building, or structure with a variety of complementary and integrated uses as permitted by the applicable zoning district.

Mobile Home Commission Act. Refers to Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.2301 et seq.), and subsequent revisions.

Non-conforming building or structure. A building, structure or portion thereof, lawfully constructed that no longer conforms to the requirements of the district in which it is located.

Non-conforming lot. A lot existing at the effective date of this chapter of record which does not meet the minimum dimensional requirements of the district in which the lot is located.

Non-conforming use. A use, which lawfully existed prior to the effective date of this chapter or amendments thereto, that does not conform to the use regulations of the district in which it is located.

Occupied. The use of any structure, parcel, or property for human endeavor, but not including the preparation of any structure of land for occupancy.

Off-street parking area. A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of three (3) or more automobiles.

Opacity. See "landscaping."

Open air business. Sales and/or display of retail merchandise or services outside of a permanent structure.

Open space. Any parcel or area of land including wetland that is unimproved and set aside, dedicated, designated, or reserved for preservation purposes, and/or public or private use or enjoyment. Such land does not include a golf course or required setbacks for individual parcels, but may include recreational trails, picnic areas, children's play areas, greenways, buffer and greenbelt areas, linear parks. Stormwater detention or retention ponds and facilities meeting low impact design criteria of the Monroe County Drain Commissioner's Office and constructed using native vegetation may be considered as open space. Land may be, but is not required to be, dedicated to the public.

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

Parallel plan. See base density calculation.

Parcel. A piece or tract of land.

Parks. An area reserved for, and designed principally to offer recreation, passive or active, which may be open to the public or privately owned. This area may include, but shall not be limited to, open fields, accessory buildings, walkways, benches, multi-use courts, swimming and wading pools, amphitheaters, etc.

Parking space. One (1) unit of a parking area provided for the parking of one (1) vehicle.

Performance standards. Criteria established to control smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazards, glare or heat, or radiation hazards generated by or inherent in uses of land or buildings.

Permitted use. A use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

Personal service establishment. A business where personal services are provided for profit and where the sale of goods is only accessory to the provisions of such services, including, but not limited to the following: barber shops, beauty shops, tailor shops, laundry or dry cleaning shops, and shoe repair shops.

Photovoltaic device. A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.

Places of assembly. Unless otherwise identified and defined by this chapter, "places of assembly" means any building, structure and/or grounds where groups meet or assemble. Places of assembly shall include, but are not limited to: auditoriums, stadiums, sports, arenas, fine and performing art venues, and other similar facilities.

Places of worship. A structure used for or intended for the regular assembly of persons for the conducting of religious services and accessory uses therewith.

Planned unit development (PUD). A form of land development comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and non-residential uses.

Planning commission. The Berlin Charter Township Planning Commission as created under Public Act 33 of 2008, as amended.

Plant material. See "landscaping."

Plat. A map of a subdivision of land showing location, boundaries, and ownership of individual properties as required by the State of Michigan Land Division Act and the township subdivision control ordinance.

Pond. Any excavation, the altering of a watercourse by damming or excavation, or combination thereof, for the purpose of creating thereby a body of water greater than fifty (50) square feet in area or greater than twenty-four (24) inches in depth, except for detention or retention basins.

Pond, farm. A pond designed to provide water to an established irrigation system with associated pumps, pipes, and sprinklers, including a design (i.e., well or aquifer) for replenishing the pond water pursuant to an established bona fide farm operation as a permitted use in an agricultural district. A farm pond is considered an accessory use to the growing of farm crops and produce or for the watering of livestock.

Pond, landscape. Landscape ponds or water gardens are a type of man-made water feature two hundred (200) square feet or less in area and twenty-four (24) inches deep or less.

Portable storage units. A portable, weather-resistant receptacle designed and used for the temporary storage or shipment of household goods, wares, building materials, or merchandise.

Practical difficulties. See "variance."

Premises. All portions of contiguous land in the same ownership that are not divided by any public highway, street, or alley, and upon which is located a residence or place of business.

Principal building or structure. The main building or structure in which the primary use is conducted.

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

Private road. An area of land which is privately owned and which provides vehicular access, has not been dedicated to public use other than access by emergency and public safety vehicles, is maintained by its private owners, and vehicular access to more than one (1) lot, unless otherwise specified herein.

Public service. Facilities including such uses and services as: voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses including essential services.

Public utility. Any person, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations, to the public: electricity, gas, steam, disposal, communication, telegraph, transportation, water or sanitary sewer facilities.

Recreational vehicle. A vehicle or boat originally designed for living quarters, recreation, or human habitation, and not used as a commercial vehicle, including, but not limited to, the following:

- (1) *Boat.* Any vessel used for water travel. A boat mounted on a trailer shall be considered one (1) vehicle.

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- (2) *Camper trailer.* A vehicle without its own motor power, designed as temporary living quarters for travel, camping, recreation, or vacation use.
 - (3) *Motorhome.* A motor vehicle designed and constructed to provide living quarters for travel, camping, recreational, or vacation uses.
 - (4) *Off-road vehicle.* A vehicle intended primarily for recreational use off road on which state vehicle licenses are required, including dune buggies, go-carts, or snowmobiles.
 - (5) *Racing car or cycle.* A vehicle such as a race car, stock car, or racing cycle that is intended to be used in racing competition.
 - (6) *Vehicle trailer.* A vehicle without its own motor power that is designed to transport another vehicle, such as a boat, motorcycle, or snowmobile for recreation or vacation use and that is eligible to be licensed or registered and insured for highway use. A vehicle trailer with another vehicle mounted on it shall be considered one (1) vehicle.

Restaurant. An establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, sit-down restaurant, or bar/lounge, or combination thereof, as defined below:

- (1) *Restaurant, carry-out.* A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off of the premises.
- (2) *Restaurant, drive-in/drive-through.* A drive-in/drive-through restaurant shall be deemed to be any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside of the main building.
- (3) *Restaurant, fast food.* A fast food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.
- (4) *Restaurant, sit down.* A standard restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line, and is subsequently consumed by the customers at tables within a completely enclosed building.
- (5) *Bar/lounge.* A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

Research and development facilities. A structure or group of structures used primarily for applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation, and test marketing.

Retail, general. Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

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

Roadside stands or markets. A temporary structure which is used seasonally for the sale of produce which is grown on the premises. See farm operation.

Salvage Operation. A place, structure, parcel or use of land where junk, waste, discard, salvage, or similar materials such as metals, wood lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, house wrecking, and structural steel materials and equipment and including establishments for the sale, purchase, or storage of salvaged machinery and the processing of used, discarded, or salvaged materials, for any thirty (30) day period.

School. A building operated and maintained for educational purposes and such other community uses as deemed necessary and desirable. The term "school" shall include all educational functions, the building or structure required to house them, and all accessory uses normally incidental to a school, including, but not restricted to, athletic fields, field houses, gymnasiums, parking lots, greenhouses, playgrounds, stadiums, and open space.

Screening. See "landscaping."

Self-storage facility. A building or group of buildings, each of which consists of several individual storage units, each with a separate door and lock, and which can be leased on an individual basis. Such facilities are typically, but not necessarily, contained within a fenced, controlled access compound.

Senior housing. A building or group of buildings containing dwellings intended to be occupied by older persons as defined by the Fair Housing Act. Senior housing may include independent and/or assisted living arrangement but shall not include convalescent homes or homes for the aged regulated by the state. The following additional definitions shall apply in the application of this chapter:

- (1) *Assisted Living for the Elderly.* Housing that provides twenty-four (24) hour supervision and is designed and operated for elderly people who require some level of support for daily living. Residents may receive support services for daily living based on individual needs. Such support shall include daily personal care, meals, transportation, security, and housekeeping. Individual dwellings may contain kitchen units.
- (2) *Independent living for the elderly.* Housing that is designed and operated for elderly people in good health who desire and are capable of maintaining independent households, and do not require assistance to meet daily needs. Such housing may provide certain services such as meals, linkage to health care, transportation, security, housekeeping, and recreational and social activities. Project sites shall be designed to accommodate an active and mobile resident population. Individual dwellings are designed to promote independent living and shall contain kitchen facilities.

Setback. The distance between front, side or rear lot lines and the principal and accessory buildings, as required herein.

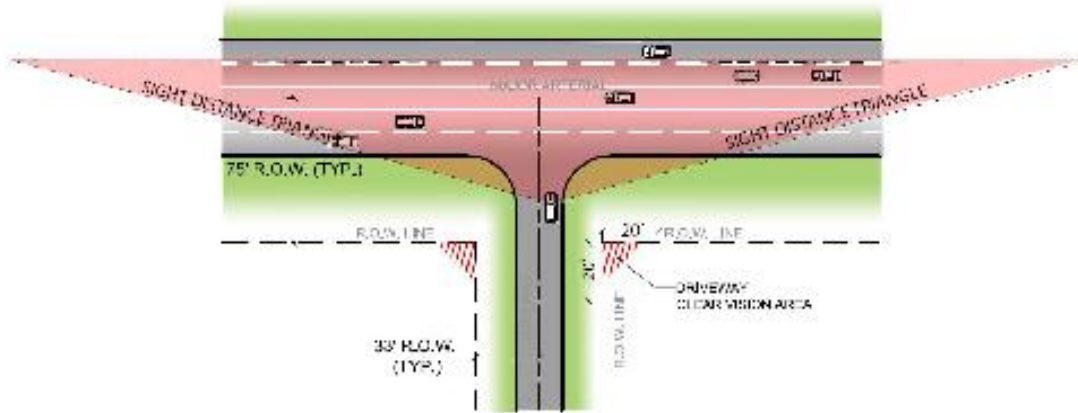
Sign. Any structure or part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, work, model, banner, emblem, insignia, device, code, mark or other representation used as or in the nature of, an announcement, advertisement, direction, or designation, of any person, firm, organizations, place, commodity service, business, profession, or industry, or any backlit building area, which is located upon any land or in or on any building in such a manner as to attract attention from outside the premises.

- (1) *Abandoned sign.* Any sign which no longer advertises or identifies a business, lessor, owner, or activity conducted upon, or product available on, the premises where such sign is displayed for a period of six (6) months.
- (2) *Awning sign.* A sign affixed flat against the surface of an awning or inscribed on an awning.
- (3) *Billboard.* See outdoor advertising sign.
- (4) *Business flag.* A flag displaying a corporate emblem or seal.

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- (5) *Canopy or marquee sign.* Any sign attached to, or constructed within or on, a canopy or marquee.
 - (6) *Changeable message board.* The portion of a sign on which copy is changed manually.
 - (7) *Conforming sign.* Any sign at that is allowed under article XIII.
 - (8) *Drive-through board.* A sign located within ten (10) feet of either side of a drive-through lane.
 - (9) *Electronic message sign (LED).* A sign with a fixed or changing message composed of a series of lights or light-emitting diodes (LED) that may be changed through electronic means.
 - (10) *Flags.* Fabric, canvas or other similar material that is mounted to a pole or a building at one or more edges.
 - (11) *Freestanding sign.* A sign supported by a structure independent of any other structure.
 - (12) *Gas station canopy sign.* A sign located at a gas station attached directly to the elevated canopy that covers pump islands.
 - (13) *Height of sign.* The vertical distance to the top edge of the copy area or structure, whichever is higher, as measured from the adjacent street grade.
 - (14) *Identification sign.* A sign which carries only the name of the firm, the major enterprise, or principal product or service offered for sale on the premises or a combination of these things only to identify location of said premises and not to advertise.
 - (15) *Incidental sign.* A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of operation, no smoking signs, signs used to designate restroom facilities, and barrier-free accessibility.
 - (16) *Non-conforming sign.* Any sign that was lawfully permitted at the time it was erected but is not permitted under current ordinance.
 - (17) *Off-site sign (off-premises sign).* A sign other than an on-site sign.
 - (18) *On-site sign (on-premises sign).* A sign which advertises or identifies only goods, services, facilities, events, or attractions on the premises where located.
 - (19) *Outdoor advertising sign.* A sign, including billboards, on which the written or pictorial information is intended to advertise a use, product, service, goods, event, or facility located on other premises, and which is intended primarily for advertising purposes.
 - (20) *Portable sign.* Any sign not permanently attached to the ground or a building.
 - (21) *Roof sign.* Any sign that extends above the top of the façade or eave line and is exclusively mounted to the roof of the building or is incorporated into the material which attached to a building's roof.
 - (22) *Temporary banner.* A sign of lightweight fabric or similar material that is temporarily mounted or attached to pole or a building.
 - (23) *Temporary event sign.* A temporary or portable sign concerning a special event.
 - (24) *Temporary sign.* A sign that is intended to be displayed for a limited period of time.
 - (25) *Wall sign.* A sign attached to or erected against the wall of the building with the face in a plane parallel to the plane of the building wall.
 - (26) *Window sign.* A sign installed on, or in, a window for the purpose of viewing from outside the premises. This term does not include merchandise located in a window.

Sight distance. The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

FIGURE 18-22 J. SIGHT DISTANCE



Solar array. Any number of photovoltaic devices connected together to provide a single output of electric energy or other energy.

Solar energy collector. A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with the principal land use on the parcel of the land on which the solar energy collector is located and, if permitted, for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.

- (1) *Building-mounted solar energy collector.* A solar energy collector attached to the roof or wall of a building or which serves as the roof, wall, or window or other element, in whole or in part, of a building.
- (2) *Ground-mounted solar energy collector.* A solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located.
- (3) *Commercial solar energy system.* A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by photovoltaic devices or other conversion technology, for the sale, delivery or consumption of the generated energy with a capacity greater than one megawatt (MW).

Special land use. A use of land which is permitted within a particular zoning district only if the applicable standards have been met. A special land use requires that a special land use permit be obtained by the planning commission.

Storage container. A steel enclosure without wheels that is greater than two hundred (200) square feet in area designed for shipment, storage and handling. The container is typically used for the storage of, but not limited to, merchandise, fixtures, building materials, lay-away, and used articles.

Story. That part of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above, the open space between the floor and the ceiling next above it. (See figure 18-22 A, basement and story.)

Street. A public or private thoroughfare which affords the principal means of access to an abutting property.

Structure. Anything constructed, erected, or placed with a permanent location on the ground or affixed to something having a permanent location on the surface of the ground.

Substantial construction. Work of a substantial character done by way of preparing the site for actual use, which includes obtaining all necessary approvals and building permits, and actual physical placement of building materials in their permanent position. Clearing trees, ground, and other preparatory work does not constitute substantial construction.

Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged or is being restored, before the damage occurred. For the purpose of this definition, such term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are necessary solely for the reason of assuring safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Temporary building or use. A use of a structure or premises permitted to exist for a specific and limited time during construction or reconstruction of another building or use or for special events.

Township board. The Charter Township of Berlin Board.

Trade contractor. A building or portions thereof where building and construction trade services are provided to the public. "Trade contractor" shall include, but will not be limited to: contractor offices, including landscaper's showrooms, construction supplies and storage, including: plumbing, heating, air conditioning, and building equipment and materials, and other uses similar in nature and impact.

Truck terminal. A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or resources, are delivered for immediate distribution or to be amalgamated or divided for delivery in larger or smaller units to other points, or for distribution, amalgamation, or division involving transfer to other modes of transportation.

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

Use. The lawful purpose for which land, premises, a structure, or a building thereon is designed, arranged, intended, or for which is occupied, maintained, let, or leased for a use or activity.

Variance. A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in a practical difficulty. Variances are authorized by the zoning board of appeals under the provisions of this chapter and the Michigan Zoning Enabling Act.

Vehicle. Unless specifically stated otherwise, a motorized vehicle intended to be driven on roads or trails, such as cars, pickup trucks, vans, and motorcycles, and other vehicles defined as motor vehicles by the Michigan Vehicle Code.

Vehicle equipment/storage yards. Any operation or business activity in which the principal use of the storage of inoperative, wrecked, unlicensed, and/or repossessed vehicles, abandoned vehicles, and/or vehicles to be sold. Such operation or business shall not include salvage activities.

Vehicle filling/multi-use station. A building or premises used primarily for the dispensing, sale, or offering for sale of fuels directly to users of motor vehicles; together with the sale of minor accessories and services for motor vehicles such as filling tires with air, checking fluid levels, adding water to radiators, and similar activities; as well as selling convenience foods and other such items through a convenience store.

Vehicle repair facility, major. A facility which offers engine overhauling or rebuilding, valve and piston repair, transmission repair, axle and universal joint repair, body repair, painting, refinishing, and exterior detailing.

Vehicle repair facility, minor. A facility which offers oil change, engine tune-ups, electrical systems, suspension systems, brakes, exhaust systems, cooling systems, and heating and air conditioning systems repair, rust-proofing, tire replacement, wheel balancing and alignment and diagnostic services.

Vehicle wash. A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means or detailing of interior.

Warehouse. A building or structure used principally for the storage of goods and merchandise.

Wind energy conversion system (WECS). Any device such as a turbine, windmill, or charger that converts wind energy to a usable form of energy.

- (1) *On-site wind energy conversion system.* A WECS which is used only by the primary residence or residences in a cooperative effort, business or agricultural operation and not sold or transferred to the electrical grid for commercial profit.
- (2) *Commercial wind energy conversion system.* Any WECS that is designed and built to provide electricity to the electric utility's power grid as an on-going commercial enterprise or for commercial profit.

Wireless communications facilities. All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone exchanges, microwave relay facilities, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities; short wave receiving facilities; amateur (ham) radio facilities; satellite dishes; and, governmental facilities for which state or federal law or regulations preempt municipal regulatory authority. For purposes of this chapter, the following additional terms are defined:

- (1) *Attached wireless communications facilities.* Any wireless communication facility affixed to an existing structure, including, but not limited to a building, tower, water tank, utility pole, or other feature utilized to receive and transmit federally or state licensed communication services via duly licensed segments of the radio frequency spectrum. The definition shall not include support structures.
- (2) *Colocation.* The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.
- (3) *Wireless communication support structures.* Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles, and guyed towers, or other structures which appear to be something other than a mere support structure.

Yard. The open spaces on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter, and as defined herein:

- (1) *Yard, front.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation or building wall of the main building, whichever is closest. There shall be maintained a front yard on each street side of a corner lot or through lot.
- (2) *Yard, rear.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the foundation or building wall of the main building, whichever is closest. In the case of a corner lot, there shall only be one (1) rear yard which shall be determined by the zoning official.

- (3) *Yard, side.* An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point to the side lot line to the nearest point of the foundation or building wall of the main building, whichever is closest.

FIGURE 18-22 K. YARDS, CORNER LOT LAYOUT

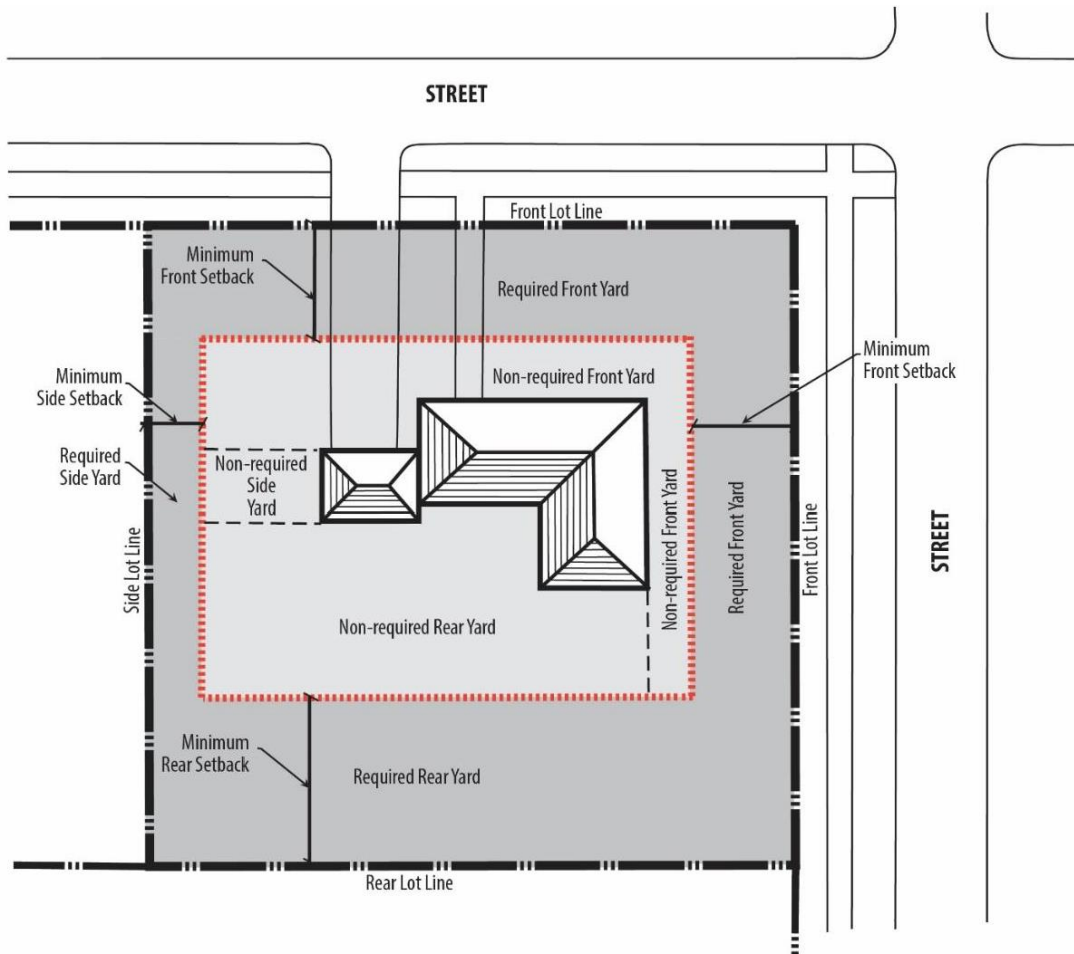
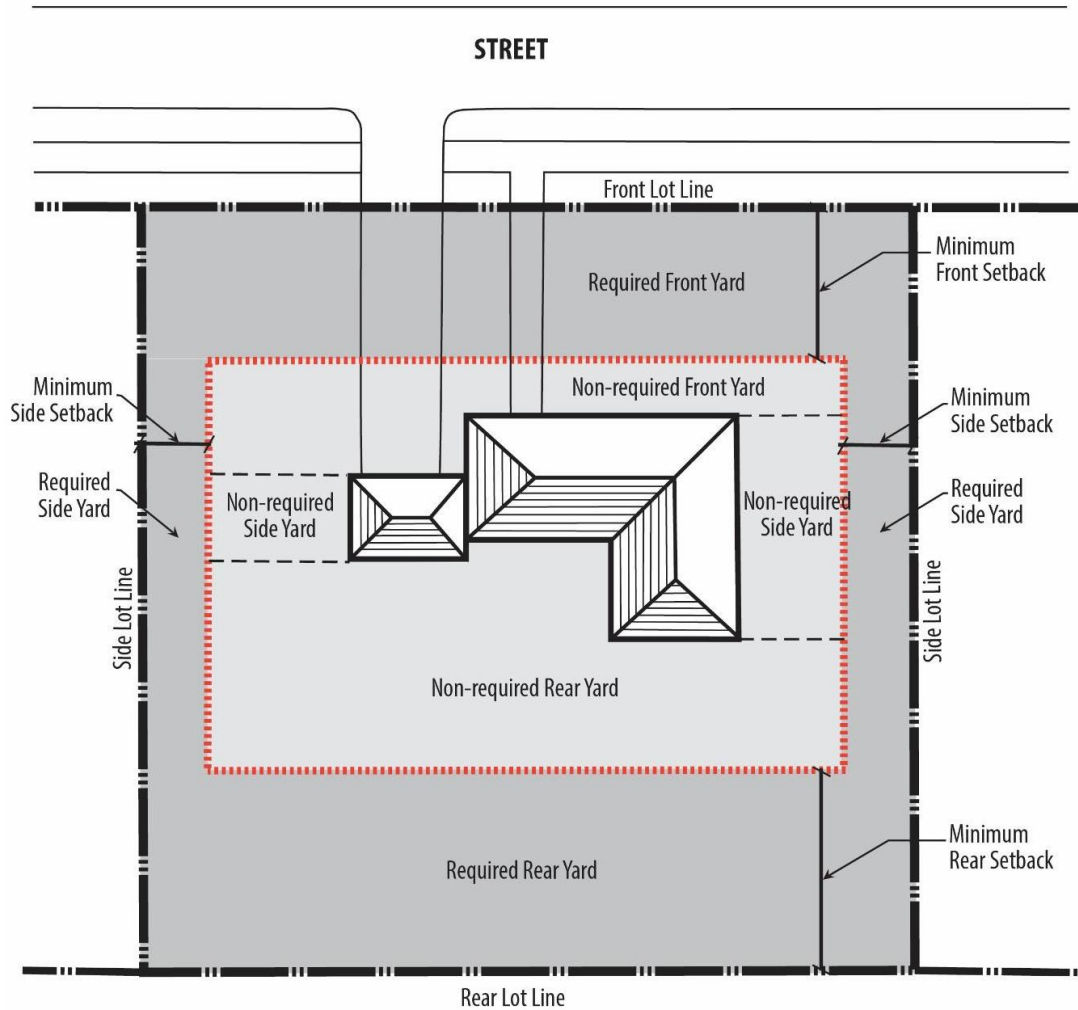


FIGURE 18-22 L. YARDS, INTERIOR LOT LAYOUT



Zoning board of appeals. The Zoning Board of Appeals of Berlin Charter Township.

Zoning district. An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and height regulations.

Zoning Enabling Act. The Michigan Zoning Enabling Act, Act 110 of the Public Acts of Michigan of 2006, as amended.

(Ord. No. 01-20, § 18.22, 2-10-20)

Sec. 18-23. Undefined terms.

Any term not defined herein shall have the meaning of common or standard use.

(Ord. No. 01-20, § 18.23, 2-10-20)

Secs. 18-24—18-30. Reserved.

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Sec. 18-31. Purpose.

It is the purpose of this article to provide the procedures for the administration of the chapter, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of this chapter and amendments thereto.

(Ord. No. 01-20, § 18.31, 2-10-20)

Sec. 18-32. Zoning official/building official.

The zoning ordinance shall be administered and enforced by the zoning official who shall be appointed by the township board. The township board shall also appoint a building official who shall be authorized to review and approve building permits and certificates of occupancy. The terms "building official" and "zoning official" shall not be interchangeable for the purposes of this chapter. However, the township board may appoint a single person or multiple people to fill both roles.

(Ord. No. 01-20, § 18.32, 2-10-20)

Sec. 18-33. Duties.

- (a) *Zoning official.* The zoning official, or authorized designees, shall have the following duties and powers:
- (1) Interpret, administer, and enforce all provisions of this chapter and shall issue all necessary notices or orders to ensure compliance with said provisions, except as otherwise provided elsewhere in this chapter.
 - (2) Review for completeness all applications for site plan review and special land uses which the planning commission is required to decide under this chapter and refer such applications to the planning commission for determination.
 - (3) Review for completeness all applications for appeals, variances, or other matters which the zoning board of appeals is required to decide under this chapter and refer such applications to the zoning board of appeals for determination.
 - (4) Review for completeness all applications for amendments to this chapter and refer such applications to the planning commission and township board for determination.
 - (5) Receive applications for and issue certificates of zoning compliance in accordance with this chapter and shall authorize issuance of certificates of occupancy by the building official as required herein.
 - (6) Make periodic site inspections to determine chapter compliance, and answer complaints on zoning ordinance violations. The zoning official may engage other expert opinion to assist in making such inspections, subject to approval of the township board.
 - (7) Identify and process violations of this chapter. The zoning official shall be responsible for making inspections of the township, or parts thereof, for the purpose of identifying violations of this chapter.
 - (8) Keep official records of applications received, certificates issued, fees collected, reports of inspections, and notices and orders issued.

Under no circumstances is the zoning official permitted to grant exceptions to the meaning of any clause, order, or regulation contained in this chapter to any person making application to excavate, construct, move, alter, or use any building, structure or land within the township.

- (b) *Building official.* The building official, or authorized designees, shall have the following duties and powers:

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- (1) Review for completeness all applications for building permits.
 - (2) Monitor and inspect projects in accordance with the building code adopted by Berlin Charter Township.
 - (3) Make periodic site inspections to determine compliance with building code.
 - (4) Maintain communication and coordination with the township supervisor, township board, applicable commissions, other agencies, and the public.
 - (5) Prepare written reports and recommendations; communicates related information orally or in writing to the township supervisor.
 - (6) Coordinate department activities with other township departments, Monroe County, state agencies, and other entities as required.

(Ord. No. 01-20, § 18.33, 2-10-20)

Sec. 18-34. Building permits.

- (a) *Permits required.* It shall be unlawful for any person to commence excavation, construct any building or structure, incorporate structural changes, or structural repairs in any existing building, without first applying for and obtaining a building permit from the building official. No permit shall be issued for construction, alteration, or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this article showing that the construction proposed is in compliance with the provisions of this chapter, with the building codes, and with other applicable ordinances.

"Alteration" or "repair" of an existing building or structure shall include any changes in structural members, stairways, basic construction type, kind of class occupancy, light or ventilation, means of egress or ingress, or any other changes affected or regulated by the building codes, the housing law of the state, or this chapter, except for minor repairs or changes not involving any structural, mechanical, or electrical modifications.

- (b) *Permits for new use of land.* A building permit shall be obtained for the new use of land, whether the land is presently vacant or a change in land use is proposed.
- (c) *Permits for new use of buildings or structures.* A building permit shall be obtained for any change in use of an existing building or structure to a different class or type.
- (d) *Accessory buildings.* Accessory buildings, when erected at the same time as the principal building on a lot and shown on the application thereof, shall not require a separate building permit.
- (e) *Documents Required.* Prior to the issuance of a building permit, the applicant shall present the following documents, where applicable, to the building official:
 - (1) *Plan requirements.* An application for a building permit shall be accompanied either by a plot plan as required in this section, or by a site plan as required under article VI, site plan review, whichever applies. If a site plan is not required under article VI, a plot plan shall be submitted, with the following information:
 - a. Scale, date and north point directional arrow.
 - b. Location map showing major intersections, and dimensioned diagram of the parcel.
 - c. The dimensioned location, outline, and dimensions of all existing and proposed buildings or other structures, and the location and extent of all uses not involving structures, including all setbacks and lot coverage area.

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- d. A clear description of existing and intended uses of the lot and of all such structures upon it, including documentation of any legal non-conforming uses and structures. In residential areas, the number of dwelling units the building is intended to accommodate.
 - e. Additional information as required by the building official for the purposes of determining compliance with the provisions of this article.
- (2) Permits for an on-site wastewater treatment system and/or water supply system issued under the provisions of the county sanitary code by the county health department (soil analysis is part of the above permit process).
- (3) A culvert permit issued by the county road commission.
- (f) *Permits not to be issued.* No building permit shall be issued for the erection, alteration, or use of any building or structure, and/or premises, or both, or part thereof, which is not in accordance with all provisions of this chapter and other ordinances except in those cases where variances have been granted by the zoning board of appeals.
- (g) *Effectiveness.* All building permits, when issued, shall be valid for a period of one (1) year, but may be extended for a period of not to exceed one (1) year, if the building official and/or zoning official find good cause for failure to complete work for which such permit was issued; provided that the exterior of any such structure must be completed within one (1) year from the date of the original issuance of a building permit. Should the holder of a building permit fail to complete the work for which said permit was issued within the time limit as set forth above, any unfinished structure is hereby declared a nuisance, per se, and the same may be abated by appropriate action before the circuit court of the county.

(Ord. No. 01-20, § 18.34, 2-10-20)

Sec. 18-35. Certificate of occupancy.

It shall be unlawful to use or permit the use of any building, structure, and/or premises, or both, or part thereof, created, erected, changed, converted, or enlarged until a certificate of occupancy has been issued by the building official. The following shall apply in the issuance of any certificate:

- (a) *Certificate of occupancy for new use of land.* A certificate of occupancy shall be obtained for the new use of land, whether the land is presently vacant or a change in land use is proposed.
- (b) *Certificate of occupancy for new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained.
- (c) *Certificate of occupancy not to be issued.* No certificate of occupancy shall be issued for any building, structure, and/or premises, or both, or part thereof, which is not in accordance with all the provisions of this chapter.
- (d) *Certificate of occupancy required.* No building or structure, or parts thereof, which is erected or altered, shall be occupied, or used, unless and until a certificate of occupancy has been issued for such building or structure.
- (e) *Certificate of occupancy including zoning.* Certificates of occupancy as required by the township building codes for new buildings, structures, or premises, or both, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of zoning compliance.
- (f) *Certificate of occupancy for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, and/or their premises, or both, if, after inspections, it is found

that such buildings, structures, or parts thereof, and/or such use of premises, are in conformity with the provisions of this chapter.

- (g) *Records of certificates of occupancy.* A record of all certificates of occupancy issued shall be kept on file in the office of the building official, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (h) *Certificates of occupancy for accessory buildings to dwellings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot or site plan when completed at the same time as such dwelling.
- (i) *Application for certificate of occupancy.* Application for certificates of occupancy shall be made in writing to the building official on forms furnished by the township. Certificates of occupancy shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, and/or premises, or both, or part thereof, is in accordance with the provisions of this chapter. If such certificate of occupancy is refused for cause, the building official shall promptly notify the applicant of such refusal and cause thereof.
- (j) *Temporary certificates of occupancy.* Certificates of occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that such certificate of temporary occupancy shall not remain in force for more than six (6) months, nor more than five (5) days after the building or structure is fully completed and ready for occupancy and provided further that such portions of the building or structure are in conformity with the provisions of this chapter.

(Ord. No. 01-20, § 18.35, 2-10-20)

Sec. 18-36. Final inspection.

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure or part thereof, shall notify the building official immediately upon the completion of the work authorized by such permit, for final inspection.

(Ord. No. 01-20, § 18.36, 2-10-20)

Sec. 18-37. Fees.

The township board shall establish a schedule of fees by resolution from time to time for administering this chapter. The schedule of fees shall be on public display in the office and may be changed only by the township board. No certificate or permit shall be issued unless required fees have been paid in full.

(Ord. No. 01-20, § 18.37, 2-10-20)

Sec. 18-38. Notice.

Except as otherwise provided in this chapter, notices of hearings regarding zoning amendments, special land uses, and matters before the zoning board of appeals shall be provided as required by the Zoning Enabling Act, as amended, as follows:

- (a) *Newspaper notice.* A notice shall be published in a newspaper of general circulation in the township not less than fifteen (15) days before the hearing date.

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- (b) *Notice requirements.* At least fifteen (15) days before the hearing, notices shall be mailed or hand-delivered to the following:
- (1) The applicant and the owner(s) of the property, if the applicant is not the owner.
 - (2) All persons to whom real property is assessed within three hundred (300) feet of the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the township.
 - (3) The occupants of any structures within three hundred (300) feet of the boundary for the property for which approval has been requested, regardless of whether the owner and property is located within the township except as set forth in section 18-38(b)(4).
 - (4) Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 - (5) Notice under this section is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service, or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- (c) *Exemptions.* Requirements for individual notice, as set forth in section 18-38(b) do not apply to the following:
- (1) Chapter text amendments.
 - (2) Any group of adjacent properties numbering eleven (11) or more that is proposed for rezoning.
- (d) *Content of notice.* The notice shall do all of the following:
- (1) Describe the nature of the request.
 - (2) Identify the property that is the subject of the request. The notice shall include a listing of all existing street addresses and/or parcel identification numbers within the property(ies). If there are no street addresses, other means of identification (including illustrations) may be used.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 01-20, § 18.38, 2-10-20)

Sec. 18-39. Performance guarantees.

- (a) *Purpose and intent.* In the interest of ensuring compliance with the zoning ordinance provisions; 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 may require the applicant to deposit a performance guarantee for any or all site improvements required by this chapter. The purpose of the performance guarantee is to ensure completion of improvement connected with the proposed use as required by this chapter, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, walls, screens, and landscaping.

A performance guarantee shall be in conformance with the requirements of section 18-39(b). The township may employ the township engineer and/or other township staff/consultants to review cost estimates and conduct periodic inspections of the progress of improvements.

(b) *Procedure.*

- (1) When a performance guarantee is required, said performance guarantee shall be deposited with the township prior to the issuance of a building permit for the development and use of the land. Upon the deposit of the performance guarantee, in the form of a cash deposit, certified check, or surety bond, the township shall issue the appropriate building permit.
- (2) At the time of the performance guarantee is deposited with the township and prior to the issuance of a building permit, the applicant shall enter into an agreement with the township incorporating the performance guarantee provisions.
- (3) The agreement 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 will begin from the date of issuance of the building or other permit.
- (4) In the event the performance guarantee deposited is a cash deposit or a certified check, the township shall rebate to the applicant, upon request from the applicant, fifty percent (50%) of the deposited funds when the applicant has completed seventy-five percent (75%) of the required improvements as confirmed by the township. The remaining fifty percent (50%) of the deposited funds shall be returned when the applicant has completed one hundred percent (100%) of the required improvements and compliance with the chapter is confirmed by the township.
- (5) 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, and any interest earned thereon, to complete the improvements through contract or otherwise, specifically the right to enter upon the subject property to make the improvements.
- (6) If the performance guarantee is not sufficient to allow the township to complete the improvements for which such guarantee was posted, the applicant shall be required to pay the township the amount necessary to complete the improvement. Any amounts remaining after said completion shall be applied first to the township's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

(c) *Guarantees with other agencies.* If the applicant has been required to post a performance guarantee or bond with another agency to ensure completion of an improvement associated with the site, the applicant shall not be required to deposit with the township a performance guarantee for that same improvement.

(Ord. No. 01-20, § 18.39, 2-10-20)

Sec. 18-40. Violations and penalties.

- (a) *Violations.* A violation of this chapter shall be a municipal civil infraction and shall be subject to the penalties established under the municipal civil infraction ordinance of Berlin Charter Township. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter nor prevent the township from seeking injunctive relief or any other remedy available under the law.
- (b) *Compliance required.* The imposition of any fine or jail sentence, or both, shall not exempt the violator from compliance with the provisions of this chapter.

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- (c) *Public nuisance per se.* Any structure which is erected, altered or converted, or any use of any structure or lot which is commenced or changed after the effective date of this chapter, in violation of any of the provisions herein is hereby declared to be a public nuisance, per se, and may be abated by order of any court of competent jurisdiction.

(Ord. No. 01-20, § 18.40, 2-10-20)

Secs. 18-41—18-50. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

Sec. 18-51. Establishment of districts.

Berlin Charter Township is hereby divided into districts having the following name and symbols:

RC	Recreation Conservation District
AG	Agricultural District
R-1	Single-Family Rural Non-Farm Residential District
R-2	Single-Family Suburban Residential District
RM	Multiple-Family Residential District
MH	Manufactured Housing Community
C	Commercial District
MU	Mixed Use District
WM	Waterfront Marina District
I	Industrial District

(Ord. No. 01-20, § 18.51, 2-10-20)

Sec. 18-52. Official zoning map.

- (a) *Official Zoning Map of Berlin Charter Township.* The zoning districts are bounded and defined as shown on a map entitled "Official Zoning Map of Berlin Charter Township" and said map, with all explanatory matter thereon, is hereby made a part of this chapter.
- (b) *Signature and seal.* The official zoning map shall be identified by the signature of the township supervisor, attested by the township clerk and bear the seal of the township under the following words: "This is to certify that this is the official zoning map referred to in the Berlin Charter Township Zoning Ordinance" together with the effective date of this chapter.
- (c) *Changes due to the Zoning Enabling Act.* If, in accordance with the procedures of this chapter and the Michigan Zoning Enabling Act, as amended, a change is made in a zoning district boundary, such change shall be entered on the official zoning map by the township zoning official promptly after the ordinance authorizing such change shall have been adopted and published. A date shall be affixed to the official zoning map noting revisions to the map. No change in the official zoning map of any other nature shall be made unless authorized by the zoning board of appeals, and then only by the township's zoning official. Any change in corporate boundaries within the township shall be recorded on the official zoning map in conformity with procedures set forth herein.

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- (d) *Damaged, destroyed, lost, or difficult to interpret.* In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made thereto, the township board may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such corrections shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall be identified by the signature of the township supervisor, attested by the township clerk, and bear the seal of the township under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Berlin Charter Township, adopted on February 10, 2020 which replaces and supersedes the Official Zoning Map which as adopted on November 14, 1988."

Unless the prior official zoning map has been lost or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

- (e) *Location.* Regardless of the existence of reported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the township's zoning official and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building, or structure in the township.

(Ord. No. 01-20, § 18.52, 2-10-20)

Sec. 18-53. Rules for interpretation of official zoning map.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules for interpretation shall govern:

- (a) *Centerline.* A boundary indicated as approximately following the centerline of a highway, street, alley, or easement shall be construed as following such centerline.
- (b) *Recorded lot line.* A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
- (c) *Corporate boundary.* A boundary indicated as approximately following the municipal boundary line of a city, village, or township shall be construed as following such line.
- (d) *Railroad.* A boundary indicated as following a railroad line shall be construed as following the right-of-way line.
- (e) *Shoreline.* A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of a change in a shoreline, shall be construed as following the actual shoreline.
- (f) *Body of water.* A boundary indicated as following the centerline of a stream, river, canal, lake, or other body of water shall be construed as following such centerline.
- (g) *Parallel or extension.* A boundary indicated as parallel to, or an extension of, a feature indicated in this section shall be so construed.
- (h) *Inconsistent.* Where a natural or manmade feature existing on the ground is inconsistent with that shown on the official zoning map, or in any other circumstances not covered by this section, the zoning board of appeals shall interpret the location of the zoning district boundary.
- (i) *Distance.* A distance not specifically indicated on the official zoning map shall be determined by the scale of the map to the nearest foot.
- (j) *Division through a lot.* Where a district boundary line divides a lot which is in single ownership at the time of adoption of the zoning ordinance the regulations for the more restrictive district shall apply for the entire lot or parcel.

(Ord. No. 01-20, § 18.53, 2-10-20)

Sec. 18-54. Application of regulations.

No structure shall be constructed, erected, placed or maintained and no use shall be commenced or continued within Berlin Charter Township except as specifically, or by necessary implication, authorized by this chapter, in the zoning district in which said structure or use is to be located. Special land uses shall be allowed only if listed as a special use specifically, or by necessary implication, in the zoning district in which the use is to be located, and only after a special land use has been approved. Where a lot is devoted to a principal use, either permitted by right or as a special land use, accessory uses and structures are authorized except as prohibited specifically or by necessary implication, provided such use or structure meets the definition of accessory use, building, or structure in this chapter.

(Ord. No. 01-20, § 18.54, 2-10-20)

Sec. 18-55. Scope of provisions.

- (a) *Effective date.* Where a building permit for a building or structure, use of a building or structure, or use of a lot or parcel, has been issued in accordance with the law prior to effective date of this chapter and provided that construction is begun within three hundred sixty-five (365) days of such effective date and diligently pursued to completion, and said building or structure, use of building or structure, or use of lot or parcel, may be completed in accordance with the approved plans on the basis of which the building permit has been used, and may, upon completion, be occupied by the use for which originally designated, subject thereafter to the provisions of article XV, non-conformities.
- (b) *Minimum requirements.* No yard or lot existing at the time of adoption of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. No. 01-20, § 18.55, 2-10-20)

Sec. 18-56. RC Recreation conservation district.

- (a) *Intent.* The recreation conservation district is intended to create, preserve, and enhance parkland, open space, and undeveloped natural amenities to meet the active and passive recreation needs of township residents, encourage and protect the conservation of undeveloped areas, promote recreation uses that are compatible with surrounding land uses, and prevent the encroachment of incompatible land uses on undeveloped areas. This district is designed to protect and enhance the natural resources, natural amenities, natural habitats of wildlife, and protect public recreation areas.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses allowed in the RC district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the RC district:

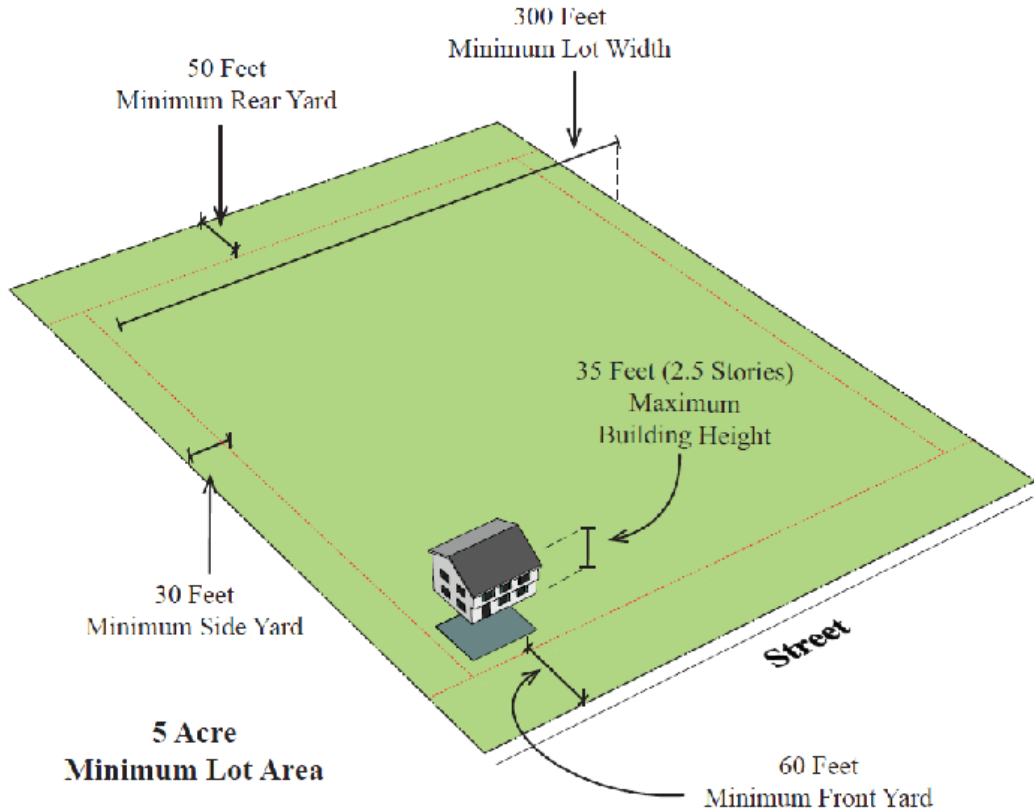
Minimum Lot Area & Width	Maximum Lot Coverage	Minimum Yards & Setbacks	Maximum Building Height
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(Supp. No. 19)

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Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
5	300	N/A	10%	60	30	50	35	2.5

Figure 18-56-C. RC Recreation Conservation District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-56(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Where livestock is raised or kept, no structure, or storage of hay, feed, or manure, shall be located less than fifty (50) feet from a property line.

(Ord. No. 01-20, § 18.56, 2-10-20)

Sec. 18-57. AG Agricultural district.

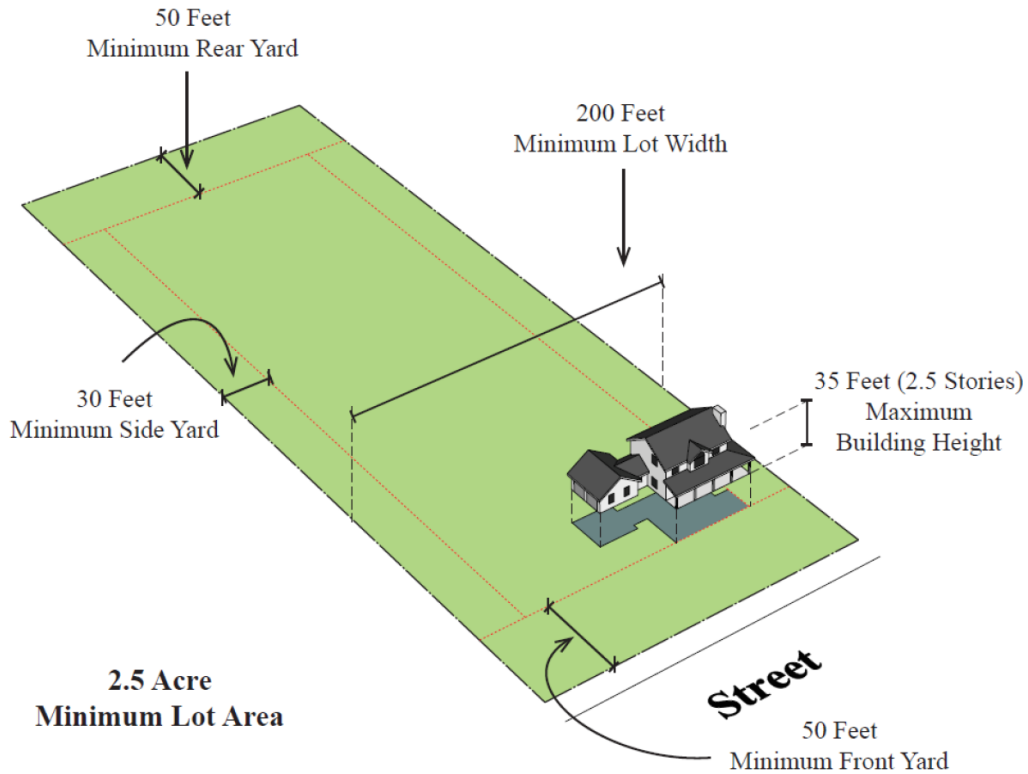
- (a) *Intent.* The agricultural district is intended to protect and preserve agricultural land uses, maintain rural character, minimize population density, and minimize the burden on public facilities and services. It is also the intent of this district to allow only low-density residential use which promotes open space preservation

and is compatible with and maintains existing agricultural operations. Accordingly, the AG district allows both agricultural uses and single-family dwellings.

- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses allowed in the AG district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the AG district:

Table 18-57-C. AG Agricultural District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
2.5	200	N/A	10%	50	30	50	35	2.5

Figure 18-57-C. AG Agricultural District Dimensional Requirements



- (d) *Supplemental district standards.*
 - (1) In addition to those bulk regulations listed in section 18-57(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.

- (2) Where livestock are raised or kept, no structure, or storage of hay, feed, or manure, shall be located less than fifty (50) feet from a property line.

(Ord. No. 01-20, § 18.57, 2-10-20)

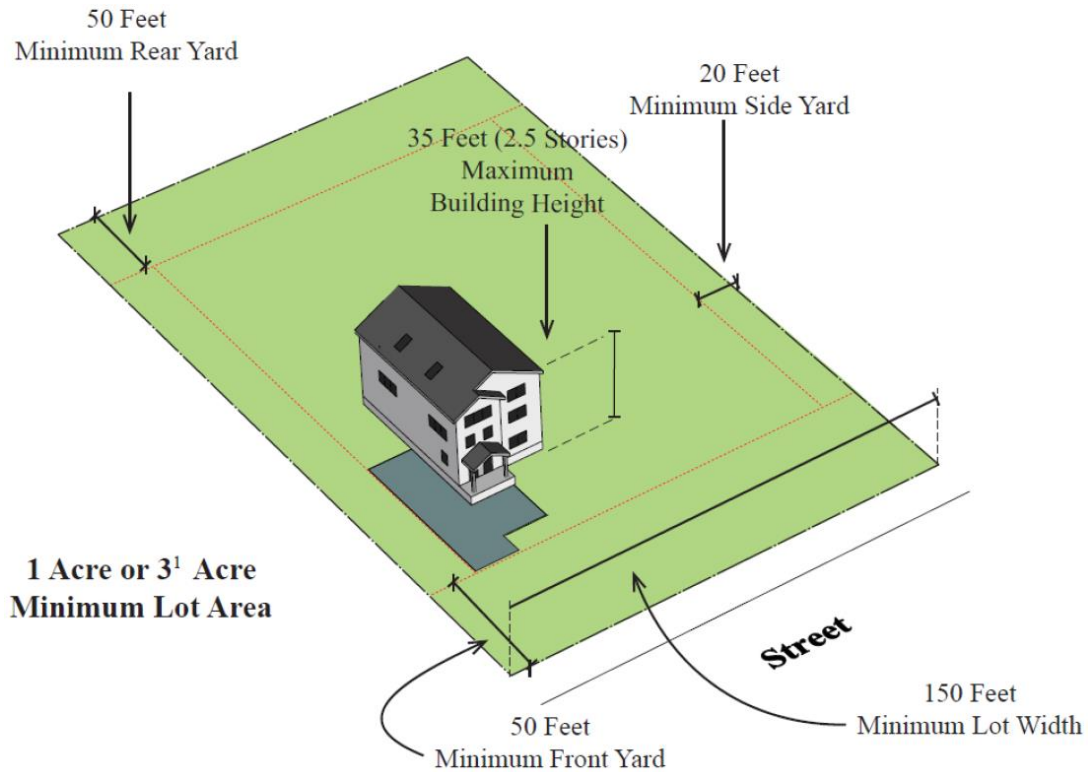
Sec. 18-58. R-1 Single family rural non-farm residential district.

- (a) *Intent.* The R-1 single family rural non-farm residential district is intended to accommodate low-density residential development and designed to preserve a predominantly rural character. In addition to the dwellings permitted in this zoning district, certain recreational, institutional, and public uses which have been strictly regulated to make them compatible with the principal use of this district are permitted. These lots are intended to be served by well and septic facilities, in areas where public water and sanitary sewer is not available.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses allowed in the R-1 district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the R-1 district:

Table 18-58-C. R-1 Single Family Rural Non-Farm Residential District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
1 or 3 ¹	150	20%	25%	50	20	50	35	2.5

¹ Minimum lot area of 1 acre for single family use and 3 acres for other principal uses.

Figure 18-58-C. R-1 Single-Family Rural Non-Farm Residential District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-58(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.

(Ord. No. 01-20, § 18.58, 2-10-20)

Sec. 18-59. R-2 Single family suburban residential district.

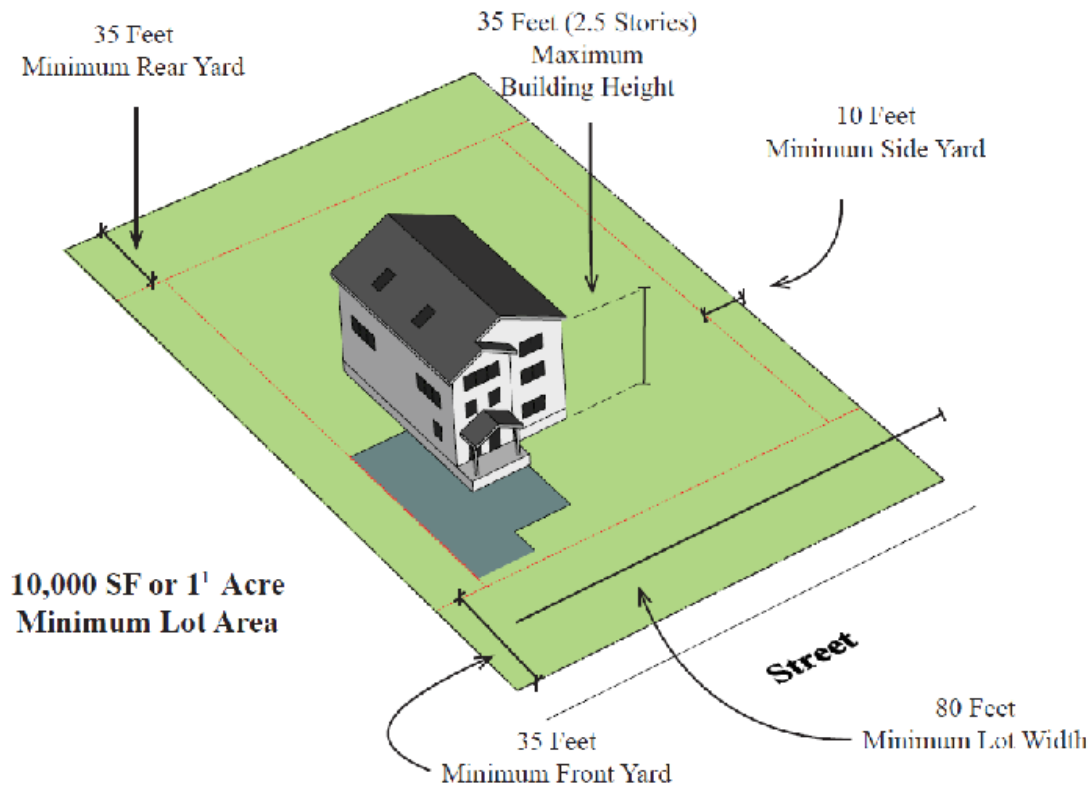
- (a) *Intent.* R-2 single-family suburban residential district is intended for moderate density areas that consist primarily of detached single-family units. The regulations of this district are designed to create predominantly suburban character in those areas which are served by public water supply and sanitary sewage systems. In addition to the dwelling permitted in this zoning district, certain civic and public land uses such as municipal buildings, schools, places of worship, and parks which have been strictly regulated to make them compatible with the principal use of this district are permitted.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses allowed in the R-2 district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the R-2 district:

Table 18-59-C. R-2 Single Family Suburban Residential District Dimensional Requirements			
Minimum Lot Area & Width	Maximum Lot Coverage	Minimum Yards & Setbacks	Maximum Building Height

Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
7,200 SF or 1 acre ¹	60	30%	40%	35	10	35	35	2.5

¹ Minimum lot area of 10,000 square feet for single-family use and 1 acre for other principal uses.

Figure 18-59-C. R-2 Single-Family Suburban Residential District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-59(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.

(Ord. No. 01-20, § 18.59, 2-10-20)

Sec. 18-60. RM Multiple-family residential district.

- (a) *Intent.* This district is intended for multiple-family units including attached and apartment-style dwelling units including townhouses, duplexes, row houses, terrace and garden-style apartments, and condominiums. This district is intended for locations that have substantial infrastructure including public utilities and should be in close proximity to mixed-use areas or local commercial areas that provide retail, personal service,

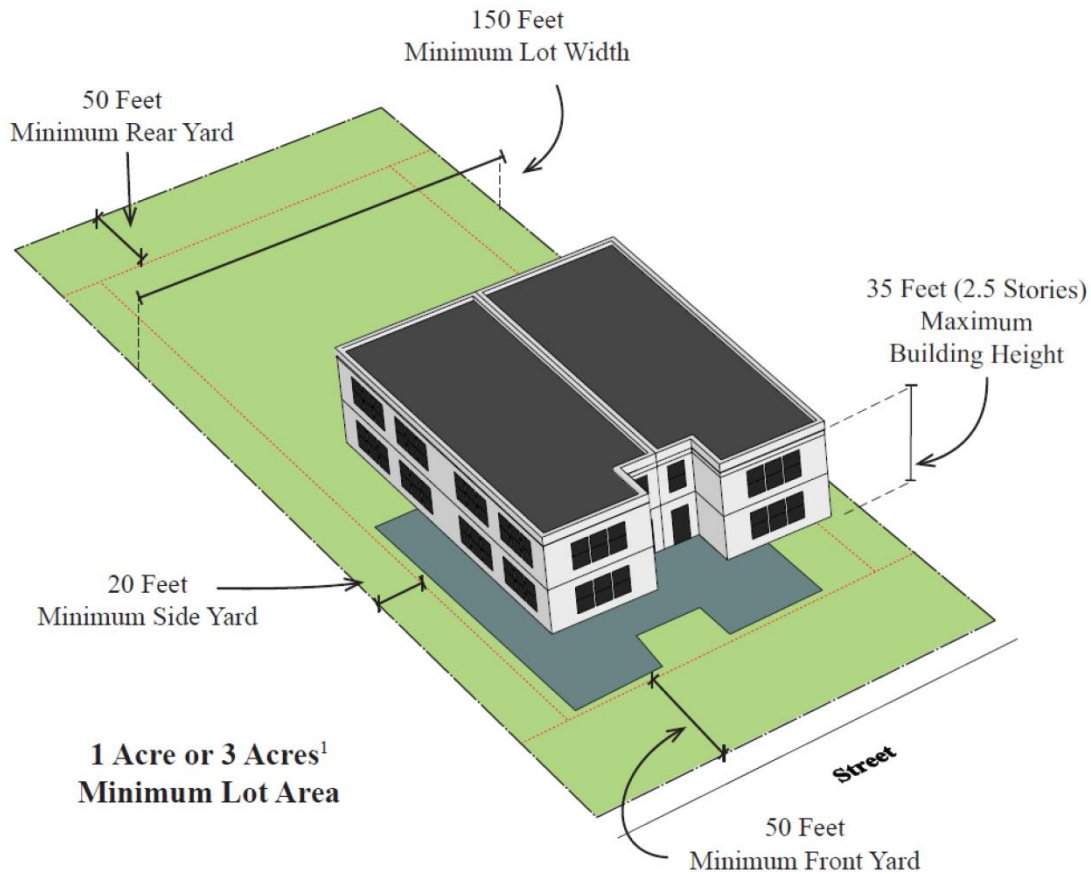
entertainment, and employment opportunities. In addition to the dwellings permitted in this zoning district, certain recreational, institutional, and public uses which have been strictly regulated to make them compatible with the principal uses of this district are permitted.

- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses allowed in the RM district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the RM district:

Table 18-60-C. RM Multiple-Family Residential District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
1 acre or 3 acres ¹	150	20%	25%	50	20	50	35	2.5

¹ Minimum lot area of 1 acre for single-family use and 3 acres for other principal uses.

Figure 18-60-C. RM Multiple-Family Residential District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-60(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Site plan review is required in accordance with article VI.
- (3) Accessory buildings and structures shall be regulated in accordance with the requirements of section 18-204.

(Ord. No. 01-20, § 18.60, 2-10-20)

Sec. 18-61. MH Manufactured housing district.

- (a) *Intent.* The purpose of this district is to provide for the development of manufactured housing developments (mobile home parks) and to promote manufactured housing communities with the character of residential neighborhoods. It is the intent of this chapter that manufactured housing communities be located in areas which are served adequately by essential public facilities and services such as access streets, police and fire protection, and public water, sanitary sewer, and storm drainage facilities.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses within the MH district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to the MH district:

Minimum Lot Area	Total Lot Area Required	20 acres
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(d) *Supplemental district regulations.*

(1) Refer to section 18-164.

(Ord. No. 01-20, § 18.61, 2-10-20)

Sec. 18-62. C Commercial district.

(a) *Intent.* It is the intent of the C commercial district to allow commercial enterprises which provide convenient shopping and services addressing daily needs, as well as, serving the community-wide needs. The regulations are designed to provide compatibility with surrounding land uses and ensure the provision of adequate infrastructure.

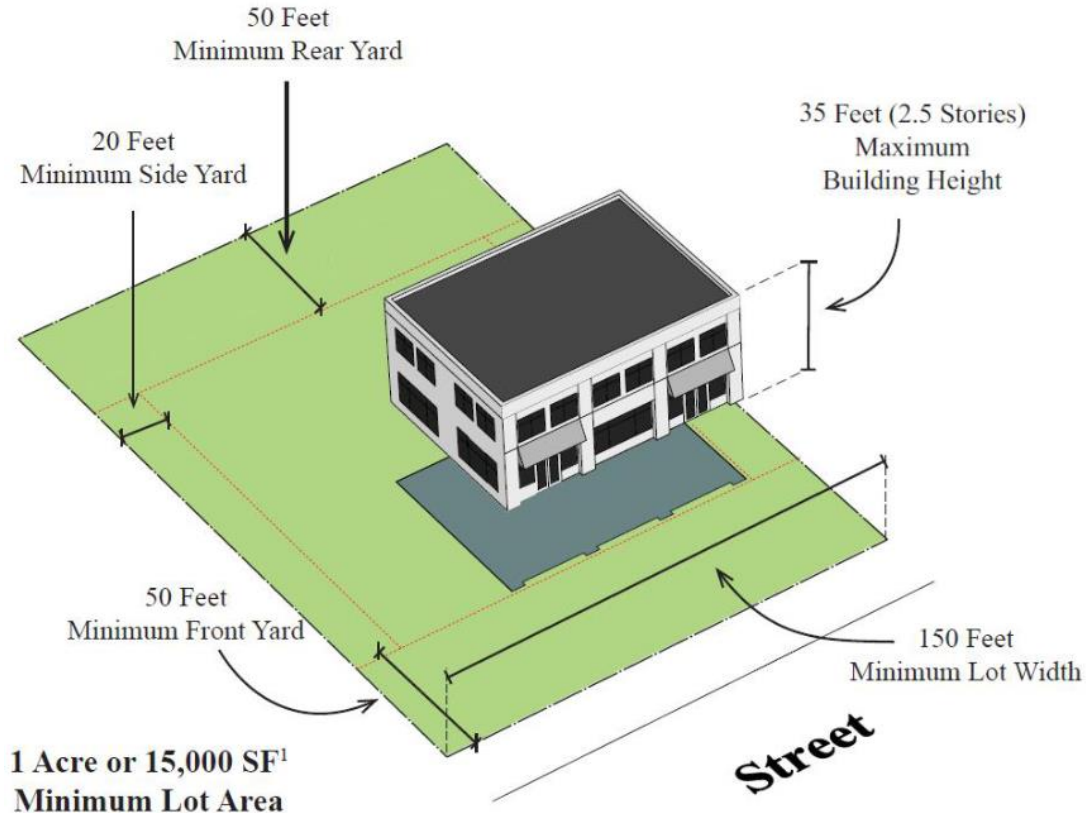
(b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses within the C district.

(c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the C district:

Table 18-62-C. C Commercial District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
15,000 SF ¹ or 1 acre	150	30%	n/a	50	20	50	35	2.5

¹ Minimum lot area of 15,000 square feet where municipal water and sanitary sewer facilities are available and 1 acre for all other sites.

Figure 18-62-C. C Commercial District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-62(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Minimum interior side yards may not be required when two (2) or more buildings are part of a local shopping center or other combined development of local retail and/or service facilities. Side yard requirements shall apply to the perimeter of such developments.
- (3) Site plan review is required in accordance with article VI.
- (4) Accessory buildings and structures shall be regulated in accordance with the requirements of section 18-204.

(Ord. No. 01-20, § 18.62, 2-10-20)

Sec. 18-63. MU Mixed-use district.

- (a) *Intent.* It is the intent of the MU mixed use district to promote development of the township's existing unincorporated village areas with a density and combination of land uses (both residential and non-residential) similar to that found in a traditional village settlement. Such districts are intended to be established as close as reasonably possible to the intended core of such village areas, with access to municipal water and sanitary sewer facilities.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses within the MU district.

(c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the MU district:

Table 18-63-C. MU Mixed Use District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
9,000 SF	60	50%	n/a	15	7.5	35	35	2.5

Figure 18-63-C. MU Mixed Use District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-63(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Site plan review is required in accordance with article VI.
- (3) Accessory buildings and structures shall be regulated in accordance with the requirements of section 18-204.

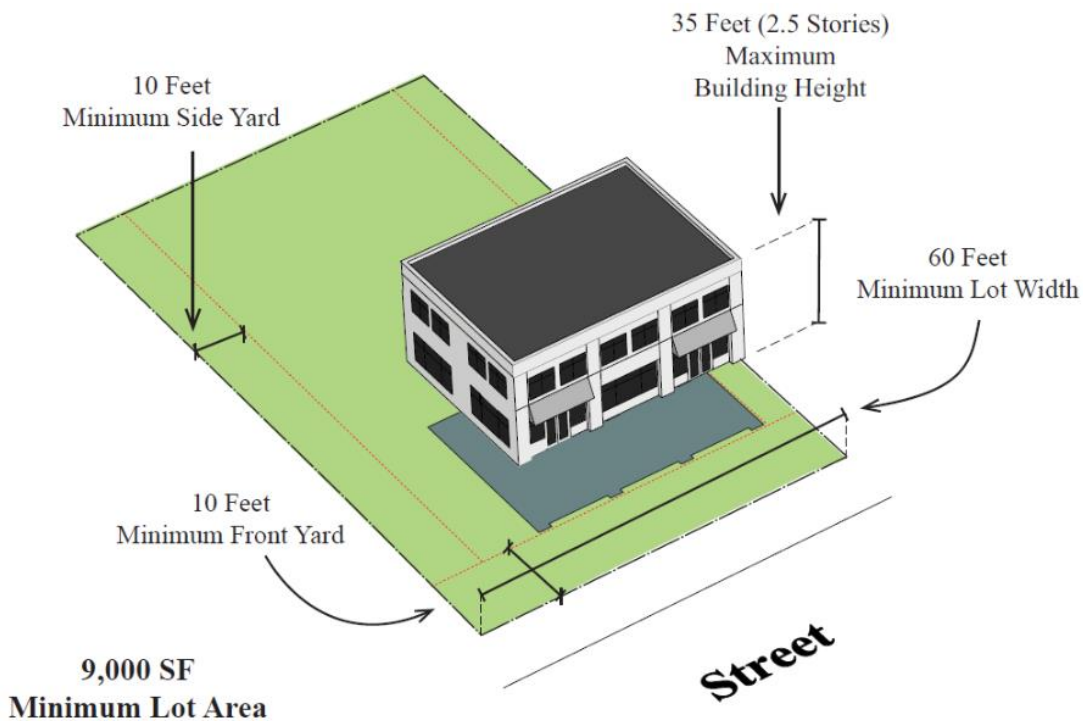
(Ord. No. 01-20, § 18.63, 2-10-20)

Sec. 18-64. WM Waterfront marina district.

- (a) *Intent.* It is the intent of the WM waterfront marina district is to provide areas along Lake Erie, Huron River, and Swan Creek specifically for those uses and services which are marine-oriented and for related recreational, entertainment, and retail establishments.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses within the WM district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the WM district:

Table 18-64-C. WM Waterfront Marina District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
9,000 SF	60	50%	n/a	10	10	n/a	35	2.5

Figure 18-64-C. WM Waterfront Marina District Dimensional Requirements



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(Supp. No. 19)

(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-64(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Site plan review is required in accordance with article VI.
- (3) Accessory buildings and structures shall be regulated in accordance with the requirements of section 18-204.

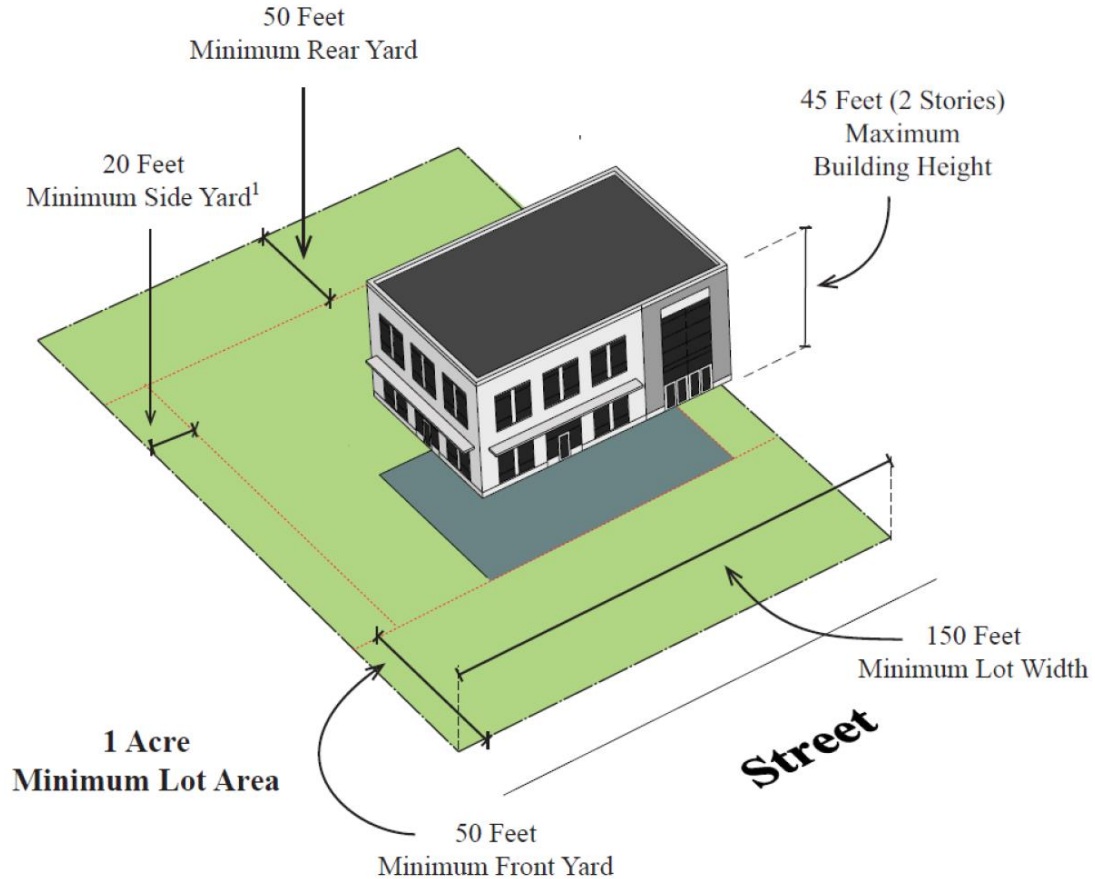
(Ord. No. 01-20, § 18.64, 2-10-20)

Sec. 18-65. I Industrial district.

- (a) *Intent.* It is the intent of the I industrial district to provide areas suitable for a variety of warehousing, industrial, and manufacturing uses. The regulations for this district are designed to result in industrial areas which will be compatible with one another as well as adjacent land uses.
- (b) *Use regulations.* Section 18-68 sets forth permitted, accessory, and special land uses within the I district.
- (c) *Dimensional requirements.* The following dimensional requirements shall apply to development within the I district:

Table 18-65-C. I Industrial District Dimensional Requirements								
Minimum Lot Area & Width		Maximum Lot Coverage		Minimum Yards & Setbacks			Maximum Building Height	
Area in Acres	Width in Feet	Gross	Impervious Surface Ratio	Front Yard in Feet	Each Side Yard in Feet	Rear Yard in Feet	in Feet	in Stories
1 acre	150	30%	60%	50	20	50	45	2

Figure 18-65-C. I Industrial District Dimensional Requirements



(d) *Supplemental district standards.*

- (1) In addition to those bulk regulations listed in section 18-65(c), all development shall conform to supplemental bulk regulations as listed in section 18-67.
- (2) Site plan review is required in accordance with article VI.
- (3) Accessory buildings and structures shall be regulated in accordance with the requirements of section 18-204.
- (4) All goods or materials stored outside which are visible from a public road shall be screened by a fully-opaque fence or wall a minimum of six (6) feet in height.

(Ord. No. 01-20, § 18.65, 2-10-20)

Sec. 18-66. Planned unit development districts.

For intent, location, standards, and submittal requirements for PUD planned unit development district refer to article V.

(Ord. No. 01-20, § 18.66, 2-10-20)

Sec. 18-67. Supplemental dimensional regulations applicable to all districts.

- (a) *Continued conformity with bulk regulations.* The maintenance of setback, height, floor area ratio, coverage, open space, manufactured home site, buffer areas, lot area and lot area per dwelling unit required for one (1) use, lot, building, or structure shall be a continuing obligation of the owner of such building, structure, or lot on which such use, building or structure exists. No setback, height, floor area ratio, coverage, open space, manufactured home site, buffer areas, lot area, and lot area per dwelling unit allocated to, or required, or in connection with one (1) lot, use, building or structure may be allocated to any other lot, use, building, or structure.
- (b) *Division of a lot or parcel.* No one (1) lot or parcel, once designated and improved with a building or structure, shall be reduced in area, or divided into two (2) or more lots, and no portion of one (1) lot, once designated and improved with a building or structure, shall be sold unless each lot resulting from each such reduction, division, or sale, and designated and improved with a building or structure, will conform with all of the bulk and yard regulations of the zoning district in which it is located.
- (c) *Setbacks and yard requirements.* The setback and yard requirements established by this chapter shall apply to every lot, building, or structure, except for the following structures, so long as they are located as specified below:
 - (1) Unroofed masonry or concrete terraces and patios at the same level as the adjacent grade and may not be located closer than three (3) feet from a side or rear property line.
 - (2) Unroofed porches and decks may not occupy a required front setback, nor be located closer than three (3) feet from a side or rear property line.
- (d) *Height.* The height requirements established by this chapter shall apply to every building and structure with the following exceptions provided their location shall conform to the requirements of Berlin Charter Township, the Federal Communications Commission, the Federal Aviation Administration, and other public authorities having jurisdiction:
 - (1) Public utility towers, structures, transmission and distribution lines and related structures; radio and television broadcasting and receiving antennae; and water towers where the aforementioned structures are permitted in the district therein located or are a special land use in said district subject to the provisions of article VII.
 - (2) Spires, belfries, and silos provided that the overall height does not exceed one hundred fifty percent (150%) of the maximum permitted building height in the district therein located.
 - (3) Chimneys, ventilators, skylights, and other necessary mechanical appurtenances provided that no mechanical enclosure or penthouse shall exceed twelve (12) feet in height above the roof deck.
 - (4) Parapets not exceeding three (3) feet in height above the roof deck.
- (e) *Lot area/width.* Buildings and structures designed to house essential services shall not be required to meet the requirements of this chapter regarding lot area or width provided, however, that such a building or structure shall meet all other regulations for the district in which it is located.
- (f) *Dwelling unit minimum floor area.* The minimum floor area of any single-family dwelling shall be no less than nine hundred fifty (950) square feet. Where a single-family home is constructed without a basement, an additional one hundred (100) square feet shall be added to the minimum required first floor area requirement to provide space for utilities, such as, but not limited to, furnace, hot water, laundry tubs, incinerator and the like.
- (g) *Mixed use district standards.* Development within the mixed use (MU) district shall conform to the following:

(1) *Residential density.*

- a. The maximum permitted density of multiple-family dwellings in the MU district shall be based on the total number of bedrooms. The maximum number of bedrooms permitted shall be equal to the area of the subject parcel dedicated to multiple-family use (in square feet) divided by one thousand eight hundred (1,800). For the purposes of this calculation, efficiency units shall be considered to have one (1) bedroom.
- b. Land area to be shared between multiple-family dwellings and other uses (e.g., apartments over storefronts), shall be permitted one-half (0.5) the number of bedrooms described above under item a.
- c. Detached single-family dwellings shall occupy individual lots meeting the minimum lot size for the MU district.

(2) *Parking.*

- a. Parking shall not be permitted in a required front yard.
- b. Parking areas shall be screened from view from the road through the use of a masonry screen wall at least forty-two (42) inches in height, or a continuous evergreen landscape screen of at least six (6) feet in height.
- c. Parking areas shall be setback at least ten (10) feet from all property that is zoned or used for single-family residential purposes.
- d. Shared or collective parking arrangements, in conformance with section 18-246(b)(7) are encouraged.

(3) *Building design and orientation.*

- a. The maximum linear length of an uninterrupted building façade facing public streets shall be thirty (30) feet. Façade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses), cornices, varying building materials, or pilasters shall be used to break up the mass of a single building.
- b. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than fifty percent (50%) of their horizontal length. Real windows allowing daylight in the building are encouraged.
- c. *Roofs.*
 - i. *Flat roofs.* Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view are required.
 - ii. *Pitched roofs.*
 - 1. Overhanging eaves on pitched roofs shall be a minimum of twelve (12)-inches including gutter, with a minimum one (1)-inch rake.
 - 2. An average slope greater than 4:12 is required.
 - iii. *Building materials and colors.* Predominant exterior building materials shall be high quality materials, including, but not limited to: brick, stone, architectural steel, glass, stone, fiber cement, and split-faced block. Vinyl or aluminum siding shall only be used for accents. Exterior insulation finishing systems (E.I.F.S.) or similar material is not permitted as a primary building material.

iv. Façade colors and systems shall be reviewed and approved by the planning commission as part of final site plan review.

(4) *Road/pedestrian orientation.* Buildings in the MU district shall have at least one (1) entrance facing the road upon which said building fronts. Said entrance shall be connected by a concrete sidewalk of at least five (5) feet in width to any sidewalks located within the adjacent road rights-of-way.

(Ord. No. 01-20, § 18.67, 2-10-20)

Sec. 18-68. District use table.

- (a) *Specified uses.* In all districts, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses, unless otherwise provided in this article.
- (b) *Schedule of uses.* The schedule of use regulations identifies uses as follows:
 - (1) "P" indicates uses permitted as of right.
 - (2) "S" indicates uses requiring special land use approval as outlined in article VII.
 - (3) No marking identifies uses not permitted in that particular zoning district.

District Use Table												
Use Category	Districts										Specific Use Standard (Chapter Section)	
	Agricultural / Recreation Conservation		Residential				Office / Commercial / Industrial					
	RC	AG	R-1	R-2	RM	MH	C	MU	WM	I		
Agricultural												
Agricultural processing and food storage		P										18-145
Agricultural commercial/tourism		S										18-146
Community supported agriculture		P										18-153
Equestrian facilities	P	P										
Farm operations	P	P										
Tree nurseries	P	P										
Residential												
Accessory dwelling units		S	S	S								18-142
Bed and breakfast		S	S	S	S							18-147
Dwellings, multiple-family					P			S				
Dwellings, multiple-family (on upper floors only in a mixed-use building)								P				
Dwellings, one-family detached	P	P	P	P				P				
Dwellings, one-family attached				P	P			S				
Dwellings, two-family			S	S	P			S				
Home occupations	S	S	S	S		S						18-213
Housing for seasonal agricultural workers	S	S										18-160

Manufactured housing communities						P					18-164
Senior assisted living					P						18-172
Senior independent living					P						18-172
Recreation											
Conservation area/game refuge/forest preserve	P	P									
Country clubs, including accessory uses and buildings including club house, swimming pool, and sale of food.	S	S	S	S							18-155
Golf courses	S	S	S	S							18-158
Golf driving range		S									18-158
Noncommercial parks, and recreational facilities	P	S	S	S							
Commercial recreational facility							S	S	S	S	18-152
Commercial marinas, boat launching facilities, and similar water related uses									P		18-151
Playground	P	P	P	P	P	P					
Public and private campground	S										18-149
Gun clubs, firing and archery ranges		S					S			S	18-159
Institutional / Cultural											
Adult day care center					S		S				
Adult day care home	P	P	P	P	P						
Adult foster care, congregate facility					S		S				18-143
Adult foster care, family home	P	P	P	P	P						18-143
Adult foster care, large group home	S	S	S	S	S						18-143
Adult foster care, small group home	P	P	P	P	P						
Convalescent centers/congregate care					S		S				18-154
Cemeteries	S	S	S	S	S						18-150
Day care center/Preschools			S	S	S		P				
Family day care homes	P	P	P	P	P						
Group day care homes	S	S	S	S	S						
Essential services	P	P	P	P	P	P	P	P	P	P	
Hospitals							S			S	18-161
Places of worship		S	S	S	S		S	S		S	18-167
Post-secondary schools (technical, colleges, business schools)							P			P	18-168
Primary/secondary schools		P	P	P							18-169
Solar energy collectors	See specific use section										18-173

Wind energy conversion system	See specific use section									18-179
Retail, Entertainment, and Service										
Adult use business									S	18-144
Bar/lounge						S	S	S		
Building materials, garden centers, nurseries and similar uses						S			S	18-148
Business service and repair						P	P			
Commercial kennels/pet day care/animal shelter		S				S			S	18-217
Conference, meeting and banquet facilities						P	P	P		
Dance, martial arts, music, and art studios						P	P			
Drive-up/drive-through facilities						S	S	S		18-156
Dry cleaners and laundry						P	P			
Durable medical supplies										
Financial institutions						P	P			
Firearm sales						P	S			
Funeral home						P	P			
Lodging						S	S	S		18-163
Open air business, as a principal use						S	S	S		18-165
Outdoor seating and service						P	P	P		
Personal services						P	P	P		
Pharmacies						P	P			
Private clubs, fraternal organizations or lodges						S				
Restaurants, drive-in/drive-through						S	S	S		
Restaurants, sit-down						P	P	P		
Retail, general						P	P	P		
Retail, large-scale						S				18-162
Retail, wholesale						S				18-162
Shopping centers						P	P			
Office										
Business services						P	P			
Data processing and computing centers						P	P			
Medical clinics						P	P			
Medical laboratories									P	
Offices, general						P	P			
Professional and medical offices						P	P			
Veterinary clinics or hospitals		S				S				
Industrial										

Basic research, design, and pilot or experimental development										P	
Central dry cleaning/laundry plants										P	
Contractor's/landscaper's yard										S	18-166
Extractive uses		S								S	
Food processing										S	18-145
Light manufacturing										P	
Manufacturing and assembly										S	
Material distribution facilities										S	
Outdoor displays and sales						S	S				18-165
Outdoor storage						S				S	18-166
Printing and publishing						S				S	
Salvage operations										S	18-170
Self-storage facilities						S				P	18-171
Storage of flammable liquids or gases, above or below ground										S	
Tool and die/plating shops										S	
Trade contractors/home service repair										P	
Truck terminal facilities										S	
Warehouse establishments										P	
Wireless communication facilities		S				S				S	18-179
Automotive / Transportation											
Farm equipment sales and repair		S				S				S	18-157
Vehicle sales/leasing and service facility						S	S				18-176
Vehicle fueling stations						S					18-174
Vehicle repair stations (minor and major)						S				S	18-175
Vehicle towing/impoundment lot										S	18-177
Vehicle washes						S	S				18-178

(Ord. No. 01-20, § 18.68, 2-10-20)

Secs. 18-69—18-80. Reserved.

ARTICLE V. PLANNED UNIT DEVELOPMENTS

Sec. 18-81. Intent.

The planned unit development (PUD) district is intended to permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout and type of structures constructed, achieve economy an deficient in the use of land, natural resources, energy and the provision of public services and utilities, encourage useful open space, and provide better housing, employment and shopping opportunities particularly suited to the needs of residents.

(Ord. No. 01-20, § 18.81, 2-10-20)

Sec. 18-82. General provisions.

- (a) *Where permitted.* A PUD which includes only residential and accessory recreational uses may be applied for in any zoning district. A PUD which is either exclusively non-residential or includes a mix of residential and non-residential uses may be applied for in any zoning district which is located in areas served by municipal water and sewer facilities.
- (b) *Uses permitted.* Any land use authorized in this chapter may be included in a PUD, subject to:
- (1) The restriction of non-residential and mixed-use development areas of the township served by water and sewer facilities.
 - (2) The adequate protection of public health, safety, and welfare.
 - (3) The compatibility of varied land uses both within and outside the development.
- (c) *Qualifications of the subject parcel.* The applicant must demonstrate through the submission of both written documentation and site development plans that all of the following criteria are met:
- (1) The intent of section 18-81.
 - (2) Approval of a PUD will result in one (1) or more of the following:
 - a. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations.
 - b. Protection and preservation of natural resources and natural features of a quantity and/or quality that can be clearly demonstrated, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations.
 - c. A non-conforming use shall, to a material extent, be rendered more conforming to, and compatible with, the zoning district in which it is situated.
 - (3) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads, and utilities.
 - (4) The proposed development shall be consistent with the interest of public health, safety, and welfare of the township.
 - (5) The proposed development shall minimize any negative environmental impact of the subject site or surrounding land.
 - (6) The proposed development shall minimize any negative impact upon surrounding properties.
 - (7) The proposed development shall be consistent with the goals and policies of the township master plan.

(Ord. No. 01-20, § 18.82, 2-10-20)

Sec. 18-83. Design considerations.

- (a) *Design considerations.* A proposed PUD shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.
- (1) Perimeter setbacks.
 - (2) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
 - (3) Underground installation of utilities.
 - (4) Installation of separate pedestrian ways apart from vehicular streets and ways.
 - (5) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
 - (6) Noise reduction and visual screening features for protection of adjoining residential uses.
 - (7) Ingress and egress to the property with respect to vehicular and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
 - (8) Off-street parking, loading, refuse and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties or uses.
 - (9) Screening and buffering with respect to dimensions and character.
 - (10) Yard areas and other open space.
 - (11) Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.
 - (12) The preservation of natural resources and natural features.

(Ord. No. 01-20, § 18.83, 2-10-20)

Sec. 18-84. Project densities.

- (a) *Residential density.*
- (1) The total number of dwelling units in a PUD project shall not exceed the number of dwelling units permitted in the underlying zoning districts of the density as proposed in the township master plan. However, a density bonus of up to fifteen percent (15%) may be granted if both of these elements are included:
 - a. A high level of clustered development, where at least sixty percent (60%) of the PUD is left in open space as defined.
 - b. Perimeter transition areas of greenbelts around all sides of the development at least one hundred (100) feet in depth are provided.
 - (2) For the calculation of density on the site, including the possible density bonus, the applicant shall be required to submit a conventional (non-open space) layout using the underlying zoning classification and applicable township regulations demonstrating a practical project for the subject parcel.
 - (3) In the case where the applicant proceeds in phases and develops only a portion of the total proposed development at one time, each phase shall consist of land use(s) planned and developed in such a way

so that the average density of all completed phases shall not exceed on a cumulative basis, the maximum average density allowed for the entire development. This may be accomplished through the utilization of conservation easements, or other lawful means, which would allow more dense development in an earlier phase, while ensuring appropriate overall density.

- (b) *Mixed use project density.* For projects which contain a residential component, appropriate residential density shall be based upon the current township master plan, existing and planned residential densities in the surrounding area the availability of utilities and service, and the natural features and resource of the subject parcel.
- (c) *Non-residential component.* A PUD may incorporate a non-residential component into an exclusively residential development, provided that all of the following are met:
 - (1) The non-residential component shall be located on a lot of sufficient size to contain all such structures, parking, and landscape buffering. The total area occupied by the non-residential land uses may not exceed ten percent (10%) of the gross area of the development.
 - (2) All non-residential uses shall be compatible with the residential area of the PUD.
 - (3) The architectural design of the structure(s) is compatible with the balance of the development.
 - (4) All non-residential structures are connected to a pedestrian access system servicing the project.
 - (5) All parking and loading areas serving the non-residential uses shall be to the rear or side of the structure and fully screened from view of any approved public or private roadway, except that up to twenty-five percent (25%) of the minimum number of required parking spaces may be located in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted in accordance with section 18-262, landscaping.

(Ord. No. 01-20, § 18.84, 2-10-20)

Sec. 18-85. Design standards.

- (a) *Open space preservation.*
 - (1) When completed, the PUD shall have significant areas, but not less than thirty percent (30%) of total land area, devoted to open space, which shall remain in a natural state and/or be restricted for use or active and/or passive outdoor recreational purposes. Priority shall be on preserving the most important natural features on the site, as identified by a site analysis. The amount of open space, including the area and percentage of the site, shall be specified on the site plan. While it is the intention that the required open space be included in a project area, up to fifty percent (50%) of the required open space may be non-contiguous to the project area if approved by the township board after recommendation of the planning commission. Non-contiguous open space must be within Berlin Township and must contain important natural features as determined by the planning commission and township board to be considered.
 - (2) In addition to preservation of the most important natural features, additional open space shall be, where possible, located and designed to achieve the following:
 - a. Provide areas for active recreation.
 - b. Provide areas for informal recreation and pathways that connect into adjacent open space, parks, sidewalks, bike paths, or pedestrian paths.
 - c. Provide natural greenbelts along roadways to preserve the rural character as viewed from roads.
 - d. Preserve an existing natural buffer from adjacent land uses where appropriate.

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- (3) To ensure open space is maintained in perpetuity, the following shall apply:
- a. No PUD shall be approved by the township board until documents pertaining to maintenance and preservation of common natural open space areas, common landscaped areas, and common recreation facilities located within the development plan have been reviewed by the township attorney.
 - b. The township shall be identified as having the right to enforce the conditions, covenants, and restrictions placed on the open space, unless otherwise directed by the township board and the township attorney, with the documentation utilized for such purpose to be in a form approved by the township attorney. Any costs associated with enforcement may be assessed the property owner and/or homeowners association.
- (b) *Setbacks.* All regulations applicable to front, side, and rear yard setbacks shall be met in relation to each respective land use in the development based upon zoning district regulations in which the proposed use is listed as a permitted principal or conditional use.
- (c) *Buffering from adjacent property.* There shall be a perimeter setback and buffering of a minimum of fifty (50) feet, taking into consideration the use or uses in and adjacent to the development. The township board may reduce the perimeter setback and buffering in cases where the density of the proposed development is compatible with the adjacent uses and/or natural features including, but not limited to woodlands and topographical features that provide adequate buffering to protect adjacent uses. If natural features, including, but not limited to woodlands and topographical features do not provide adequate buffering from adjacent property, the perimeter setback shall include noise reduction and visual screening features including, but not limited to landscaping, berms, and/or decorative walls.
- (d) *Vehicular and pedestrian circulation.*
- (1) Vehicular circulation shall be designed in a manner which provides safe and convenient access to all portions of the site, promotes safety, contributes to coherence of site design, and adapts to site topography.
 - (2) Physical design techniques, known as traffic calming, are encouraged. These techniques are intended to alter driver behavior to reduce speed and cut-through traffic, improve vehicular safety, and improve conditions for non-motorized traffic.
 - (3) The plan shall provide pedestrian/bicycle access to, between or through all open space areas, and to appropriate off-site amenities, and located in accordance with the natural feature information of the site. Informal trails may be constructed of gravel, wood chips, or other similar material.
 - (4) Locations for school bus stops shall also be provided on the site plan.
- (e) *Utilities.* There shall be underground installation of utilities, including electricity and telephone, as found necessary by the township.
- (f) *Stormwater drainage/erosion control.* All stormwater drainage and erosion control plans shall meet the engineering standards adopted by the township and Monroe County.

(Ord. No. 01-20, § 18.85, 2-10-20)

Sec. 18-86. Application and processing procedures.

- (a) *Effects.* The approval of a PUD application shall require an amendment to the zoning ordinance to revise the zoning map and designate the subject property as PUD. Approval granted under this section, including all aspects of the final PUD plan and conditions imposed, shall constitute an inseparable part of the zoning ordinance.

(b) *Review procedures.*

- (1) *Concept review meeting.* Prior to the submission of an application for PUD, the applicant shall meet with the zoning official, a member of the planning commission, and such consultants or staff as deemed appropriate. Additional concept review meetings may be requested by the applicant or township. The applicant shall present at such meeting, or meetings, a sketch plan of the PUD, and the following information:
 - a. The legal description of the property in question.
 - b. The total number of acres to be included in the project.
 - c. A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units.
 - d. Departures from the regulations of the ordinance which may be requested.
 - e. The number of acres to be preserved as open space or recreation space.
 - f. All known natural resources and natural features.
 - g. The location of all existing and proposed water and sewage treatment systems serving the property.
- (2) *Preliminary PUD plan application.* Following the above meeting or meetings, the application and all required materials for preliminary PUD plan review shall be submitted. The submission shall be made to the township building department for distribution to applicable reviewing parties and agencies. The plan shall be accompanied by an application form and fee as determined by the township board. The preliminary PUD plan shall contain the following information:
 - a. Date, north arrow, and scale which shall not be more than one (1) inch = one hundred (100) feet.
 - b. Location sketch of site in relation to surrounding area.
 - c. Legal description of property including common street address and tax identification number.
 - d. Size of parcel.
 - e. All lot or property lines with dimensions.
 - f. General location of all buildings within two hundred (200) feet of the property lines.
 - g. General location and size of all existing structures on the site.
 - h. General location and size of all proposed structures on the site. The general size of all buildings shall be within five thousand (5,000) square feet or five percent (5%), whatever is smaller of whatever is constructed.
 - i. General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.
 - j. General size and location of all areas devoted to open space.
 - k. Location of existing vegetation and general location and size of proposed landscaped areas and buffer strips.
 - l. All areas within the 100-year floodplain, wetland areas, or bodies of water.
 - m. Generalized topographical information including contours and/or spot elevations which illustrate drainage patterns.
 - n. Preliminary phasing lines of PUD development, if applicable.

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- o. A narrative describing:
 - i. The nature of the project, projected phases, and timetable.
 - ii. The proposed density, number, and types of dwelling units if a residential PUD.
 - iii. A statement describing how the proposed project meets the objectives of the PUD district pursuant to section 18-82(c).
 - iv. A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
 - v. Proof of ownership or legal interest in property.
- (3) *Planning commission review and recommendation—Preliminary PUD plan.* The planning commission shall review the preliminary PUD plan according to the provisions of sections 18-82 through 18-85 herein. Following the public hearing, the planning commission shall recommend to the township board either approval, denial, or approval with conditions. In making its recommendation, the planning commission shall find that the preliminary PUD plan meets the intent of the PUD district and the following standards:
- a. In relation to the underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
 - b. The proposed development shall be compatible with the township master plan and shall be consistent with the intent and spirit of this article.
 - c. The PUD shall not change the essential character of the surrounding area.
 - d. The proposed PUD shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this article. This provision shall not prohibit a transfer of ownership or control upon due notice to the zoning official.
- (4) *Public hearing—Planning commission.* The planning commission shall hold a public hearing and give notice in accordance with section 18-38, notices.
- (5) *County planning commission review.* Following recommendation by the planning commission, all pertinent materials shall be submitted to the county planning commission for its review and recommendation to the township board.
- (6) *Township board review and determination—Preliminary PUD plan.* After receiving the recommendation of the township and county planning commissions, the township board shall approve, deny, or approve with conditions the preliminary PUD plan in accordance with the standards for approval and conditions for a PUD as contained herein.
- (7) *Effect of preliminary PUD site plan approval.* Approval of the preliminary PUD site plan that is required to accompany a PUD application does not constitute final PUD plan or rezoning approval, but only bestows the right on the applicant to proceed to the final site plan stage. The application for final PUD site plan consideration shall be submitted within twelve (12) months of receiving preliminary PUD approval or the application shall be considered null and void. However, an extension for a specified period may be granted by the township board upon good cause shown if such request is made to the township board prior to the expiration of the initial period.
- (8) *Final PUD plan application.* Following preliminary PUD plan approval, copies of the application for final PUD plan shall be submitted. The submission shall be made to the township building department. The

plan shall be accompanied by an application form and fee as determined by the township board. The final PUD plan shall contain the same information required for the preliminary PUD plan pursuant to section 18-86(b)(2) along with the following information and any information specifically requested by the planning commission in its review of the preliminary PUD plan.

- a. A map and written explanation of the relationship of the proposed planned development to the township's master plan.
 - b. Information concerning traffic generated by the proposed planned development. Sufficient information shall be provided to allow the township to evaluate the impact of the proposed development on adjoining roads. The following traffic-related information shall be provided:
 - i. Estimates of the volume of traffic generated by each use, and the peak hour volume of traffic expected to be generated by the proposed development.
 - ii. A schematic drawing indicating vehicular movement through the site including anticipated turning movements, and measures being proposed to alleviate the impact of the development on the circulation system.
 - c. Analysis of the fiscal impact of the proposed development on the township and the school district.
 - d. Evidence of market need for the proposed use(s) and the feasibility of completing the project in its entirety. This requirement may be waived by the planning commission upon making the determination, based on existing evidence and knowledge about the local economy, that market support does exist for the proposed uses.
 - e. Legal documentation of single ownership or control. The documentation shall be in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development are not to be maintained at public expense, and will continue to be operated and maintained by the developers or their successors.
 - f. A specific schedule of the intended development and construction details, including the phasing or timing of all proposed improvements.
 - g. A draft of ownership and governance documents. These documents shall include the following:
 - i. Deeds of ownership (master deed).
 - ii. Warranties guaranteeing ownership conveyed and described in the deeds.
 - iii. A list of covenants, conditions, and restrictions that are conditions of ownership upon the purchasers and owners in the planned development.
 - iv. Association bylaws (for example, condominium association bylaws) which describe how the association is organized; the duties of the association to operate, manage, and maintain common elements of the planned development; and, the duties of individual shareholders to manage and maintain their own units.
- (9) *Reserved.*
- (10) *Planning commission review and recommendation—Final PUD plan and rezoning.* After receiving approval of the preliminary PUD plan from the township, the planning commission shall review the final PUD plan, and rezoning application and shall recommend to the township board either approval, denial, or approval with conditions. In making its recommendation, the planning commission shall find that the proposed final PUD plan is in substantial compliance with the approved preliminary PUD and

still meets the intent of the PUD district along with all development standards outlined in sections 18-82 through 18-85.

- (11) *Township board review and determination—Final PUD plan.* After receiving the recommendation of the planning commission and considering the comments of the public, the township board shall approve, deny, or approve with conditions the final PUD plan. The township board's decision, the basis for its decision, and any conditions imposed on an affirmative decision shall be recorded in the official meeting minutes.
- (12) *Effect of approval—Final PUD plan and rezoning.* The final PUD plan, the narrative and all conditions imposed, if any, shall constitute the land use authorization for the property. All uses not specifically specified in the final PUD plan are disallowed and not permitted on the property notwithstanding that the property is zoned PUD. All improvements and uses shall be in conformity with this zoning amendment to PUD. The applicant shall record a PUD agreement with the Monroe County Registrar of Deeds, which shall contain the following:
 - a. Date of approval of the final PUD site plan by the township board.
 - b. Legal description of the property.
 - c. Legal description of the required open space along with a plan stating how the open space is to be maintained.
 - d. A statement that the property will be developed in accordance with the final PUD site plan and any conditions imposed by the township board and/or planning commission unless an amendment thereto is duly approved by the township upon the request and/or approval of the application or applicant's transferee's and/or assigns. This statement shall also include the duration of approval and action for non-compliance.

(Ord. No. 01-20, § 18.86, 2-10-20)

Sec. 18-87. Resolution of ambiguities and chapter deviations.

- (a) The township board, based upon the recommendation of the planning commission, shall resolve all ambiguities as to the applicable regulations using this zoning ordinance, the master plan, and other township standards or policies as a guide.
- (b) Notwithstanding the immediately preceding standards, deviations with respect to such regulations may be granted as part of the overall approval of the PUD provided there are features or elements demonstrated by the applicant and deemed adequate by the township board upon the recommendation of the planning commission designed into the project plan for the purpose of achieving the objectives of this article.

(Ord. No. 01-20, § 18.87, 2-10-20)

Sec. 18-88. Performance guarantee.

The township board may require a performance bond or similar guarantee as outlined in section 18-39 in order to ensure completion of the required improvements.

(Ord. No. 01-20, § 18.88, 2-10-20)

Sec. 18-89. Conditions.

- (a) Reasonable conditions may be required with the approval of a PUD, to the extent authorized by law. Conditions may be included which are deemed 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 uses of land, and/or to promote the use of land in a socially and economically desirable manner.
- (b) All conditions imposed shall be made a part of the record of the approved PUD.
- (c) Conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the township board and the landowner. The township shall maintain a record of conditions which are changed.

(Ord. No. 01-20, § 18.89, 2-10-20)

Sec. 18-90. Phasing and commencement of construction.

- (a) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. In addition, in developments which include construction for each phase shall be disclosed and determined to be reasonable in the discretion of the township board after recommendation from the planning commission.
- (b) *Commencement and completion of construction.* Construction shall be commenced within two (2) years following final PUD site plan approval and shall proceed substantially in conformance with the schedule set forth by the applicant, as approved by the township. If construction is not commenced within such time, any approval of a final PUD site plan shall expire and be null and void, provided, an extension for a specified period may be granted by the township board upon good cause shown if such request is made to the township board prior to the expiration of the initial period. Moreover, in the event a final PUD site plan has expired, the township board, based on a recommendation from the planning commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new PUD or zoning application shall be required, and shall be reviewed in light of the existing and applicable law and ordinance provisions prior to any construction.
- (c) *Application for a building permit.* Prior to issuance of a building permit, the applicant shall submit proof of the following:
 - (1) Final approval of the engineering plans.
 - (2) Acquisition of all other applicable township, county, or state permits.

(Ord. No. 01-20, § 18.90, 2-10-20)

Sec. 18-91. Modifications to an approved PUD plan.

A developer may request a change to an approved preliminary PUD plan, or an approved final PUD plan. A change in an approved preliminary PUD plan or an approved final PUD plan which results in a major change, as defined in this section, shall require an amendment to the preliminary PUD plan and/or final PUD plan. All amendments shall follow the procedures and conditions herein required for original submittal and review. A

change which results in a minor change as defined in this section shall require a revision to the approved final PUD plans and approval by the township board following review by the planning commission.

- (a) *Major amendments.* The following changes shall be considered major:
 - (1) Change to the concept of the development;
 - (2) Change in use or character of the development;
 - (3) Change in the type of dwelling unit;
 - (4) Change in the number of dwelling units (density);
 - (5) Change in non-residential floor area;
 - (6) Change in lot coverage or floor area ratio of the entire PUD;
 - (7) Change in the character or function of any street;
 - (8) Change in land area set aside for common space or the relocation of such areas;
 - (9) Change in building height.
- (b) *Minor amendments.* The following changes shall be considered minor:
 - (1) A change in residential floor space;
 - (2) Minor variation in the layout which taken together do not constitute major changes.
- (c) *Planning commission determination.* The planning commission shall have the authority to determine whether a requested change is major or minor, in accordance with this section. The burden shall be on the applicant to show good cause as to any requested change.

(Ord. No. 01-20, § 18.91, 2-10-20)

Secs. 18-92—18-100. Reserved.

ARTICLE VI. SITE PLAN REVIEW

Sec. 18-101. Purpose.

The site plan review requirements in this article are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations in this chapter, other applicable ordinances, and state and federal laws. The intent is to encourage a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses, achieve efficient use of the land, encourage innovative design solutions, protect natural resources, ensure safety for both internal and external vehicular and pedestrian users, achieve innovative storm water management solutions, and prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the township and the applicant to facilitate development in accordance with the township's land use objectives.

(Ord. No. 01-20, § 18.101, 2-10-20)

Sec. 18-102. Relationship to platting, land divisions, combinations.

The township board shall require the platting of parcels of property and/or the tentative approval of land divisions or land combinations prior to the consideration of site plans where the township board determines a site plan is needed to ensure capability to comply with the standards of the zoning ordinance or other ordinances.

(Ord. No. 01-20, § 18.102, 2-10-20)

Sec. 18-103. Buildings, structures, and uses requiring site plan approval.

(a) *Site plan review requirement.* The following buildings, structures, and uses require site plan review:

- (1) All proposed permitted uses and related buildings, except single-family dwellings.
- (2) All proposed special land uses and related buildings.
- (3) All additions, alterations, or expansion of an existing permitted or special land use and/or related building.
- (4) Any building or use for which site plan review is required by this chapter.
- (5) Any parking lot or addition thereto.
- (6) Any residential development, except construction or expansion of one (1) single-family or two-family dwelling unit on an individual lot or parcel in the residential zoning districts, or placement of dwelling units in an approved manufactured housing park.

(b) *Status of site improvements.*

- (1) No building permits or certificates of occupancy shall be issued until all required site plans and engineering plans have been approved and all applicable construction permits are in effect.
- (2) No grading, removal of trees or other vegetation, landfilling, or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, and construction permits are issued, except as otherwise provided in this chapter.

(Ord. No. 01-20, § 18.103, 2-10-20)

Sec. 18-104. Site plan review process.

(a) *Site plan review process.* Before issuance of a building permit for construction, the township clerk shall refer a site plan to the planning commission for processing. Such site plan shall be submitted to the planning commission in a two-stage review process:

- (1) *Preliminary site plan approval.*
- (2) *Final site plan approval.*

(b) *Information required for site plan submittal.* The information required and specified in each stage of the site plan review process as set forth in section 18-106, shall be presented to the township clerk by the property owner or petitioner at least thirty (30) days prior to the date of the planning commission's regular meeting or special meeting. The applicant shall be responsible for the cost of preparing all site plan submittal information and for the evaluation of the site plan and related documents by consultants selected by the township.

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- (c) *Meeting representation.* The applicant or the applicant's representative must be present at the scheduled reviews or the matter may be tabled.
 - (d) *Preliminary site plan review.* The township zoning official shall determine if the preliminary site plan includes the required information set forth in this chapter and the engineering standards. The township zoning official shall transmit complete submittals of the application and preliminary site plan drawing(s) to the township planning commission prior to its next available regularly scheduled meeting. The township planning commission shall undertake a study of the same and shall give its approval, approval with conditions, or disapproval of the preliminary site plan, advising the applicant, in writing, of recommended changes or modifications in the proposed site plan as are needed to achieve conformity to the standards specified in this chapter.
 - (e) *Variance requests.* When the applicant intends to seek a variance from the zoning board of appeals for the subject request, the applicant shall first receive tentative approval of the preliminary site plan from the planning commission. Tentative approval of the preliminary site plan by the planning commission shall be conditioned upon the granting of any necessary variances by the zoning board of appeals.
 - (f) *Final site plan review.* The township zoning official shall determine if the final site plan includes the required information set forth in this chapter, the engineering standards, and other information requested by the township planning commission during preliminary site plan review. The township zoning official shall transmit complete submittals to the township planning commission prior to its next available regularly scheduled meeting. The township planning commission shall undertake a study of the same and shall give its approval, disapproval, or approval with conditions.

The planning commission, as a condition of its final approval of a site plan, may require reasonable modifications relating to: the location, height, number of stories, and size of dwellings, buildings, and other structures; the area of the yards, courts, and other open spaces; and the sanitary, safety, and protective measures which shall be required for such dwellings, buildings, and structures; and any other changes to meet the standards and intent of this zoning ordinance and other ordinances, laws and regulations.

Prior to the presentation of the final site plan to the planning commission, the property owner or petitioner shall have secured approval from the county road commission, county drain commissioner's office, and the county health department for ingress/egress to the site, public utility location and sizing, and wastewater treatment and potable water supply, and any other approvals required, respectively.

- (g) *Conditions of approval.* For any approval with condition(s), the applicant shall submit a revised plan within sixty (60) days illustrating compliance with all conditions for approval by the zoning official. No permits shall be issued until such revised plan is submitted and approved.
- (h) *Effect of approval.* Upon approval of a final site plan by the planning commission, construction consistent with said site plan shall be commenced within one (1) year of the date said site plan was approved. In the event construction is not so commenced said site plan approval shall become void and of no force and effect.

Upon a site plan approval becoming void pursuant to the provisions hereof, no construction may commence upon said site unless and until the site plan approval process has been re-instituted and completed. In such event, all applicable fees shall be paid.

(Ord. No. 01-20, § 18.104, 2-10-20)

Sec. 18-105. Administrative approval/administrative site plan review.

- (a) *Intent.* The intent of this section is to permit submittal of a sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this zoning ordinance.

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- (b) *Authority.* The zoning official shall have the authority to conduct an administrative review of a site plan, provided all other standards of this chapter are met as set forth in section 18-106. The zoning official may seek and review any comments of applicable township staff and/or consultants, county, state, or federal agencies; and reserve the right to refer the matter to the planning commission, if necessary.

If a full site plan is required, the zoning official shall inform the applicant to submit a set of plans in accordance with section 18-104 within thirty (30) days of receipt of the application.

- (c) *Procedure.* The process for administrative approval shall involve submittal of a sketch plan and required application form and fee to the zoning official. The zoning official shall review the sketch plan to ensure compliance with standards of this chapter and make a report of administrative approvals, including copies of the sketch plan, to the planning commission.
- (d) *Eligibility.* A sketch plan, rather than a complete site plan package, may be submitted for minor modifications to a legally existing and conforming use and building which is permitted in the zoning district (i.e., special land uses are not eligible) including alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards; including the following uses and situations:
- (1) Group day care homes.
 - (2) Home occupations.
 - (3) Temporary uses, sales and seasonal events.
 - (4) An increase in the floor area on the site by up to one thousand (1,000) square feet or ten percent (10%) of the existing floor area, whichever is less, with no required increase in parking area. Administrative approval is not permitted if the cumulative total of the proposed expansion and any expansion within the last five (5) years, as determined by the zoning official, exceeds this amount.
 - (5) An existing building and site are to be re-occupied by a use permitted in the subject zoning district and the new use will not require any significant changes in the existing site facilities such as parking, landscaping, lighting, signs, bike paths or sidewalks.
 - (6) Improvements to outdoor recreational uses and parks.
 - (7) Expansion, replanting or alterations of landscaping areas consistent with the other requirements of this chapter.
 - (8) Improvements or installations of walls, fences, lighting or curbing consistent with the other requirements of this chapter.
 - (9) Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant, and the construction plans and lot construction are approved by the township engineer.
 - (10) Relocation of a waste receptacle/dumpster to a more inconspicuous location or installation of screening around the waste receptacle/dumpster.
 - (11) Changes to the facade or architectural features (an elevation plan describing changes and construction materials is required).
 - (12) Approved changes to utility systems.
 - (13) Grading, filling, creation of ponds or clearing of trees.
 - (14) A change in use in a nonconforming use building or site to a more conforming situation.

- (15) Modifications to upgrade a building to improve barrier-free design, or to comply with the Americans with Disabilities Act (ADA) or other federal, state or county regulations.
 - (16) Accessory structures.
- (e) *Requirements.* A "sketch plan" (administrative site plan) submittal shall include at least the following:
- (1) Site plan application form and review fee.
 - (2) Name, address and telephone number of the applicant and the person(s) responsible for preparing the plan.
 - (3) North arrow.
 - (4) Legal description of the property.
 - (5) The plan shall be drawn at an engineer's scale (one (1) inch = ten (10) feet).
 - (6) Any building expansion over five hundred (500) square feet within a five-year period involving public safety issues, as determined by the zoning official shall require a professional seal of an architect, landscape architect or engineer.
 - (7) Property lines and dimensions.
 - (8) Existing and proposed buildings and structures with dimensions, setbacks, and details or elevations where appropriate.
 - (9) Existing and proposed parking including number of spaces provided and required according to table 18-246-C. If changes are made to the parking area, a detail of pavement, storm water runoff calculations and description of detention methods shall be provided.
 - (10) Details on any new driveways or changes to existing driveways (radii, throat width, slope, boulevard design, etc.).
 - (11) Location of existing signs and details on any proposed changes or new signs.
 - (12) General illustrations of existing landscaping; location, size, and species of any new landscaping.
 - (13) Layout of any proposed changes to utilities.
 - (14) Description of any proposed changes to drainage.
 - (15) Floor plan of any new building area or building elevations, if applicable.
 - (16) Any other items requested by township staff, consultants, or the planning commission.

(Ord. No. 01-20, § 18.105, 2-10-20)

Sec. 18-106. Data required for site plans.

Site plans shall include the information set forth in table 18-106-A.

Table 18-106-A. Data Required for Site Plans		
Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
A. Application Form		
Name and address of the applicant and property owner.	X	X

Address and common description of property and complete legal description.	X	X
Dimensions of land and total acreage.	X	X
Zoning on the site and all adjacent properties.	X	X
Description of the proposed project or use, type of building or structures, and name of proposed development, if applicable.	X	X
Name and address of firm or individual who prepared the site plan.	X	X
Proof of property ownership.	X	X
B. Site and Zoning Data		
Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.	X	X
Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements to the site and within 100 feet of the site.	X	X
All existing and proposed easements, including type.	X	X
Zoning district of site and all adjacent property.	X	X
Land use of site and all adjacent property.	X	X
Proposed use of the site.	X	X
Gross and net lot area, and areas in proposed rights-of-way, access easements, wetlands, and bodies of water (including streams, ponds, lakes).	X	X
Ground floor and total floor area to be constructed.	X	X
Lot coverage (ground floor area divided by net lot area).	X	X
Impervious surface (total impervious area and percentage of impervious area to total net lot area).	X	X
Floor area ratio (total floor area divided by net lot area).	X	X
Number and type of dwelling units and density, for residential projects.	X	X
Building height, in feet and number of floors.	X	X
Required yards/setbacks.	X	X
C. Natural Features		
General location of existing plant materials, with identification of materials to be removed and materials to be preserved.	X	X
Topography on the site and within 100 feet of the site at 2-foot contour intervals, referenced to a USGS benchmark.	X	X
Location of existing drainage courses, floodplains, lakes and streams, and wetlands.	X	X

Existing wetland areas must be shown for each wetland. All impacted areas and mitigation areas shall be shown with calculations provided.	X	X
General soils information, location, and extent of soils that are unbuildable in their natural state because of organic content or water table level, based on the Monroe County Soil Survey or equivalent information.	X	X
D. Access and Circulation		
Dimensions, curve radii, and centerlines of existing and proposed access points, roads and road rights-of-way or access easements.		X
Driveways and intersections within 100 feet of the site.	X	X
Location of proposed roads, driveways, parking lots, sidewalks and non-motorized pathways.	X	X
Cross-section details of proposed roads, driveways, parking lots, sidewalks, and non-motorized pathways.		X
Dimensions of acceleration, deceleration, and passing lanes.		X
Calculations for required number of parking spaces and loading areas, including location and layout.	X	X
Dimensions of parking spaces, islands, circulation aisles, and loading zones.	X	X
Designation of fire lanes.	X	X
Traffic regulatory signs and pavement markings.		X
E. Landscape Plans		
General landscape plan, including location and type of all proposed shrubs, trees, and other live plant material.	X	X
Existing live plant materials to remain, and if materials will be applied to landscaping requirements.	X	X
Existing and proposed topography, by contours, correlated with the grading plan.	X	X
Location of all proposed landscape improvements.	X	X
Planting list for proposed landscape materials with caliper size or height of material, botanical and common names, quantity, and spacing.		X
Irrigation system plan for watering and draining landscape areas.		X
Cross-sections and details for required landscape improvements including berms, walls, fences, retaining walls, etc.		X
Proposed means of protecting existing plant material during construction.		X
F. Building, Structure, and Miscellaneous Site Information		

Location, height, number of floors, and outside dimensions of all proposed buildings and structures.	X	X
Building floor plans and total floor area.		X
Details on accessory structures and any screening.		X
Location, size, height, and lighting of all proposed signs.		X
Building façade elevations for all sides, drawn at an appropriate scale.		X
Description of exterior building materials and colors.		X
Location of exterior lighting (site and building lighting).		X
Lighting details, including height, initial lumen rating, type of lamp, method of shielding, and depiction of lighting pattern for all site and building lighting.		X
Lighting photometric grid overlaid on proposed site plan showing light intensity (in foot-candles) on the site and 10 feet beyond the property lines of the subject parcel.**		X
Location of trash receptacle(s) and transformer pad(s) and method of screening.		X
Location of any outdoor sales or display area.	X	X
G. Information Concerning Utilities, Drainage, and Related Issues		
Location of existing and proposed sanitary sewers and/or septic systems.	X	X
Size of existing and proposed sanitary sewers and/or septic systems.		X
Location of existing and proposed water mains, well sites, water service and fire hydrants.	X	X
Size of existing and proposed water mains, water service, and fire hydrants.		X
Site grading, drainage patterns, and other stormwater management measures.	X	X
Stormwater drainage and retention/detention calculations.	X	X
Stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume and outfalls.		X
Location of storm sewers and drains.	X	X
Size of storm sewers and drains.		X
Location of above and below ground gas, electric and telephone lines, existing and proposed.	X	X
Location of transformers and utility boxes.		X
Assessments of potential impacts from the use, processing, or movement of hazardous materials, or chemicals, if applicable.		X
H. Additional Information Required for Multiple-Family Residential Development		

The number and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.)	X	X
Density calculations by type of residential unit (dwellings per acre).	X	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
Swimming pool fencing detail, including height and type of fence, if applicable.		X
Location and size of recreation and open space areas.		X
Indication of type of recreation facilities proposed for recreation area.		X
I. Additional Study (as required by the Planning Commission)		
Traffic Study		As required
Environmental Assessment		As required
Noise		As required
Additional study as required by the planning commission		As required

NOTE: If any of the items listed above are not applicable, a list of each item considered not applicable and the reason(s) why each listed item is not considered applicable should be provided on the site plan.

** The lighting photometric grid requirement may be waived by the Planning Commission for sites with parking lots of twenty (20) spaces or less or for sites that are not adjacent to residentially-zoned property.

(Ord. No. 01-20, § 18.106, 2-10-20)

Sec. 18-107. Criteria for site plan review.

- (a) *Compliance with all regulations.* In reviewing a site plan, the planning commission shall find that the proposed plan complies with all applicable Township Codes and Ordinances.
- (b) *Standards.* Further, in consideration of each site plan, the township planning commission shall endeavor to assure the following:
 - (1) The proposed use will not be injurious to the general health, safety, welfare, and character of the township and surrounding neighborhood.
 - (2) The proposed development is consistent with the township master plan.
 - (3) Building placement and orientation provides a strong visual and functional relationship with its site, adjacent sites, and nearby thoroughfares. Such placement and orientation are consistent within sites

and to adjacent sites to provide distinct building groups which exhibit similar orientation, scale, and proportion.

- (4) There is a proper relationship between major thoroughfares and proposed service drives, driveways, and parking areas.
- (5) The proposed development provides for proper development of roads, easements, and public utilities.
- (6) Site access and circulation shall be designed to ensure the safe and convenient movement of vehicles, bicycles, and pedestrians. Where possible, separation of pedestrian and vehicular traffic shall be provided to avoid conflicts and unsafe conditions.
- (7) Internal circulation shall be arranged to provide a practical means of emergency personnel and vehicle access to all sides of a building.
- (8) Site planning and design of specific improvements will accomplish the preservation and protection of existing natural features such as lakes, ponds, streams, wetlands, floodplains, steep slopes, groundwater, trees, and wooded areas.
- (9) The proposed development will utilize the natural topography to the maximum extent possible, minimizing the amount of cutting, filling, and grading, and preventing soil erosion or sedimentation.
- (10) The design of storm sewers, stormwater facilities, roads, parking lots, driveways, water mains, sanitary sewers, and other site improvements meet the design and construction standards of the township and other appropriate agencies.
- (11) A stormwater management system and facility will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or cause alterations which could increase flooding or water pollution on- or off-site. The Monroe County Drain Commissioner's Office standards will be used for the review and approval of all stormwater management systems.
- (12) Wastewater treatment systems, including on-site septic systems, shall be located to minimize any potential degradation of surface water or ground water quality, and be designed in accordance with the applicable township, county, and/or state standards.
- (13) Sites which include storage of hazardous waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of pollution materials to the surface or the air, or to the ground, groundwater, or nearby water bodies, with a specific plan to achieve such objectives being incorporated as part of the site plan.
- (14) Landscaping, including grass, trees, shrubs, and other vegetation, is provided to maintain and improve the aesthetic quality of the site and area.

(Ord. No. 01-20, § 18.107, 2-10-20)

Sec. 18-108. Engineering site plan approval.

Upon approval of a final site plan by the Planning Commission, the applicant may apply for engineering plan approval which may include but is not limited to soil erosion control permit, utility permits, and all other required county and state permits.

(Ord. No. 01-20, § 18.108, 2-10-20)

Sec. 18-109. Site plan completion guarantee.

Prior to the issuance of any building permit for any building, or prior to the issuance of any building permit for any building in a site condominium project, or prior to issuance of a certificate of occupancy for any other development which requires site plan review under this chapter, the applicant for same shall provide to the township the completion guarantee, as set forth in section 18-39.

(Ord. No. 01-20, § 18.109, 2-10-20)

Sec. 18-110. Amendment, revision of an approved site plan.

An approved final site plan for which the building official has not issued a building permit, or the work authorized under an issued building permit has not been completed may be amended by the township planning commission. Such amendment shall be made upon application and in accordance with the procedure provided under section 18-104 of this chapter. The township zoning official shall have the authority to determine if a proposed change is substantive and therefore requires an amendment to the approved site plan or whether it can be administratively approved.

(Ord. No. 01-20, § 18.110, 2-10-20)

Sec. 18-111. Extension, revocation, and abandonment of site plan.

- (a) *Extension.* Final site plan approval is valid for a period of one (1) year from the date of final action by the planning commission within which time all necessary building or construction permits shall be secured, and substantial construction completed. No single extension shall be granted for a period of more than one (1) year, and multiple extensions are allowed. All requests for extensions shall be made in writing and include a statement of why the extension is necessary, and confirmation of the ability to complete construction in conformity with the final site plan as approved.
- (b) *Revocation.* The planning commission may, upon hearing, revoke approval of a site plan if the commission determines that any information on the approved site plan is in error. Upon revocation, work on the affected part of the development, or on the entire development, as determined by the planning commission, shall cease. The planning commission may direct the zoning official to issue a stop work order to enforce its determination. Upon revocation, the planning commission may require the applicant to amend the site plan in a manner appropriate to reflect the corrected information. Any work so suspended shall not be resumed until an amended site plan is approved by the planning commission.
- (c) *Abandonment.*
 - (1) *Abandonment of preliminary site plan.* An approved preliminary site plan for which a final site plan has not been submitted as required under Section 6.04 within one (1) year from the date of preliminary site plan approval, shall be considered abandoned.
 - (2) *Abandonment of final site plan.* An approved final site plan, upon which construction does not commence and an extension of approval has not been requested within the one (1) year period from the date of final site plan approval, shall be considered abandoned.

(Ord. No. 01-20, § 18.111, 2-10-20)

Secs. 18-112—18-120. Reserved.

ARTICLE VII. SPECIAL LAND USES

Sec. 18-121. Intent.

The procedures and standards in this article are intended to provide a consistent and uniform method for review of proposed plans for special land uses. Special land uses are uses which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. This article contains standards for review for each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.

(Ord. No. 01-20, § 18.121, 2-10-20)

Sec. 18-122. Procedure.

The procedure for special land use review shall be as follows:

- (a) *Application.* An applicant for a special land use shall submit an application for review to the building department, together with the required fee and appropriate information, not less than forty-five (45) days prior to the date of the regular meeting of the planning commission, at which the special use application will be considered. The following information shall also be submitted:
 - (1) A site plan with the required information as set forth in article VI.
 - (2) A statement with regard to compliance with the criteria required for approval in section 18-123, standards for special land use approval and any specific standards required by the specific use as provided in article VIII, specific use standards.
 - (3) Failure to provide the required information and materials as part of the application of special land use approval shall render the application deficient and said application shall be held in abeyance until the petitioner submits all required items. The zoning administrator may waive the submission of a site plan where such information is not material to planning commission action, specifically where no physical changes to the site are proposed.
- (b) *Public hearing.* The planning commission shall hold a public hearing, or hearings, upon any application for special land use. Notice of which shall be in the manner required by section 18-38, notices.
- (c) *Planning commission action.*
 - (1) The planning commission shall conduct the required public hearing. At the public hearing, the planning commission shall review the application for special land use approval in accordance with section 18-123 and any specific standards in article VIII, specific use standards.
 - (2) The planning commission shall approve, approve with conditions, or deny the special land use based on the findings outlined in section 18-123.

(Ord. No. 01-20, § 18.122, 2-10-20)

Sec. 18-123. Standards for special land uses.

- (a) *Standards.* The planning commission shall review the particular circumstances and facts of each proposed use, and shall consider the following general standards, and any specific standards established for a particular use.
- (1) *Compatibility with the master plan.* The proposed special land use shall be consistent with the goals, objectives, and the future land use plan described in the Berlin Charter Township Master Plan.
 - (2) *Compliance with zoning standards.* The proposed special land use shall be designed, constructed, operated, and maintained to meet the stated intent of the zoning districts, and shall comply with all applicable ordinance standards.
 - (3) *Compatibility with adjacent uses.* The proposed special land use shall be designed, constructed, operated, and maintained to be compatible with and not significantly alter the existing or intended character of the general vicinity in consideration of environmental impacts, views, aesthetics, noise, vibration, glare, air quality, drainage, traffic, or similar impacts. The proposed use shall be such that the location and height of buildings or structures, and the location, nature and height of walls, fences, and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
 - (4) *Impact of the overall environment.* The proposed special land use shall not reasonably impact the quality of the natural features and the environment in comparison to the impacts associated with typical permitted uses.
 - (5) *Impact of public facilities.* The proposed special land use shall be served adequately by public facilities and services, such as police and fire protection, schools, drainage systems, water and sewage facilities, streets, pedestrian or bicycle facilities, and refuse disposal. Such services shall be provided and accommodated without an unreasonable public burden.
 - (6) *Traffic impact.* The proposed special land use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration: pedestrian access and safety; vehicle trip generation; types of traffic, access location, and design, circulation, and parking design; street and bridge capacity; and traffic operations at nearby intersections and access points.
 - (7) *Public safety and welfare.* The proposed use shall be designed, located, planned, and operated to protect the public health, safety, and welfare.
 - (8) *Special use approval specific requirements.* The general standards and requirements of this section are basic to all uses authorized by special land use approval. The specific and detailed requirements relating to particular uses and area requirements must also be satisfied for those uses.
- (b) *Additional findings.* The planning commission shall also consider the nature and character of the activities, processes, materials, equipment, or conditions of operation, either specifically or typically associated with the use, including but not limited to: hours of operation, outdoor storage, and work areas.

(Ord. No. 01-20, § 18.123, 2-10-20)

Sec. 18-124. Conditions of approval.

- (a) *Authority.* The planning commission may at its discretion impose additional conditions of approval, when it is determined that such increases in standards or additional conditions are required to achieve or assure compatibility with adjacent uses and/or structures.

-
- (b) *Scope.* Conditions that are imposed by the planning commission shall:
- (1) Be related to and ensure the review considerations of section 18-123 and the applicable specific use regulations are met.
 - (2) Special land use approval is applicable to a property, not property owners, so long as the use remains in effect under terms set from section 18-125.
 - (3) The conditions shall remain unchanged unless an amendment to the special land use is approved by the planning commission.
- (c) Approval of a special land use, including conditions made part of the approval, is attached to the property described in the application and not to the owner of such property. A record of conditions imposed shall be made a part of the planning commission minutes and maintained by the township clerk.
- (d) A violation of a requirement, condition, or safeguard shall be considered a violation of this chapter and grounds for the planning commission to revoke such special land use approval in accordance with section 18-128.

(Ord. No. 01-20, § 18.124, 2-10-20)

Sec. 18-125. Effectiveness.

- (a) *Remain in force.* Upon receipt of site plan approval, special land use approval shall continue in force so long as the particular use or activity continues to operate as approved on the approved site, unless otherwise specified in the planning commission approval.
- (b) *Expiration.* Any special land use approval granted by the planning commission shall expire unless a final site plan effectuating the special land use is approved within one (1) year of the date of approval.
- (c) *Extension.* Upon written application filed prior to the termination of the one (1) year period as provided above, the planning commission may authorize a single extension of the time limit, as set forth in section 18-125(b), for an additional one (1) year period. Such extension shall be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the one (1) year extension period.
- (d) *Conforming use status.* Any approved special land use shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.
- (e) *Abandonment.* When a special land use which has not previously received a special land use approval ceases operations for more than one (1) year, the special land use shall become null and void, and a new special land use approval shall be required to re-open the use. The timeframe shall be extended to two (2) years for a use which was approved as a special land use under this article.
- (f) *Resubmittal.* No application for a special land use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission. A resubmitted application shall be considered a new application.

(Ord. No. 01-20, § 18.125, 2-10-20)

Sec. 18-126. Amendments, expansions, or change in use.

The following provisions apply when there is an amendment or proposed expansion to approved special land uses or when there is a proposed change from one (1) special land use to another.

-
- (a) *Amendments.* Any person or agency who has been granted a special land use approval shall notify the planning commission of any proposed amendment to the approved site plan of the approved special land use. The planning commission shall determine whether the proposed amendment requires new special land use approval. New special land use approval may be required when such application or causes external impacts such as additional traffic, hours of operation, noise, additional outdoor storage, or display.
 - (b) *Expansions.* The expansion, change in activity, reuse or redevelopment of any use requiring a special land use permit shall require resubmittal in the manner described in this article. A separate special land use approval shall be required for each use requiring special use review on a lot, or for any expansions of a special land use, which has not previously received a special land use approval.
 - (c) *Change in use.* The applicant shall be responsible for informing the planning commission of any significant change in an approved use, operations, or activities prior to any such change. The zoning administrator shall determine if a new special land use approval is required. A significant change shall mean any departure from the operation or use described in the approved application or any change that may cause external impacts such as additional traffic, hours of operation, noise, additional outdoor storage or display.

(Ord. No. 01-20, § 18.126, 2-10-20)

Sec. 18-127. Inspections.

The building official or designee may make periodic investigations of developments authorized by special land use approval to determine continued compliance with all requirements imposed by the planning commission and this chapter. Non-compliance with the requirements and conditions approved for the special land use may constitute grounds to terminate said approval following a public hearing.

(Ord. No. 01-20, § 18.127, 2-10-20)

Sec. 18-128. Revocation.

The revocation of a special land use may occur if its recipient fails to continuously abide by its terms and conditions. The revocation procedure is as follows:

- (a) The planning commission shall notify the recipient, in writing, of any violations of township ordinances and provisions of the special land use.
- (b) The recipient shall have thirty (30) days to correct any deficiencies to the satisfaction of the planning commission.
- (c) If after thirty (30) days any deficiencies remain, the planning commission may then, after a public hearing, revoke the special land use, or if the conditions warrant, allow additional time for compliance.
- (d) A repeat violation may cause immediate revocation of the special use approval.

(Ord. No. 01-20, § 18.128, 2-10-20)

Secs. 18-129—18-140. Reserved.

ARTICLE VIII. SPECIFIC USE STANDARDS

Sec. 18-141. Purpose.

It is the purpose of this article to provide regulations for miscellaneous and other requirements that may or may not apply in all zoning districts.

(Ord. No. 01-20, § 18.141, 2-10-20)

Sec. 18-142. Accessory dwelling units.

- (a) *Intent.* The intent of the accessory dwelling unit regulations is to accomplish the following:
- (1) Provide older homeowners with an opportunity to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
 - (2) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households.
 - (3) Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle.
 - (4) Provide housing units for persons with disabilities.
 - (5) Protect stability, the residential character of a neighborhood, and property values.
- (b) *Standards of approval.*
- (1) The units shall be a separate housekeeping unit and shall not exceed fifty percent (50%) of the floor area of the principal residence.
 - (2) Only one (1) accessory dwelling unit shall be permitted on each lot or parcel.
 - (3) The owners of the principal residence shall continue to occupy the principal residence.
 - (4) The accessory dwelling unit shall be occupied by not more than three (3) persons. These persons must be related to the owners/occupants of the principal residence by blood, marriage, adoption, or guardianship.
 - (5) All setback and lot coverage requirements of the district shall be met.
 - (6) A minimum of one (1) additional off-street parking space shall be provided for the accessory dwelling unit.

(Ord. No. 01-20, § 18.142, 2-10-20)

Sec. 18-143. Adult foster care facilities.

- (a) *Adult foster care family homes serving six (6) persons or less.* A state-licensed adult foster care home, foster family home, or foster family group home serving six (6) persons or less shall be considered a residential use of property and a use permitted by-right in all residential districts.
- (b) *Adult foster care small group homes serving seven (7) to twelve (12) persons.*
- (1) A site plan prepared in accordance with article VI, site plan review shall be submitted with the special land use application.
 - (2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located.

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- (3) The dwelling unit shall contain a minimum of twelve hundred (1,200) square feet of living space excluding garages, unenclosed porches, and unfinished basements.
 - (4) The subject parcel shall be located a minimum of five hundred (500) feet from another adult foster care small group home or a group child-care home.
 - (5) One (1) off-street parking space shall be provided for each employee/caregiver.
 - (6) Appropriate licenses with the State of Michigan shall be maintained.
- (c) *Adult foster care large group homes serving thirteen (13) to twenty (20) persons.*
- (1) A site plan prepared in accordance with article VI, site plan review shall be submitted with the special land use application.
 - (2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located.
 - (3) One (1) off-street parking space shall be provided for each employee/caregiver.
 - (4) Appropriate licenses with the State of Michigan shall be maintained.
- (d) *Adult foster care congregate facilities serving more than twenty (20) persons.*
- (1) A site plan prepared in accordance with article VI, site plan review shall be submitted with the special land use application.
 - (2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located.
 - (3) The property is maintained in a manner that is consistent with the character of the neighborhood.
 - (4) One (1) off-street parking space shall be provided for each employee/caregiver and one (1) visitor.
 - (5) Appropriate licenses with the State of Michigan shall be maintained.
 - (6) The maximum length of an uninterrupted building façade facing public streets and residentially zoned or used property shall be thirty (30) feet. Façade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses), cornices varying building materials, or pilasters shall be used to break up the mass of a single building.
 - (7) Such facilities may include multi-purpose recreational rooms, kitchens, and meeting rooms. Such facilities may also include medical examination rooms and limited space for ancillary services for the residents of the facility, such as barber and beauty facilities.

(Ord. No. 01-20, § 18.143, 2-10-20)

Sec. 18-144. Adult use business.

- (a) *Purpose and intent.* The purpose and intent of this section is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics that cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of township residents. The provisions of this section are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adult access to sexually oriented businesses and

their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this section to legitimize activities that are prohibited by township ordinance, state or federal law. If any portion of this section relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the township intends said portion to be disregarded, reduced, or revised so as to be recognized to the fullest extent possible by law. The township further states that it would have passed and adopted what remains of any portion of this section relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion found to be invalid or unconstitutional.

(b) *Location.*

- (1) No sexually oriented business shall be permitted within one thousand (1,000) feet of the property line of any other sexually oriented business.
- (2) No sexually oriented business shall be located in any principal or accessory structure already containing a sexually oriented business.
- (3) No sexually oriented business shall be permitted within one thousand (1,000) feet of any of the following:
 - a. A state licensed childcare facility.
 - b. A church, place of worship, or other religious facility.
 - c. A day nursery, preschool, primary school, secondary school, college or university.
 - d. A public library, public building, public park, public playground.
 - e. A zoning district (excluding agricultural districts) in which residential uses are permitted.
 - f. A dwelling used or designed for residential purposes, regardless of the zoning district in which it is located.

The distances provided for in subsection (b)(3)a. through e. inclusive and (b)(3)f. of this subsection shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest points of the property lines of the protected use and the proposed regulated adult entertainment business, or between the nearest point of the zoning district boundary from which the regulated adult entertainment business is to be separated to the nearest point of the property line of the proposed regulated adult entertainment business.

For distances provided for in subsection (b)(3)f. shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest point of the property line of the adult entertainment business and the residential dwelling.

(c) *Standards.*

- (1) The proposed use shall conform to all standards of the zoning district in which it is located.
- (2) The proposed use must meet all applicable written and duly promulgated standards of the township and of other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and governmental agencies has been obtained or is reasonably assured.
- (3) The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent public rights-of-way.
- (4) Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:

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- a. "Persons under the age of 18 are not permitted to enter the premises," and
 - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- (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 10:00 a.m. to 11:00 p.m., Monday through Saturday.
- (7) All parking areas shall comply with section 18-246 of this chapter and shall be additionally illuminated until one (1) hour after the business closes.
- (8) Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities:
- a. Is barrier-free to the extent required by the Americans with Disabilities Act, as amended;
 - b. Is unobstructed by any door, lock or other entrance and exit control device;
 - c. As at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Is illuminated such that a person of normal visual activity looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle can clearly determine the number of people within; and
 - e. Has no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code or authority.

(Ord. No. 01-20, § 18.144, 2-10-20)

Sec. 18-145. Agricultural processing and food storage.

- (a) *Administrative review.* Agricultural processing uses where the use occupies an area five thousand (5,000) square feet or less or agricultural food storage uses where the use occupies an area ten thousand (10,000) square feet or less shall be subject to an administrative review and approval by the zoning official. The zoning official shall review a site plan drawn to scale depicting property lines, structures and the location of the proposed processing and storage areas, as well as supporting documents and determine compliance with the standards herein. The zoning official shall approve or deny the request within forty-five (45) days from the date of submittal of the application. If the application is denied, the zoning official shall notify the applicant in writing of such action and reasons for the denial.
- (b) *Standards.*
- (1) *Setbacks.* Facilities used for agricultural processing and/or food storage shall be setback a minimum of one hundred (100) feet from any adjacent residential structure.
 - (2) *Parking.* Parking areas and surfaces shall be adequate to accommodate anticipated traffic and vehicles on site. No parking or maneuvering lanes shall be permitted within any road right-of-way.

(Ord. No. 01-20, § 18.145, 2-10-20)

Sec. 18-146. Agricultural/commercial tourism.

- (a) *Application of regulations.* The following agricultural/commercial tourism businesses may be permitted after special land use approval:
- (1) Cider mills or wineries selling product, in a tasting room, containing at least fifty percent (50%) of crops or produce grown on-site.
 - (2) Seasonal outdoor mazes of agricultural origin such as straw bales or corn.
 - (3) The processing, storage, and retail or wholesale marketing of agricultural products into a value-added agricultural product in a farming operation of at least fifty percent (50%) of the stored or processed, or merchandised products are produced by the farm operator.
 - (4) U-pick operations.
 - (5) Uses (1) through (4) listed above may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as the general agricultural character of the business is maintained and the income from these activities represents less than fifty percent (50%) of the gross receipts from the business.
 - a. Value-added agricultural products or activities such as education tours of processing facilities, etc.
 - b. Playgrounds or equipment typical of a school playground, such as slides, swings, etc. (not including motorized vehicles or rides).
 - c. Petting farms, animal display, and pony rides.
 - d. Wagon, sleigh, and hayrides.
 - e. Nature trails.
 - f. Open air or covered picnic area with restrooms.
 - g. Educational classes, lectures, seminars.
 - h. Historical agricultural exhibits.
 - i. Kitchen facilities, for the processing, cooking, and/or baking of goods containing at least fifty percent (50%) produce grown on site.
 - j. Gift shops for the sale of agricultural products and agriculturally related products. Gift shops for the sale of non-agriculturally related products such as antiques or crafts, limited to twenty-five percent (25%) gross sales.
 - (6) Other commercial/tourism businesses that are complementary and accessory to the primary agricultural use of the subject property including but not limited to:
 - a. Small-scale entertainment (e.g., music concert, car show, art fair);
 - b. Organized meeting space (e.g., for use by weddings, birthday parties, and corporate events);
 - c. Designated, permanent parking for more than twenty (20) vehicles.
- (b) *Standards.*
- (1) Minimum lot area of ten (10) acres.
 - (2) A two hundred (200) foot open buffer shall be provided on all sides of the property not abutting a roadway. Agricultural/commercial tourism business activities shall not be allowed within this buffer

area. Where possible, crops shall remain within this buffer area to help maintain the agricultural character of the site.

- (3) Buffer plantings shall be provided along the property line where there is an abutting residence. Greenbelt plantings are intended to screen views of the operation from the adjacent home or property. Buffer plantings shall meet the standards of section 18-262(c).
- (4) Must provide off-street parking to accommodate use as outlined in section 18-246.
 - a. Parking facilities may be located on a grass or gravel area for seasonal uses such as roadside stands, u-pick operations, and agricultural mazes. All parking areas shall be defined by either gravel, cut lawn, sand, or other visible marking.
 - b. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
 - c. Parking shall not be located in required setback or buffer areas. Paved parking areas must meet all design, and landscape screening requirements as set forth in this zoning chapter.
- (5) The following additional operational information must also be provided as applicable:
 - a. Ownership of the property.
 - b. Months (season) of operation.
 - c. Number of evening and daytime events to be held per week.
 - d. Evening hours of operation.
 - e. Event capacity.
 - f. Maintenance plan for disposal, etc.
 - g. Any proposed signs.
 - h. Any proposed lighting.
 - i. Maximum number of employees at events.
 - j. Restroom facilities.
 - k. A security plan including traffic control, crowd control, and emergency service.
 - l. Liability insurance shall be provided by the facility naming the township for each event.
 - m. Amplified music and entertainment related sounds shall be conducted inside a fully enclosed structure. At no time shall levels exceed sixty-five (65) decibels at the property line. No subwoofers permitted.
 - n. No candles, smoking or other open fire/flame permitted in barns. No sky lanterns or fireworks permitted.
 - o. All events shall be supervised by a venue coordinator. The venue coordinator shall be on-site at all times an event is in progress. Contact information for the venue coordinator shall be supplied to the township.
 - p. No remote ownership is permitted. The owners of the event facility must reside on-site.
 - q. Verification that all required permits have been granted, i.e., federal, state, and local permits.
- (6) All areas of the property to be used including all structures on site must be clearly identified.

(Ord. No. 01-20, § 18.146, 2-10-20)

Sec. 18-147. Bed and breakfast.

- (a) *Resident proprietor.* The proprietor shall reside at the bed and breakfast establishment.
- (b) *Length of stay.* Guest stays shall not exceed fourteen (14) consecutive days nor more than thirty (30) days in one (1) year.
- (c) *Primary residential use.* The rooms utilized for sleeping shall be part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that accessory dwellings in existence as of the effective date of this section and located on the same parcel as a bed and breakfast may be utilized for sleeping rooms, in accordance with this section.
- (d) *Minimum room square footage.* The rental sleeping rooms shall have a minimum area of one hundred (100) square feet for one (1) or two (2) occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.

(Ord. No. 01-20, § 18.147, 2-10-20)

Sec. 18-148. Building materials sales, garden centers, and similar uses.

- (a) *Application of regulations.* Building materials sales, garden centers, plant and tree nurseries, greenhouses, landscaping and landscaping supply businesses, and similar uses which are characterized by outdoor storage and sales, unless otherwise specified herein, shall be subject to the standards set forth in this section.
- (b) *Permanent sales office.* A permanent sales office building shall be located on the subject parcel. The building(s) may also include activities ancillary to the principal use such as the storage of materials and equipment storage/repair.
- (c) *Outdoor storage.* Outdoor storage of equipment and materials shall be subject to the standards set forth in section 18-166.

(Ord. No. 01-20, § 18.148, 2-10-20)

Sec. 18-149. Campground/recreational vehicle park.

- (a) *Campground/recreational vehicle park.* Publicly or privately-owned and operated campgrounds and camp buildings providing temporary living quarters for campers on a daily, weekly, or seasonal basis shall be subject to the following:
 - (1) The minimum site area shall be ten (10) acres.
 - (2) The site shall have direct access to a public road.
 - (3) A minimum one hundred (100)-foot setback shall be established around the perimeter of the property for the purpose of buffering a private campground or recreational vehicle park in relation to adjacent land currently zoned or used for residential purposes. The perimeter buffer shall be kept in its natural state or landscaped to achieve a complete visual screen from abutting properties or the public road right-of-way. Where natural vegetation or land contour are insufficient to buffer a private campground or recreational vehicle park in relation to surrounding properties, the planning commission and township board may require additional setback, landscaping and/or berms beyond those required elsewhere for screening between land uses.
 - (4) Temporary campgrounds are strictly prohibited.

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- (5) No permanent residential structures shall be constructed. Residency at the campground is to be temporary in nature and for recreational purposes (i.e., no mail to be delivered to occupants, no children enrolled in school from campground address, etc.).
 - (6) Manufactured homes shall not be permitted to be located within a campground.
 - (7) The use and occupancy of a campground shall be in strict compliance with the current laws and requirements of the State of Michigan governing such uses. A State of Michigan campground license must be obtained and kept in good standing.
 - (8) Each site on a lot designated for camping use may accommodate a travel trailer or tent or recreational vehicle and shall be provided with individual electrical outlets. Animal-proof waste containers shall be provided at each site.
 - (9) Adequate public sanitary facilities housed in all-weather structures shall be provided uniformly throughout the campground at a ratio of not less than one (1) such station per twenty (20) camping sites.
 - (10) Each campground containing more than sixty (60) sites shall provide a masonry building containing machine laundry (wash and dry facilities) and showers.
 - (11) No commercial enterprises shall be permitted to operate on the lot, except that a convenience goods shopping building may be provided on a lot containing more than eighty (80) camping sites. Any convenience store is for use by on-site campers only. Advertisement and signage for the store can only be provided within the interior of the campground and not visible to the public.
 - (12) Each lot shall provide a gravel or hard-surfaced, dust-free vehicle parking area for site occupant and guest parking. Such parking area shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping). Each parking space shall be two hundred (200) square feet in area and guest parking shall be provided at the ratio of not less than one (1) space per each two (2) camping sites. Occupant parking space for two (2) vehicle shall be provided on each site.
 - (13) Each site shall contain a minimum of one thousand five hundred (1,500) square feet, except that the minimum size for sites specifically designated for tents shall be three thousand (3,000) square feet. Each site shall be set back from any right-of-way or property line at least seventy-five (75) feet, and from any private street at least forty (40) feet.
 - (14) A common use area shall be provided on each lot at a ratio of not less than one thousand (1,000) square feet of such area per each site. This common area shall be developed by seeding, landscaping, and provided with picnic tables, barbecue stands and passive recreation equipment (i.e., swings, horseshow pits, shuffleboard courts, etc.) for the general use of all occupants of the campground.
 - (15) Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway at least twenty-four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway.
 - (16) Public streets shall be paved with gravel or asphaltic concrete. Sites specifically designated for, and only used for tent camping need not have direct vehicular access to any street or road but shall be provided with adequately cleared and marked pedestrian pathway access which originates at a point on a street or road within two hundred (200) feet of the parking area mentioned in subsection 13.
 - (17) All sanitary facilities shall be designed and construction in strict conformance with all applicable Monroe County Health Department regulations.
 - (18) A minimum distance of fifteen (15) feet shall be provided between all travel trailers or tents or recreational vehicles.

(19) Fences and greenbelts may be required by the planning commission.

(Ord. No. 01-20, § 18.149, 2-10-20)

Sec. 18-150. Cemeteries.

- (a) *Screening.* Landscape screening adjacent to residentially zoned properties shall be addressed during site plan review.
- (b) *Assembly.* The site shall be designed such that adequate assembly area is provided off-street for vehicles associated with funeral processions. This assembly area shall be provided in addition to any required off-street parking area.
- (c) *Ingress and egress.* Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent thoroughfares and funeral processions or visitors entering or existing the site.
- (d) *Setbacks.* No building shall be located closer than fifty (50) feet from any residential zoning district.

(Ord. No. 01-20, § 18.150, 2-10-20)

Sec. 18-151. Commercial marinas, boat launching facilities, and similar water related uses.

- (a) *Setbacks.* Buildings, docks, and parking areas shall be located no closer than thirty-five (35) feet from any residential zoning district.
- (b) *Accessory uses.* Uses accessory to marinas, boat launches, and water-related uses, such as refreshment stands, retail shops, bait shops, marine fuel sales, and similar uses are permitted, provided that such uses occupy no more than four hundred (400) square feet of building area.
- (c) *Parking.* Parking spaces shall be provided at a rate of three-fourths (0.75) of a vehicular space for each boat slip.

(Ord. No. 01-20, § 18.151, 2-10-20)

Sec. 18-152. Commercial recreation facilities.

- (a) *Indoor commercial recreation facilities.* The following regulations apply to indoor commercial recreation facilities:
 - (1) The site shall be located on, or shall have principal access from, a major thoroughfare or county primary road.
 - (2) Minimum site area shall be one (1) acre.
 - (3) No building shall be located within fifty (50) feet of a lot line of adjoining residentially zoned or used property.
 - (4) Whenever parking areas are adjacent to residentially zoned or used land, a fence or screen wall of at least four (4) feet and no more than six (6) feet in height shall be provided along the side of the parking area adjacent to the residentially zoned or used land.
 - (5) Based on the nature of the use and nuisance potential to adjoining property owners, the planning commission may stipulate noise standards beyond those otherwise regulated by township ordinances.

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- (6) Operating hours for all uses shall be determined by the planning commission based on the nature of the use and the nuisance potential to adjoining property owners.
- (b) *Outdoor commercial recreational facilities.* The following regulations apply to outdoor commercial recreational facilities:
- (1) The site shall be located on or shall have principal access from a major thoroughfare or county primary road.
 - (2) All points of access shall be no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
 - (3) Minimum site area shall be based on the underlying zoning district. However, the planning commission may increase the minimum required site area depending upon the described use and anticipated extraneous impacts on adjacent properties. Such an increase will be for the purposes of buffering, screening, and otherwise negating or limiting the potential nuisance to adjacent properties caused by noise, dust, odor and the like.
 - (4) No building or spectator seating area shall be located within one hundred (100) feet of a property line of an adjoining residentially zoned or used property.
 - (5) A landscape buffer strip of no less than one hundred (100) feet shall be provided along the property lines of all residentially zoned or used property. However, the planning commission may reduce such requirement by fifty percent (50%) if it is determined that the potential for off-site nuisance is limited.
 - (6) Whenever parking areas are adjacent to residentially zoned or used land, a fence or screen wall of at least four (4) feet and no more than six (6) feet in height shall be provided along the side of the parking area adjacent to the residentially zoned or used land.
 - (7) Not more than sixty-five percent (65%) of the land area shall be covered by recreation uses.
 - (8) Central loudspeakers/paging systems are prohibited within two hundred (200) feet of residentially zoned or used property. Such systems shall not be directed toward a residential area even if outside the two hundred (200)-foot setback nor shall they create a nuisance to such residential areas.
 - (9) Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, shall be designed to serve only the patrons of the outdoor recreation facility, unless otherwise listed as a permitted use in the district in which the facility is located.
 - (10) Operating hours for all uses shall be determined by the planning commission based on the nature of the use and the nuisance potential to adjoining property owners.

(Ord. No. 01-20, § 18.152, 2-10-20)

Sec. 18-153. Community supported agriculture (CSA) and farm markets.

- (a) *Application of regulations.*
- (1) Community supported agriculture or associated distribution/pickup center, u-pick operations, and farm markets occupying less than one thousand five hundred (1,500) square feet shall be reviewed administratively. The administrative review process shall be conducted as follows:
 - a. A property survey drawn to scale with dimensions showing property lines, all structures and other improvements shall be submitted to the township with an application for zoning compliance.
 - b. The zoning official shall review the application and supporting materials, using the standards of this section and other applicable provisions of the zoning ordinance.

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- (2) Community supported agriculture or associated distribution/pickup center, u-pick operations, and farm markets occupying one thousand five hundred (1,500) square feet or more shall require review and approval from the planning commission.

(b) *Standards.*

- (1) *Locally/regionally grown farm products.* Agriculture products distributed or sold at such facility shall be locally/regionally grown and obtained from Michigan farms within a radius of no more than one hundred (100) miles from the facility. For value-added products sold at any facility, at least fifty percent (50%) of the products' "namesake" ingredient must be produced by a Michigan farm within one hundred (100) miles of the facility.
- (2) *Setbacks.* Facilities or areas used for CSA or farm markets shall be setback a minimum of one hundred (100) feet from any adjacent residential structure.
- (3) *Parking.* Adequate parking for the maximum number of expected patrons must be provided on-site and outside of any road right-of-way. Parking lot and maneuvering lane surfaces shall be adequate for the number and types of vehicles accessing the facility.
- (4) *Hours of operation.* The facility shall operate any time between the hours of 7:00 a.m. to 7:00 p.m.
- (5) *Lighting.* Lighting used in the operation of the CSA and/or farm market shall be downward facing and shielded to minimize light trespass onto adjacent properties. Lights, other than those needed only for security, shall not be turned on when the CSA or farm market facility is not in use.
- (6) *Nuisances.* The CSA or farm market facility shall not create nuisances for adjacent property owners. Such nuisances include, but are not limited to, amplified music or sounds, excessive dust or odors, and/or traffic that cannot be accommodated on-site.
- (7) *Other permits.* All other required permits shall be obtained.
- (8) *Other marketing strategies.* Other marketing strategies, activities, and services designed to attract and entertain customers while they are at the CSA or farm market require additional review by the planning commission.

(Ord. No. 01-20, § 18.153, 2-10-20)

Sec. 18-154. Convalescent center.

- (a) *Site area.* All such facilities shall be developed on sites having a minimum of one (1) acre or two thousand (2,000) square feet of site area for each one (1) bed in the facility or for each person cared for in the facility, whichever is greater. Within this area, a minimum of five hundred (500) square feet of contiguous open space shall be provided, apart from areas required for vehicular uses, for each bed or for each person cared for within the capacity of the building.
- (b) *Yards.* All yards shall be a minimum of fifty (50) feet in width, shall be kept free of parking, and shall be landscaped.
- (c) *Loading and service areas.* Delivery, loading, service, and parking areas shall be screened from view of residentially zoned or used property in accordance with the standards set forth in section 18-248(b)(2).
- (d) *Façade.* The maximum length of an uninterrupted building façade facing public streets and residentially zoned or used property shall be thirty (30) feet. Façade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses), cornices, varying building materials, or pilasters shall be used to break up the mass of a single building.

- (e) *Facilities.* Such facilities may include multi-purpose recreational rooms, kitchens, and meeting rooms. Such facilities may also include medical examination rooms and limited space for ancillary services for the residents of the facility, such as barber and beauty facilities.

(Ord. No. 01-20, § 18.154, 2-10-20)

Sec. 18-155. Country clubs.

- (a) *Permitted uses.* Uses which may be permitted in conjunction with a country club include, but shall not be limited to, accessory buildings, a club house, swimming pool, golf course and the sale of food.
- (b) *Setbacks.* Buildings associated with country clubs and outdoor facilities such as swimming pools, tennis and basketball courts shall be located a minimum of one hundred (100) feet from a property line.
- (c) *Access.* Access to the site shall be on a county primary road or a state trunk line.

(Ord. No. 01-20, § 18.155, 2-10-20)

Sec. 18-156. Drive-through facilities.

- (a) *On-site stacking.* Adequate on-site stacking space for vehicles shall be provided for each drive-through window so that vehicles will not interfere with vehicular circulation or parking maneuvers on this site. Access to and egress from the site will not interfere with peak hour traffic flow on the street serving the property. On-site vehicle stacking for drive-through windows shall not interfere with access to, or egress from the site or cause standing of vehicles in a public right-of-way.
- (b) *Traffic control.* Project peak hour traffic volumes which will be generated by the proposed drive-through service shall not cause undue congestion during the peak hour of the street serving the site.
- (c) *Ingress and egress.* Ingress and egress to drive-through facilities shall be part of the internal circulation of the site and integrated with the overall site design. Clear identification and delineation between the drive-through facility and the parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular operation and safety.
- (d) *Drive-through location.* Single-lane drive-throughs may be located at the side of a building. Multiple-lane drive-throughs shall be located in a manner that will be the least visible from a public thoroughfare. Canopy design shall be compatible with the design on the principal building and incorporate similar materials and architectural elements.
- (e) *Stacking space requirements.* Each drive-through facility shall provide stacking spaces meeting the following standards:
 - (1) Each stacking lane shall be one-way and each stacking lane space shall be a minimum of twelve (12) feet in width and twenty (20) feet in length.
 - (2) If proposed, an escape lane shall be a minimum of twelve (12) feet in width to allow other vehicles to pass those waiting to be served.
 - (3) The number of stacking spaces per service lane shall be provided for the uses as listed in table 18-156-E-1. When a use is not specifically mentioned, the requirements for off-street stacking space for the use with the similar needs, as determined at the discretion of the zoning official, shall apply.

Table 18-156-E-1. Drive-Through Stacking Space Requirements	
Use	Stacking Spaces per Service Lane
Banks, Pharmacy, Photo Service, Dry Cleaning	4

(Supp. No. 19)

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Restaurants	10
Auto Washes (Self-Service)	
Entry	2
Exit	1
Auto Washes (Automatic)	
Entry	8
Exit	2

(Ord. No. 01-20, § 18.156, 2-10-20)

Sec. 18-157. Farm equipment sales, leasing, and repair.

- (a) *Uses permitted.* Farm equipment sales and leasing shall include, but shall not be limited to, the sales and leasing of new and used farm equipment.
- (b) *Display of farm equipment.* Areas used for the display of farm equipment shall be a minimum of twenty (20) feet from a road right-of-way. The lighting of display areas shall be deflected away from adjacent properties and streets in accordance with section 18-265.
- (c) *Repair and maintenance activities.* Repair and maintenance activities, including hydraulic hoists, lubrication pits, and similar activities shall be performed entirely within an enclosed building.
- (d) *Outdoor storage.* Surplus, dismantled, wrecked, or inoperable farm equipment stored outdoors shall be within an area enclosed by an opaque fence or wall a minimum of six (6) feet in height. Wire fences with inserted strips of metal, plastic, and similar materials will not be permitted.

(Ord. No. 01-20, § 18.157, 2-10-20)

Sec. 18-158. Golf courses/golf driving ranges.

- (a) *Accessory uses and buildings.* Golf courses may also include accessory uses such as, but not limited to, clubhouses, restaurants, driving ranges, pro shops, and maintenance buildings. Any accessory uses and buildings associated with the golf course on the site shall conform to setback and dimensional requirements of the underlying zoning district.
- (b) *Layout.* The design and layout of a golf course and/or golf driving range shall be configured to prevent stray golf shots from traveling off of the site and onto rights-of-way, neighboring properties, or lands within the golf course development designed for uses other than the playing of golf.
- (c) *Off-street parking.* All off-street parking shall be in compliance with the standards set forth in section 18-246 of this chapter to provide for adequate parking for golfers as well as for banquets, weddings, golf tournaments, conferences, and other activities.
- (d) *Storage, service, and maintenance areas.* All storage, service, and maintenance areas shall be screened from view of residentially zoned or used property in accordance with the standards set forth in section 18-262(c).

(Ord. No. 01-20, § 18.158, 2-10-20)

Sec. 18-159. Gun clubs, firing and archery ranges.

- (a) *Indoor.*

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- (1) A minimum lot area of not less than ten (10) acres shall be maintained.
 - (2) The structure for the completely enclosed firing range shall be bulletproof.
 - (3) The structure shall not be less than five hundred (500) feet from any residential use or district or right-of-way.
 - (4) Adequate paved parking shall be maintained.
- (b) *Outdoor.*
- (1) A minimum lot area of not less than forty (40) acres shall be maintained.
 - (2) The gun firing lines of the range shall not be less than five thousand (5,000) feet in length from the firing point and shall be at least one-quarter ($\frac{1}{4}$) mile from the nearest residential use district in any direction from the firing point.
 - (3) The shooters shall fire in a northerly direction at all times, away from any traveled highways.
 - (4) Shooters shall fire into a thirty (30)-foot high hill or suitable backstop to be approved by the Monroe County Sheriff's Department.
 - (5) A six (6)-foot tall wall or fence shall enclose the range to prevent persons from moving into the area and firing lane.

(Ord. No. 01-20, § 18.159, 2-10-20)

Sec. 18-160. Housing for seasonal agricultural workers.

A building may be used for the temporary housing of seasonal agricultural workers provided the farm where located is at least sixty (60) acres. One (1) mobile home may be used for the housing of one (1) agricultural worker and his/her family provided the farm where located is at least sixty (60) acres in size, is being used for agricultural purposes, and that the worker obtains at least thirty percent (30%) of his/her means from that farm where living. The manufactured home shall meet all setbacks of the underlying zoning and be located behind the front face of the principal residential structure.

(Ord. No. 01-20, § 18.160, 2-10-20)

Sec. 18-161. Hospital.

- (a) *Ingress and egress.* The proposed site shall have at least one (1) property line abutting a major arterial of at least one hundred twenty (120) feet of right-of-way width. All vehicular ingress and egress shall be directly from a major thoroughfare.
- (b) *Setbacks.* The minimum distance of any main or accessory building or structure from any boundary property line or street shall be two hundred (200) feet. A minimum depth of one hundred (100) feet of such required yards, adjacent to property lines, shall be kept free of off-street parking.
- (c) *Accessory buildings and uses.* Accessory buildings and uses may be permitted, provided total floor area of such uses does not exceed that of the main hospital complex. Ambulance and delivery areas shall be screened from view of adjacent residentially zoned or used property, in accordance with the standards set forth in section 18-144.
- (d) *Off-street parking.* Off-street parking shall be provided for such uses in accordance with the requirements of section 18-246. Accessory building and uses parking shall be in addition to that required for the main hospital complex.

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- (e) *Hazardous materials.* Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant to the township during the development review process, and all such storage, use, and handling shall be conducted in accordance with the standards set forth in section 18-312(c) and any applicable state or federal requirements.

(Ord. No. 01-20, § 18.161, 2-10-20)

Sec. 18-162. Large-scale retail/wholesale establishments.

(a) *Building design and materials.*

- (1) *Facades and exterior walls.* The maximum length of an uninterrupted building façade facing public streets, residentially zoned or used property, and/or parks shall be thirty (30) feet. Façade articulation or architectural design variations for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses), cornices, varying building materials, or pilasters shall be used to break up the mass of a single building.
- (2) *Roofs.* Roofs shall exhibit one (1) or more of the following features depending upon the nature of the roof and building design:
 - a. *Flat roof.* Parapets concealing flat roofs and rooftop equipment or screening surrounding rooftop equipment such as HVAC units from public view are required. Parapets shall not exceed one-third ($\frac{1}{3}$) of the height of the supporting wall at any point.
 - b. *Pitched roof.*
 - i. Overhanging eaves extending no less than three (3) feet past the supporting walls.
 - ii. An average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.
 - iii. Three (3) or more roof slope planes.

(b) *Site design.*

- (1) *Parking lot location.* No more than fifty percent (50%) of the off-street parking area devoted to the large-scale retail establishment shall be located within the front yard and between the front façade of the principal building and the abutting streets.
- (2) *Primary entrance.* The primary building entrance shall be clearly identifiable and useable and located facing the right-of-way.
- (3) *Pedestrian connection.* A pedestrian connection shall provide a clear, obvious, publicly accessible connection between the primary street upon which the building fronts and the building. The pedestrian connection shall comply with the following:
 - a. Fully paved and maintained surface not less than five (5) feet in width.
 - b. Unit pavers or concrete distinct from the surrounding parking and drive lane surface.
 - c. Located in a separate sidewalk, within a raised median or between wheel stops to protect pedestrians from vehicle overhangs where parking is adjacent.
- (4) *Additional entrances.* In addition to the primary façade facing front façade and/or the right-of-way, if a parking area is located in the rear or side yard, it must also have a direct pedestrian access to the parking area that is of a level of materials, quality, and design emphasis that is at least equal to that of the primary entrance.

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- (5) *Delivery/loading operations.* Loading docks, trash collection, outdoor storage, and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. Use of screening materials that are different from or inferior to the principal materials of the building and landscaping is prohibited.

(Ord. No. 01-20, § 18.162, 2-10-20)

Sec. 18-163. Lodging.

Lodging that includes a restaurant, bar/lounge, auditorium, exhibition, or public meeting space shall provide parking to accommodate all uses on the site, in accordance with the standards set forth in section 18-246.

(Ord. No. 01-20, § 18.163, 2-10-20)

Sec. 18-164. Manufactured housing communities.

- (a) *Statement of purpose.* The district is designed to provide for the location and regulation of mobile home parks thus providing for a variety of housing types and residential living environments in the township. The community shall strive to achieve one (1) of the primary goals of the master plan a balance and variety of housing types and environments. It is further intended that manufactured housing communities shall provide the necessary community services and setting to avoid overcrowding, assure adequate light and ventilation and limit congestion.
- (b) *General requirements.*
- (1) Each manufactured home within a manufactured housing community shall contain a complete bathroom, including flush toilet, kitchen facilities, sleeping accommodations and plumbing and electrical connections. Travel trailer, motor homes and other recreational vehicles shall not be occupied in a manufactured housing community.
 - (2) Manufactured home skirting shall be vented. Louvered or similar vents shall be at least a minimum of six hundred (600) square inches per one thousand (1,000) square feet of living space. A minimum of one (1) vent shall be placed at the front and the rear of the manufactured home and to each exposed side. An access panel of sufficient size to allow full access to utility hook-ups located beneath the manufactured home shall be installed. All skirting shall be manufactured of fire-resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions to include, but not limited to, damage caused by freezing and frost, wind, snow and rain.
 - (3) Storage of dangerous or combustible goods and articles underneath any manufactured home or out of doors at any manufactured home site shall be prohibited except in an approved enclosed storage facility.
 - (4) Canopies and awnings may be attached to any manufactured home and may be enclosed, subject to manufactured home site regulations herein. When enclosed, such shall be considered a structure and part of the manufactured home, building and occupancy permits issued by the building official shall be required.
 - (5) All garbage and rubbish shall be stored and transferred in accordance with the procedures outlined in Part 5, Garbage and Rubbish Storage and Disposal, of the Michigan Department of Public Health Rules, being sections .325, .3351— .3354 of the Michigan Administrative Code. Garbage and trash removal

shall be made at least once per week, except during the summer when health conditions may warrant additional pickups. Incineration of garbage or rubbish on the site shall be prohibited.

- (6) A commercial sale lot activity is prohibited within a manufactured housing community except that manufactured homes on manufactured home sites under the "model home" concept may be sold on site by a licensed manufactured home dealer or broker. This subsection does not prohibit the sale of a manufactured home on site by the manufactured homeowner.
- (7) All structures and utilities to be considered, altered, or repaired in a manufactured housing community shall comply with all applicable codes of the township, the state, the U.S. Department of Housing and Urban Development and the manufactured housing commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured home built prior to June 15, 1976, shall be constructed to the state standards in effect at that time. All structures and improvements to be constructed or made under the township or state building code and other statutes shall have a building permit issued by the building official. Such structure or improvement shall have a minimum of two (2) inspections prior to a final inspection by the building official.
- (8) A manufactured housing community shall have a public water and sewer system and/or on-site water and wastewater treatment system acceptable by the state department of public health and state department of natural resources.
- (9) The site and surrounding area shall be suitable for residential use. It shall not be subject to hazards such as insect or rodent infestation, objectionable smoke, noxious odors, unusual noise, subsidence or the probability of flooding or erosion. The soil, groundwater level, drainage, rock formation and topography shall not create potential hazards to the property or to the health and safety of the occupants.
- (10) All land in a manufactured housing community shall comprise a single parcel. Public thoroughfares, except extensions of local and collector streets proposed as part of a manufactured housing community site plan, shall not bisect or divide a manufactured housing community to avoid unwarranted public traffic from traveling through the community.
- (11) A manufactured housing community shall not be occupied unless at least twenty-five percent (25%) or ten (10) sites of the expected total, whichever is less, manufactured home sites are available for occupancy at the time of opening the community, in accordance with MCL 125.1816, MSA 3.540(216).
- (12) A manufactured housing community shall not be developed on less than twenty (20) acres. Individual sites within a community shall be developed with sites having five thousand five hundred (5,500) square feet per mobile home unit being served. These five thousand five hundred (5,500) square feet may be reduced by twenty percent (20%) provided the individual site shall be equal to at least four thousand four hundred (4,400) square feet. For each square foot of land gained through the reduction of the site below five thousand five hundred (5,500) square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space requirements be less than that required under R125, 1946, rule 946 of the Michigan Administrative Code.
- (13) The minimum setback for a manufactured housing community shall be fifty (50) feet from a public right-of-way.
- (14) The manufactured housing community shall be constructed pursuant to Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.31101 et seq., MSA 19.855(1) et seq.) and the rules promulgated thereunder.
- (15) Landscaping and/or greenbelts shall be in conformance with the provisions of section 18-162. Common laundry, drying yards, trash collection stations, surface mounted transformers and similar equipment and facilities shall be screened from view by plant materials or by manmade screens. Required

landscape strips shall not be included in the calculation of required recreational areas. Parking shall not be permitted in any required buffer area.

- (c) *Manufactured home site regulations.* The manufactured housing code, as established by the manufactured housing commission and the state department of public health rules, under the authority of Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.), regulates manufactured housing community density, design, construction, licensing, individual manufactured home installation, anchoring, and health aspects. All manufactured housing communities shall be constructed according to the standards of the code and state department of public health rules, which include specifications for internal road widths, length, turning radii, alignment, gradients, construction materials, curbing, parking, utilities, pedestrian circulation, pad size, maintenance, setbacks, screening, and health aspects. Any variance from these established standards granted by the township must be filed with the state manufactured housing commission, however, the commission may approve, disapprove, and revoke the variance upon notice and hearing.
- (d) *Utilities.* Each manufactured home shall be suitably connected to sanitary sewer, water and other available utility lines and such connections shall meet the following regulations.
- (1) A public water system or water system approved by the state department of public health, and in accordance with Act No. 399 of the Public Acts of Michigan of 1976 (MCL 325.1001 et seq., MSA 14.427(1) et seq.), the Safe Drinking Water Act shall be provided within a manufactured housing community. The water supply shall be adequate for firefighting purposes.
 - (2) A public sewer system or wastewater treatment system approved by the state department of public health and the state department of natural resources shall be provided within a manufactured housing community.
 - (3) Each manufactured home space shall be provided with at least a four (4)-inch sanitary sewer connection. The sewer shall be closed when not connected to a manufactured home and shall be capped so as to prevent any escape of odors. The sewer condition shall be water-tight and self-draining.
 - (4) The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, from accidental bumping, or from creating any type of nuisance or health hazard.
 - (5) All electrical lines to each manufactured home site shall be underground. Separate meters shall be installed for each site. All cable television and telephone lines shall be underground. Aboveground lines are allowed for the connection between the manufactured home unit and the individual site utility pedestals.
 - (6) No individual exterior television antennas shall be permitted within the manufactured housing community. If central television antenna systems, cable television or other such services are provided, the distribution systems shall be underground and shall be constructed and installed pursuant to state and local codes and ordinances.
 - (7) An electrical service adequate for single-family residence needs shall be provided for each mobile home space. The installation shall comply with all state electrical regulations.
 - (8) All fuel oil and liquefied gas supplies shall be installed in a manner consistent with the requirements contained in the general rules of the state manufactured home commission as provided for in Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.).
- (e) *Access and parking.*
- (1) All internal streets, driveways, motor vehicle parking spaces and walkways within the park shall be hard surfaced and shall further comply with the general rules of the state manufactured housing

commission as provided for in Act No. 419 of the public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.), and revisions.

- (2) All entrances and exits from a manufactured housing community shall abut a hard-surfaced public road (cement and/or bituminous construction). Improvements to hard-surfaced roads, such as acceleration/deceleration lanes, shall be made in accordance with county road commission standards.
 - (3) Cul-de-sac streets, where proposed, shall have a turnaround with a minimum outside radius of forty-five (45) feet, in accordance with adopted county road commission standards, and shall have a maximum length of three hundred (300) feet.
 - (4) Entrances and exits for a manufactured housing community from county or state highways shall have written approval of the highway authority having jurisdiction before the final site plan for all or any phase of the manufactured housing community shall be approved by the manufactured housing commission.
 - (5) Where a proposed manufactured housing community is adjacent to properties that have existing public sidewalks on them and the sidewalk abuts the manufactured housing community parcel, the developer shall also construct a sidewalk of equal width to act as a connection between, or any extension of the existing public sidewalk. Such sidewalk shall be necessary for only those portions of a manufactured housing community fronting upon a public thoroughfare.
- (f) *Storage areas.* The on-site outdoor storage of boat trailers, boats, camping units, horse trailers and similar equipment shall be prohibited. The manufactured housing community may provide, within the confines of the community, a common outdoor storage area for the storage of the above-mentioned equipment. Such storage area shall be surfaced with gravel, asphalt or similar substances and shall be screened from view with plant materials or manmade screening devices.
- (g) *Procedures and permits.* Application for a permit to construct a manufactured housing community shall be submitted to the state department of commerce. The department of commerce is the agency charged with licensing of manufactured housing communities. Preparation of the application, support data and local agency review of the above-mentioned materials shall conform to the requirements of Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.).
- (h) *Area and bulk requirements; general provisions.* See general provisions of this chapter for conditions and regulations applicable to uses in the MH district.
- (i) *Principal permitted uses.* In all MH districts no building or land except as otherwise specifically provided for this this section shall be erected or used for other than the following specified uses:
- (1) Manufactured housing communities subject to the following:
 - a. Application. Preliminary or tentative site plan approval shall be required for all manufactured housing communities and shall be subject to the following procedures:
 - i. The application for approval of a manufactured housing community shall be accompanied by a preliminary or tentative site plan. The application shall be filed with the clerk's office for submission to the planning commission for their review, approval or denial.
 - ii. *Date of receipt.* The date of receipt of the preliminary or tentative site plan shall be fifteen (15) days prior to the date of the next regular planning commission meeting.
 - iii. Preliminary or tentative site plans and specifications shall be submitted. All information as required by the site plan check list for tentative site plan approval shall be required.
 - iv. The preliminary site plan shall be submitted to the Monroe County Road Commission, Monroe County Health Department and the Monroe County Drain Commission in accordance with Public Act No. 96 of 1987, State of Michigan, as amended.

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- v. The planning commission shall either approve, approve with modifications or disapprove the preliminary or tentative site plan within sixty (60) days of the date of receipt of the preliminary plan; provided, however, this requirement may be waived by the applicant.
 - vi. The applicant shall be responsible for submitting to the township building official, four (4) complete sets of the final drawings approved by the state for construction. All manufactured housing communities shall be approved by the manufactured housing commission of the state and shall comply with all "rules" as adopted by the commission as provided for by Public Act No. 96 of 1987, State of Michigan, as amended.
- b. *Minimum lot area.* A manufactured housing community shall not be permitted on parcels of less than fifteen (15) acres in net area. In determining net area all dedicated interior and exterior right-of-way equal to or greater than eighty-six (86) feet in width shall be excluded. This shall not prohibit adding parcels of more or less than fifteen (15) acres to an existing manufactured housing community, provided that the total community area (existing development plus the added parcel) shall be fifteen (15) acres or greater in net area.
- c. *Overall density, yard, and area requirements.*
- i. Overall density for the manufactured housing community shall not exceed six and one-half (6.5) dwelling units per acre.
 - ii. The manufactured housing community shall be developed with sites averaging five thousand five hundred (5,500) square feet per manufactured home unit. This five thousand five hundred (5,500) square feet requirement for any one (1) site may be reduced by twenty percent (20%) provided that the individual site shall be equal to at least four thousand four hundred (4,400) square feet. For each square foot of land gained through the reduction of the site below five thousand five hundred (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 Rule 125.1946, Rule 946 and Rule 125.944, Rules 941 and 944 of the Michigan Administrative Code.
- d. *Compliance with state and local requirements.* Manufactured housing communities shall comply with all requirements of Act No. 96 of the Public Acts of 1987, State of Michigan, as amended. Further, all manufactured housing communities shall comply with this section, and all rules and regulations as established by the Michigan Manufactured Housing Commission.
- e. *Commercial sales lots.* The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured housing community is prohibited. New or used manufactured homes located on lots within the manufactured housing community to be used and occupied within the manufactured housing community may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or mused manufactured home by a resident of the manufactured housing community provided the community permits the sale.
- f. *Manufactured home standards.* Each manufactured home shall contain sanitary waste disposal facilities, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems as commonly found in modern manufactured homes. Each manufactured home shall comply with the regulations of the U.S. Department of Housing and Urban Development as adopted on June 15, 1976, and all subsequent amendments to such standards and regulations. Manufactured homes constructed prior to June 15, 1976 shall be in full compliance with NFPA 501B-1974/ANSI 119.1-1975 standards.

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- g. *Permit.* It shall be unlawful for any person to operate a manufactured housing community unless a license for such operation, in compliance with the requirements of the Michigan Public Act 96 of 1987, as amended has been obtained. The building official shall communicate his recommendations regarding the issuance of such licenses to the Director of Manufactured Housing Division, Corporation and Securities Bureau, Michigan Department of Commerce. A certificate of occupancy shall be required for each manufactured home.
- h. *Inspections.* The building official shall conduct periodic inspections. Whenever the building official finds that conditions or practices exist which violate the provisions of this section or other regulations referenced herein, the building official shall give notice in writing by certified mail to the Director of the Michigan Manufactured Housing Commission. A copy of such notification shall be sent by certified mail to the community owner or agent. The building official or other agents authorized by the township are granted the power and authority to enter upon the premises of any manufactured housing community as specified by Michigan Public Act 96 of 1987, as amended, at any time for the purpose of determining and/or enforcing any provision of this section.
- i. *Roadway standards.* All roadways and driveways shall be hard surfaced and so constructed as to handle anticipated peak roads and drainage and shall be lighted for safety and ease of movement of vehicles. All roads shall meet or exceed the engineering standards as established by the manufactured housing commission. The interior road system shall be developed to service the residents of the manufactured housing community and shall therefore remain private.
- j. *Access drives.* A manufactured housing community creating a total of fifty (50) or more manufactured home lots or sites shall have at least one (1) access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement which shall be recorded before approval by the Department of Commerce. This access shall be a boulevard access road with at least one (1) lane for ingress and at least one (1) lane for egress if it is the only access to the manufactured housing community.
- k. *Width of access drives.* Two-way streets within a manufactured housing community shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted along one (1) side of the street, and forty-one (41) feet where parallel parking is permitted along both sides of the street. The minimum width of a one-way street shall be thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted along one (1) side, and thirty-three feet where parallel parking is permitted along both sides.
- l. *Utilities and other similar or related services.*
- i. The plumbing connections to each manufactured home site shall be constructed so that all lines are protected from freezing, from accidental bumping or from creating any type of nuisance or health hazard.
 - ii. An adequate amount of running water to individual manufactured home sites shall be piped to and meet the requirements of the county and state health departments and shall be adequately protected from frost.
 - iii. Storm drainage facilities shall be so constructed as to protect the health, safety, and welfare of those that will reside in the manufactured housing community, as well as the property owners adjacent to the development. Such community facilities shall be of such capacity to ensure rapid drainage and prevent accumulation of stagnant pools of water in or adjacent to the community consistent with part 4 of the MDPH drainage standards.

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- iv. All electric, telephone, and other utility lines intended to serve any use in a MH district, whether designed for primary service from main lines or for distribution of services throughout the site shall be placed and maintained underground at all points within the boundaries of the manufactured housing community. When separate meters are installed, they shall be uniformly located. Wiring shall comply with the recommended Detroit Edison standards for manufactured housing communities.
 - v. Any community fuel oil and gas storage shall be developed consistent with "Manufactured Housing Commission Rules."
 - vi. Any proposed street and yard lights shall be consistent with "Manufactured Home Commission Rules."
 - vii. All plumbing fixtures shall be connected to a public sanitary sewer or approved facilities and shall meet the requirements of the Monroe County Health Department and Michigan State Health Department.
 - viii. Television service if provided shall be from a master antenna, satellite dish, etc., installed with underground connections to each mobile home site.
 - m. *Fire extinguishing equipment.* Every manufactured housing community shall be equipped at all times with fire extinguishing equipment in good working order consistent with "Manufactured Housing Commission Rules." No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time.
 - n. *Trees.* There shall be provided at least one (1) deciduous tree (minimum caliper of two (2) to two and one-half (2.5) inches) in the front yard of every other mobile home site. All dead trees shall be removed immediately and replaced.
 - o. *Yard grading and drainage.* All yards and open space areas in MH districts shall be graded in manner which shall avoid the ponding of stormwater unless such conditions have been designed to occur as part of a stormwater management facility which has been approved by the planning commission as part of the preliminary or tentative site plan approval. All yards in a MH zoning district shall comply with MDPH specifications.
 - p. *Pads, mats or platforms.* Pads, mats or platforms shall be installed in compliance with "Manufactured Housing Commission Rules."
 - q. *Anchoring.* Installation and anchoring systems shall comply with all requirements as established in the "Manufactured Housing Commission Rules."
 - r. *Skirting.* A uniform skirting shall be required to surround the base of a manufactured home and installed within sixty (60) days after placement of said manufactured home. Skirting shall comply with requirements as found in the "Manufactured Housing Commission Rules."
 - s. *Storage areas.* No personal property shall be stored outside or under any manufactured home. Storage sheds may be used to store property but need not be supplied by the owner of the manufactured housing community. Sheds shall require a building permit for construction or alteration. All sheds shall be located not closer than ten (10) feet to any adjacent structure or adjacent manufactured home or site boundary line, maintained in good condition, kept clean and well painted. Further, sheds must comply with Manufactured Housing Commission Rule 941(1)(f).
 - t. *Open space between manufactured homes.* The areas between manufactured homes and other open areas located on each manufactured home lot/site shall be seeded or sodded with grass or lawn and landscaped with trees and shrubs and thereafter shall be maintained so as to provide a utilitarian and healthful area free from debris or other outdoor storage.

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- u. *Lot line fences.* Lot line fences if permitted in the individual manufactured housing community shall be uniform in height and shall not exceed thirty-six (36) inches in height and shall be constructed in such a manner as to provide firemen access to all sides of each manufactured home and shall be in accordance with the "Manufactured Housing Commission Rules." Further, fences shall not be constructed of old or used material unless such material shall be reasonably sound in the judgement of the building official. Fences shall not be made of or contain barbed wire, electric current or charges of electricity or sharp or pointed projections of any kind; provided, if such fence is constructed of pickets, the pickets shall be made of not less than one (1) inch by three (3) inch material and shall have an angle at the top of not less than ninety degrees (90°). The fence shall comply with the requirements of the building code. Plastic or other types of stripes intertwined in cyclone fencing shall be prohibited.
 - v. *Certificate of occupancy required.* No manufactured home may be occupied until a certificate of occupancy has been issued by the building official.
 - w. *Septic and water.* All manufactured housing communities shall be served by an approved septic and well water system which shall meet the requirements of the State Department of Health.
 - x. *Buffer.* A buffer or screen, including fencing, berms, or landscape shall be required if a manufactured housing development abuts an existing residential development.
- (2) Accessory buildings, structures, and uses customarily incidental to the above permitted use.
- (j) *Development requirements.* The following requirements shall be complied with in a MH district:
- (1) In the case of a manufactured housing community, site plan approval shall be required for the preliminary plan only. All information as required by the site plan checklist for tentative site plan approval shall be required.
 - (2) Only one (1) sign per main entry shall be permitted in a manufactured housing community. Said sign shall not exceed thirty-two (32) feet in area (typically eight (8) by four (4) feet). Said sign may be double-sided.
 - (3) *Yard use.* Except for private roads, the area lying between the front property line and the back of curb or edge of the roadway is street right-of-way and as such is under the jurisdiction on the Monroe County Road Commission or Michigan Department of Transportation. A permit from the Monroe County Road Commission or Michigan Department of Transportation shall be required for all work performed in this area. Parking of vehicles shall be restricted to driveways or approved designated parking areas. Parking or storage of vehicles on lawn or landscape area shall be prohibited.

(Ord. No. 01-20, § 18.164, 2-10-20)

Sec. 18-165. Open air business.

- (a) *Outdoor display and sales.* Outdoor display and sales are subject to the following standards and conditions:
 - (1) Outdoor display and sales that is the principal use of the property is permitted as a special land use in the B-1, MU, and I-1 zoning districts subject to the approval of the planning commission in accordance with article VII.
 - (2) An outdoor display and sales that is as an accessory use to the principal use conducted on the premises is permitted within the B-1, MU, WM, and I-1 zoning districts after obtaining a zoning compliance permit from the zoning official. In the administration of these provisions, the zoning official may refer a request to the planning commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

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- (3) The exterior of the premises shall be kept clean, orderly, and maintained.
 - (4) The township shall not be held liable or responsible for any type of damage, theft, or personal injury that may occur as a result of an outdoor display.
 - (5) The location of the outdoor display shall meet all required setback and shall be approved by the zoning official.
 - (6) An outdoor display shall not occupy or obstruct the use of any fire lane, roadway, drive-aisle, drive entrance, storage area, off-street parking, or landscaped area required to meet the standards of this chapter.
 - (7) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with section 18-262(c).
 - (8) Only those products that are sold or are similar to the products sold within the principal building on the same lot may be permitted to be sold or displayed outdoors.
- (b) *Seasonal sales.* The outside sale of seasonal items such as Christmas trees, flowers and plants, pumpkins, and other such seasonal items that are grown shall require a permit from the zoning official subject to the following standards and conditions:
- (1) Seasonal sales may be located within any required side or rear yard and shall be no closer to a public road right-of-way than the required front yard setback or existing building, whichever is less. Where outdoor displays abut residentially zoned property, landscape screening in accordance with section 18-262 shall also be provided.
 - (2) Seasonal sales shall not occupy or obstruct the use of any fire lane, required off-street parking, or landscaped area required to meet the requirements of this chapter.
 - (3) Ingress and egress shall be provided in a manner so as not to create a traffic hazard or nuisance.
 - (4) Such sales shall be permitted for a period not to exceed ninety (90) days.
 - (5) Upon discontinuance of the seasonal use, any temporary structure shall be removed.

(Ord. No. 01-20, § 18.165, 2-10-20)

Sec. 18-166. Outdoor storage and contractors/landscapers yard.

Outdoor storage of goods, materials, and equipment shall be prohibited unless otherwise specifically permitted in this section. For those uses where the outdoor storage of goods, materials, and equipment is permitted either by right or through a special land use, the following conditions apply:

- (a) *General regulations.*
 - (1) Such storage shall be strictly and clearly incidental to the principal use and only products and materials owned or produced by the principal business, and equipment owned and operated by the principal use shall be permitted for storage under this section.
 - (2) *Location and size.*
 - a. The location and size of areas for such storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the special use permit application and indicated on a site plan, as set forth in article VI.

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- b. Such storage shall not be located within the area between the front face of the building, as extended across the entire width of the lot, and to the right-of-way; in any required side or rear yard; or in any required transition strip.
 - c. Such storage shall not be located in any required parking or loading space.
- (3) *Screening.* The area for such storage shall be screened from view on all sides. Screening shall be constructed of wood or masonry materials. Wire fences with inserted strips of metal, plastic and similar materials shall not be substituted for the required screening. The screen shall not be less than the maximum height of the product being stored.
- (b) *Contractor's/landscaper's yard.*
- (1) The contractor's office building shall be of permanent construction.
 - (2) Outdoor storage shall be accessory to the contractor's principal office use of the property. Such outdoor storage shall not be located within the front yard and shall be enclosed by an opaque fence up to eight (8) feet in height and/or landscape screening meeting the standards set forth in section 18-262.
 - (3) All travel surfaces shall be paved as a condition of approval.
 - (4) Cranes, booms or other extensions on equipment, trucks or other vehicles parked on site shall be stored in the lowest possible configuration.

(Ord. No. 01-20, § 18.166, 2-10-20)

Sec. 18-167. Places of worship.

- (a) *Fully enclosed building.* All religious activities shall take place in a fully enclosed building except as may be approved by the township.
- (b) *Incidental facilities.* Facilities incidental to the main religious sanctuary must be used for church, worship, or religious education purposes, in a manner which is consistent with residential zoning and compatible with adjacent residential property. Associated uses on the site such as recreation centers, retreat facilities, conference centers, schools, convents, and others shall meet all requirements of this chapter for such uses.
- (c) *Frontage and access.* The site shall have frontage on and primary access to a major or minor arterial.
- (d) *Maximum height.* Buildings of greater than the maximum height allowed in the district in which a place of worship is located, may be allowed provided that the front, side, and rear yards are increased one (1) foot for each one (1) foot of building height which exceeds the maximum height allowed.
- (e) *Setbacks.* Front, side, and rear yard setbacks shall be a minimum of fifty (50) feet.
- (f) *Parking location.* Parking shall not be permitted in the required yards adjacent to any public street or adjacent to any land zoned for residential purposes, other than that which is developed or committed for uses other than the construction of residential dwellings. Such yards shall be maintained as landscaped open space.
- (g) *Traffic control.* Traffic from events, including church worship services and other large assemblies shall be controlled so as not to create congestion or unreasonable delays on the public street.

(Ord. No. 01-20, § 18.167, 2-10-20)

Sec. 18-168. Post-secondary schools (colleges and universities).

- (a) *Ingress and egress.* All ingress and egress from said site shall be directly on a major arterial.
- (b) *Setbacks.* No building shall be closer than eighty (80) feet to any property line that is residentially zoned or used. In all other cases, front, side, and rear setbacks shall be a minimum of forty (40) feet.
- (c) *Off-street parking.* Off-street parking areas shall be located at least fifty (50) feet from any residential property line.
- (d) *Service and maintenance buildings.* Those buildings to be used for service or maintenance, such as heating plants, garages, and storage structures shall be screened from view of residentially zoned or used property, in accordance with the standards set forth in section 18-262.

(Ord. No. 01-20, § 18.168, 2-10-20)

Sec. 18-169. Primary/secondary schools.

- (a) *Yards.* All outdoor play areas shall be located in the rear or side yards only and shall be enclosed with a durable fence six (6) feet in height, or four (4) feet in height if adjoining a right-of-way.
- (b) *Approvals.* All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
- (c) *Off-street parking.* Off-street parking shall be arranged so the area for bus loading and unloading of students will not be in the path of vehicular traffic.
- (d) *Service and maintenance buildings.* Those buildings to be used for servicing or maintenance, such as heating plants, garages, and storage structures shall be screened from view of residentially zoned or used property, in accordance with the standards set forth in section 18-262.

(Ord. No. 01-20, § 18.169, 2-10-20)

Sec. 18-170. Salvage operations.

- (a) *Intent.* In addition to other regulations set forth in this chapter, all vehicle junk yards, wrecking yards, salvage operations and similar facilities shall conform to the following requirements:
 - (1) Minimum lot size shall be five (5) acres.
 - (2) Direct ingress and egress shall be from a paved road.
 - (3) A salvage operation license from the State of Michigan shall be obtained and maintained.
 - (4) Travel routes for trucks entering and leaving the yard shall be shown on a map of the township at the time of application for the special land use permit. Such routes except arterial streets or their equivalent shall not pass through residential areas.
 - (5) The required site plan shall also contain a description for the location and nature of any materials processing operations to be conducted within the yard, and the location and nature of equipment for operations.
 - (6) Yard materials shall be stored in organized rows with open intervals at least twenty (20) feet wide between rows for purposes of fire protection, emergency access, and visitor safety.

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- (7) Yard materials shall not be stored in piles higher than the top of the fence surrounding the yard. Automobiles, trucks, and other vehicles shall not be stacked to a height or in a manner that prohibits fire protection, emergency access or does not protect the safety of visitors.
 - (8) The yard shall be maintained in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin.
 - (9) The yard when established and located within one thousand (1,000) feet of any existing residential district or land being used for residential purposes, as measured on a straight-line distance, shall not be open for business and shall not operate at any time other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays; between 7:00 a.m. and 12:00 p.m. on Saturdays.
 - (10) All flammable liquids contained in vehicles shall be drained from the same immediately after such vehicles are brought to the yard. Such liquids shall be temporarily stored in containers approved by the local fire authority until properly disposed of according to law. The applicant shall provide a written procedure for draining, storage, and disposal.
 - (11) All drives, parking areas, and loading/unloading areas shall be paved, watered, or treated so as to limit nuisances caused by dust on neighboring properties and public roads.
 - (12) No portion of the building, yard, or other site elements shall project into the required front yard setback.
 - (13) There shall not be more than one (1) entranceway from each public street that adjoins the yard.
 - (14) Fencing shall be required as follows:
 - a. Such facilities shall be completely enclosed by a solid, screen-type fence or wall, seven (7) feet high as measured from grade at each post in the case of a fence, or at ten (10)-foot intervals in the case of a wall. The fence or wall shall be located no closer to the road right-of-way line than the required front yard setback. Gates shall also be made of solid, opaque material. The front yard shall be landscaped and continuously maintained as a lawn.
 - b. Strips of metal, plastic or other materials inserted into wire fences shall not be permitted in any fence enclosing a yard.
 - c. All gates, doors, and access ways through said fence or wall shall be solid, unpierced materials matching the required fencing.
 - (15) Wrecking and processing operation are permitted in a yard but shall be described in the application for the site plan approval or special use permit so that the planning commission and township board can implement standards and conditions to protect the health, safety and welfare of the community.

(Ord. No. 01-20, § 18.170, 2-10-20)

Sec. 18-171. Self-storage facilities.

- (a) *Incidental uses.* Incidental accessory uses such as the sale of boxes, locks, and other supplies shall be permitted.
- (b) *Standards.*
 - (1) The storage of any toxic, corrosive, flammable, or hazardous materials is prohibited.
 - (2) Other than the storage of recreation vehicles, all storage and accessory uses shall be contained within a building. All recreational vehicle storage shall be screened from the view of residentially zoned or used property and public roads in accordance with the standards set forth in section 18-262.

(3) Exterior walls of all storage units shall be of masonry construction.

(Ord. No. 01-20, § 18.171, 2-10-20)

Sec. 18-172. Senior assisted and independent living.

(a) *Maximum density.* The maximum allowable density varies by housing type, but shall not exceed the following:

(1) Dwellings may be provided for as single-family detached, two-family or multiple-family units. When such dwellings containing kitchens, the minimum site area requirements for purposes of calculating density shall be as follows:

Table 18-172-A-1	
Dwelling Unit Size	Site Area Required Per Unit
Efficiency/one (1) bedroom	2,000 square feet
Two (2) bedroom	2,500 square feet
Each additional bedroom	500 additional square feet per bedroom

(2) Where facilities do not contain kitchen facilities within individual dwelling units, the site area per bed shall be one thousand five hundred (1,500) square feet.

(b) *Height, lot coverage, and setbacks.* Height, lot coverage and setback requirements of the RM district as set forth in article IV, multiple family residential requirements shall apply.

(c) *Parking.* Parking is not allowed in any required front yard. Parking is permitted in side and rear yards provided a minimum twenty (20) foot setback is observed.

(d) *Façade.* The maximum length of an uninterrupted building façade facing public streets and residentially zoned or used property shall be thirty (30) feet. Façade articulation or architectural design variation for building walls facing the street are required to ensure that the building is not monotonous in appearance. Building wall offsets (projections and recesses); cornices, varying building materials or pilasters shall be used to break up the mass of a single building.

(e) *Drop-off and pickup area.* A separate drop-off and pickup area shall be required adjacent to the main building entrance, located in a manner that will not create congestion on the site or within a public roadway.

(Ord. No. 01-20, § 18.172, 2-10-20)

Sec. 18-173. Solar energy collectors.

(a) *Purpose.* It is the intent of the township to permit these systems by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy collectors. Building-mounted and ground-mounted solar energy collectors, as defined in this chapter, shall comply with the provisions of this section.

(b) *Building-mounted solar energy collector requirements.* A building-mounted solar energy collector shall be a permitted accessory use in all zoning districts, subject to the following requirements:

(1) Solar energy collectors that are mounted on the roof of a building shall not project more than five (5) feet above the highest point of the roof but, in any event, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.

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- (2) Solar energy collectors mounted on the roof of a building shall be only of such weight as can safely be supported by the roof, and weight of snow and/or ice which they collect. Proof thereof, in the form of certification by a professional engineer or other qualified person, shall be submitted to the township building official prior to installation; such certification shall be subject to the building official's approval.
 - (3) Solar energy collectors that are roof-mounted, wall-mounted or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the building official prior to installation; such proof shall be subject to the building official's approval.
 - (4) Solar energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.
 - (5) Solar energy collectors shall not be mounted on a building wall that is parallel to an adjacent public right-of-way.
 - (6) The exterior surfaces of solar energy collectors that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be generally neutral in color and substantially non-reflective of light.
 - (7) Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the township building official prior to installation. The building official may inspect the completed installation to verify compliance with the manufacturer's directions.
 - (8) Solar energy collectors, and the installation and use thereof, shall comply with the township construction code, the electrical code, and other applicable township construction codes.
- (c) *Ground-mounted solar energy collector requirements.* A single, ground-mounted solar energy collector may be permitted as an accessory use in the AG or I-1 zoning districts only, and subject to the following requirements:
- (1) Single ground-mounted solar energy collectors may be located in the rear yard and the side yard but must meet the required side and rear yard setbacks of the district in which they are located.
 - (2) Ground-mounted solar energy collectors shall not exceed fifteen (15) feet in height, measured from the ground at the base of such equipment.
 - (3) Ground-mounted solar energy collectors shall be permanently and safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted to the township and shall be subject to the building official's approval.
 - (4) Ground-mounted solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted with the building permit application.
 - (5) The exterior surfaces of ground-mounted solar energy collectors shall be neutral in color and substantially non-reflective of light.
 - (6) Ground-mounted solar energy collectors, and the installation and use thereof, shall comply with the township construction code, the electrical code and other applicable township construction codes.
- (d) *Commercial solar energy systems.* The following requirements shall apply to all commercial solar energy systems:
- (1) *Purpose and intent.* The purpose and intent of this section is to establish standards for the siting, installation, operation, repair, decommissioning, and removal of commercial solar energy systems within the industrial district as a special land use.

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- (2) *Site plan drawing and supporting materials.* All applications for a commercial solar energy system use must be accompanied by detailed site plans, drawing to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan, displaying the following information:
- a. All requirements for a site plan contained in article VI herein.
 - b. All lot lines and dimensions, including a legal description of each lot or parcel comprising the commercial solar energy system.
 - c. Names of owners of each lot or parcel within Berlin Charter Township that is proposed to be within the commercial solar energy system.
 - d. Vicinity map showing the location of all surrounding land uses.
 - e. Location and height of all proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures, and utilities associated with the commercial solar energy system.
 - f. Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above ground structures and utilities on the property.
 - g. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the commercial solar energy system and within one hundred (100) feet of all property lines of the commercial solar energy system.
 - h. Proposed setbacks from the solar array(s) to all existing and proposed structures within the commercial solar energy system.
 - i. Land elevations for the solar array(s) location and the relationship to the land elevations of all existing and proposed structures within the commercial solar energy system at a minimum of five (5)-foot contours.
 - j. Access driveways within and to the commercial solar energy system, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access driveways shall be subject to Monroe County Road Commission approval and shall be planned so as to minimize the use of lands for that purpose. Site grading and driveways shall not block the flow of water from adjacent parcels.
 - k. Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance or repair of the commercial solar energy system.
 - l. A written description of the maintenance program to be used for the solar array(s) and other components of the commercial solar energy system, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the commercial solar energy system is decommissioned.
 - m. Planned lightening protection measures.
 - n. Additional detail(s) and information as required by the special land use requirements of the Berlin Charter Township Zoning Ordinance, or as required by the planning commission.
- (3) *Application escrow account.* An escrow account shall be deposited with the township by the applicant when the applicant applies for a special land use permit for a commercial solar energy system. The monetary amount deposited by the applicant in escrow with the township shall be the amount estimated by the township, to cover all costs and expenses associated with the special land use permit review and approval process, which costs shall include, but are not limited to, fees of the township

attorney, township planner, and township engineer, as well as costs for any reports or studies that are related to the zoning review process for the application. The applicant shall have thirty (30) days to refuse or approve of the amount estimated by the township. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special land use permit review process, the township may require that the applicant place additional funds into escrow with the township if the existing escrow amount deposit by the applicant is deemed insufficient by the township. If the escrow account needs replenishing and the applicant refuses to do so within thirty (30) days, the special land use permit process shall cease unless and until the applicant makes the required additional escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the township must also be complied with by the applicant. The township shall provide a summary of all account activity to the applicant within a timely manner upon request.

- (4) *Compliance with the township building code and national electric safety code.* Construction of a commercial solar energy system shall comply with the National Electric Safety Code and the Township Building Code as a condition of any special land use permit under this section. In the event of a conflict between the Township Building Code and the National Electric Safety Code (NESC), the NESC shall prevail.
- (5) *Certified solar array components.* Components of a solar array shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("ETL"), or other similar certification organization if the similar certification organization is approved by the township, which approval shall not be unreasonably withheld.
- (6) *Height.* Maximum height of a solar array, other collection device, components or buildings of the commercial solar energy system, excluding substation and electrical transmission equipment, shall not exceed fifteen (15) feet (as measured from the natural grade at the base of improvements) at any time or location on the property. Substation and electrical transmission equipment shall not exceed one hundred (100) feet.
- (7) *Lot size.* A commercial solar energy system shall be located on one (1) or more parcels with an aggregate area of ten (10) acres or greater.
- (8) *Setbacks.* A minimum setback distance of fifty (50) feet from all exterior property lines of the commercial solar energy system and existing public roads and railroad rights-of-way shall be required for all buildings and solar arrays, provided that a setback of seventy-five (75) feet shall be required adjacent to any residential structure.
- (9) *Lot coverage.* A commercial solar energy system is exempt from maximum lot coverage limitations.
- (10) *Screening/security.* A commercial solar energy system shall be completely enclosed by perimeter chain-link fencing to restrict unauthorized access. Such fencing shall be secured to the ground to prevent underground access, as well as, six (6) feet in height with a one (1)-foot extension arm consisting of a minimum of three (3) strands of barbed-wire placed above the fencing and slanting outward as measured from the natural grade of the fencing perimeter. Failure to install or continuously maintain the required perimeter fencing shall constitute a violation of this chapter and any special land use permit may be subject to revocation.
- (11) *Electric fencing is not permitted.* The perimeter of commercial solar energy systems shall also be screened and buffered by installed evergreen or native vegetative plantings whenever existing natural vegetation does not otherwise reasonably obscure the commercial solar energy system from adjacent residential structures, subject to the following requirements:
 - a. The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four (4) feet in height and shrubs two (2) feet in height. The

evergreen trees shall be spaced no more than fifteen (15) feet apart on center (from the central trunk of one (1) plant to the central trunk of the next plant), native trees shall be placed no more than thirty (30) feet apart on center and shrubs shall be spaced no more than seven (7) feet apart on center. All unhealthy (sixty percent (60%) dead or greater) and dead material shall be replaced by the applicant within one (1) year, or the next appropriate planting period, whichever occurs first.

- b. All plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the township and the applicant is unable to plant during the installation period, the applicant will provide the township with a letter of credit, surety or corporate guarantee for an amount equal to one and one-half (1.5) times the cost of any planting deficiencies that the township shall hold until the next planting season. After all plantings have occurred, the township shall return the financial guarantee.
 - c. Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this chapter and any special land use permit may be subject to revocation.
- (12) *Signage.* No advertising or non-project related graphics shall be on any part of the solar arrays or other components of the commercial solar energy system. This exclusion does not apply to entrance gate signage or notifications containing points of contact or any and all other information or warnings that may be required by authorities having jurisdiction for electrical operations and the safety and welfare of the public.
 - (13) *Noise.* No component of any commercial solar energy system shall emit noise exceeding sixty-five (65) dBA as measured at the exterior property boundary or the existing ROW line.
 - (14) *Lighting.* All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads in accordance with section 18-265.
 - (15) *Distribution, transmission and interconnection.* All collection lines and interconnections from the solar array(s) to any electrical substations shall be located and maintained underground inside the commercial solar energy system, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.
 - (16) *Abandonment and decommissioning.* Following the operational life of the project, the applicant shall perform decommissioning and removal of the commercial solar energy system and all its components. The applicant shall prepare a decommissioning plan and submit it to the planning commission for review and approval prior to issuance of the special land use permit. Under this plan, all structures, concrete, piping, facilities, and other project related materials above grade and any structures up to three (3) feet below-grade shall be removed offsite for disposal. Any solar array or combination of photovoltaic devices that are not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed under the decommissioning plan. The ground must be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning.
 - (17) *General standards.* The planning commission shall not approve any commercial solar energy system special land use permit unless it finds that all of the general standards for special land uses contained in article VII of this chapter are met.
 - (18) *Approval time limit and extension.* Special land use and site plan approvals or permits shall be valid for one (1) year but, if requested by the applicant prior to that expiration date, shall automatically be extended for an additional one (1) year period.

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- (19) *Conditions and modifications.* Any conditions and modifications approved by the planning commission shall be recorded in the planning commission's meeting minutes. The planning commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts. After approval, at least two (2) copies of the final approved site plan shall be signed and dated by the chairman of the planning commission and authorized representative of the applicant. One (1) copy shall be kept on file by the township clerk, and one (1) copy shall be returned to the applicant's authorized representative.
- (20) *Inspection.* The township shall have the right at any reasonable time, to provide same-day notice to the applicant to inspect the premises on which any commercial solar energy system is located. The township may hire one (1) or more consultants, with approval from the applicant (which shall not be unreasonably withheld), to assist with inspections at the applicant's or project owner's expense. Inspections must be coordinated with, and escorted by, the applicant's operations staff at the commercial solar energy facility to ensure compliance with the occupational safety and health administration (OSHA), NESC and all other applicable safety guidelines.
- (21) *Maintenance and repair.* Each commercial solar energy system must be kept and maintained in good repair and condition at all times. If the township zoning official determines that a commercial solar energy system fails to meet the requirements of this chapter and the special land use permit, or that it poses a safety hazard, the zoning official, or his or her designee, shall provide notice to the applicant of the safety hazard. If, after a reasonable cure period (not to exceed seven (7) days), the safety hazards are not corrected, the applicant is entitled to a hearing before the township board. If the township board determines that the safety hazard requires that the commercial solar energy system must be shut down, the applicant shall immediately shut down the commercial solar energy system and not operate, start or restart the commercial solar energy system until the issues have been resolved. The applicant shall keep a maintenance log on the solar array(s), which shall be available for the township's review within forty-eight (48) hours of such request. The applicant shall keep all sites within the commercial solar energy system neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions, and noxious weeds.
- (22) *Roads.* Any material damages to a public road located within the township resulting from the construction, maintenance or operation of a commercial solar energy system shall be repaired at the applicant's expense. In addition, the Applicant shall submit to Monroe County Road Commission a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all county requirements regarding the use and/or repair of county roads.
- (23) *Continuing security.* If any commercial solar energy system is approved for construction under this section, applicant shall post decommissioning security prior to the start of construction (in a mutually agreed upon form) for an amount necessary to accomplish the work specified in the decommissioning plan as agreed upon by the township and applicant. The amount shall be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the commercial solar energy system. Such financial security shall be kept in full force and effect during the entire time that the commercial solar energy system exists or is in place, and such financial security shall be irrevocable and non-cancelable.
- a. *Continuing obligations.* Failure to keep any required financial security in full force and effect at all times while a commercial solar energy system exists or is in place shall constitute a material and significant violation of the special land use permit and this chapter, and will subject the commercial solar energy system applicant, owner and operator to all remedies available to the township, including any enforcement action, civil action, request for injunctive relief, and revocation of the special land use permit.

(24) *Other requirements.* Each commercial solar energy system shall also comply with all applicable federal, state and county requirements, in addition to other applicable township ordinances.

(Ord. No. 01-20, § 18.173, 2-10-20)

Sec. 18-174. Vehicle fueling stations.

(a) *Setbacks.* The following minimum setbacks shall apply to canopies and pump facilities constructed in conjunction with vehicle fueling stations:

Table 18-174-A-1. Canopy and Fuel Pump Setbacks			
Setback	Canopy Support	Pump Islands	Canopy Edge
Front	35 feet	30 feet	25 feet
Side	20 feet	20 feet	10 feet
Rear	30 feet	20 feet	20 feet

- (b) *Fueling areas site arrangement.* All fueling areas shall be arranged so that motor vehicles do not park on or extend over abutting landscaped areas, sidewalks, streets, buildings, or adjoining property while being served.
- (c) *Canopy structures.* Canopy structures shall be designed and constructed in a manner which is architecturally compatible with the principal building. The canopy structure shall be attached to and made an integral part of the principal building unless it can be demonstrated that the design of the building and canopy in combination would be more functional and aesthetically pleasing if the canopy was not physically attached to the principal building.
- (d) *Fire protection.* Required fire protection devices under the canopy shall be architecturally screened so that the tanks are not directly visible from the street. The screens shall be compatible with the design and color of the canopy.
- (e) *Canopy lighting.* Canopy lighting shall be recessed so that the light source is not visible from off-site.
- (f) *Pedestrian and vehicular safety.* Vehicle fueling/multi-use stations shall be designed in a manner which promotes pedestrian and vehicular safety. The parking and circulation system within each development shall accommodate the safe movement of vehicles, bicycles, pedestrians, and refueling activities throughout the proposed development and to and from surrounding areas in a safe and convenient manner.
- (g) *Repair and services.* All repair and maintenance activities shall conform with the standards set forth in section 18-175. Dismantled, wrecked, or immobile vehicles shall not be permitted to be stored on-site.
- (h) *Accessory vehicle wash.* If a vehicle wash is proposed, it must comply with the standards set forth in section 18-178.

(Ord. No. 01-20, § 18.174, 2-10-20)

Sec. 18-175. Vehicle repair.

- (a) *Disposal containers.* Suitable containers shall be provided and used for disposal of used parts, and such containers shall be screened from view.
- (b) *Enclosed buildings.* All repair and maintenance activities, including hydraulic hoists, lubrication pits, and similar activities, shall be performed entirely within an enclosed building.

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- (c) *Retail sales limitations.* Retail sales shall be limited to those items necessary to carry out the vehicle repair occurring on the subject site.

(Ord. No. 01-20, § 18.175, 2-10-20)

Sec. 18-176. Vehicle sales/leasing and service facility.

- (a) *Setbacks.* No vehicle shall be parked or displayed within twenty (20) feet of any street right-of-way.
- (b) *Noise.* Loudspeakers broadcasting voice or music outside of a building shall not be permitted within five hundred (500) feet of any residentially zoned or used property.
- (c) *Repair and maintenance.* All repair and maintenance activities shall conform with the standards set forth in section 18-175.
- (d) *Vehicle delivery.* Vehicle delivery shall be conducted on the premises and shall not interfere with vehicular traffic on a public road.

(Ord. No. 01-20, § 18.176, 2-10-20)

Sec. 18-177. Vehicle towing/impoundment lot.

A vehicle impoundment lot shall have a permanent office located on site. The building or buildings may also include activities which are ancillary to the vehicle towing/impoundment business, such as indoor storage of equipment and equipment repair. The impoundment lot shall be located behind the front face of the building and shall meet the standards set forth in section 18-166, outdoor storage.

(Ord. No. 01-20, § 18.177, 2-10-20)

Sec. 18-178. Vehicle washes.

- (a) *Use in building and setbacks.* All washing activities shall be carried on within a building. Vacuuming activities shall be located at least fifty (50) feet from adjacent residentially zoned or used property.
- (b) *Mechanical dryer.* Automatic vehicle wash facilities shall have a mechanical dryer operation at the end of the wash cycle.
- (c) *Exit ramp.* All automatic vehicle wash facilities must provide a demonstrated means at the exit ramp for each wash bay to prevent pooling of water or freezing.

(Ord. No. 01-20, § 18.178, 2-10-20)

Sec. 18-179. Wind energy conversion systems.

- (a) *Purpose.* It is the intent of the township to permit these systems by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and the ensure compatibility of land uses in the vicinity of WECS.
- (b) *Approval required.* It shall be unlawful to construct, erect, install, alter, or locate any WECS within the township except in compliance with this section.
- (c) *Accessory use.* On-site WECS are allowed as an accessory use in the AG, agriculture zoning district and shall meet the following standards and requirements:

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- (1) *Minimum lot area.* The minimum lot area shall be ten (10) acres.
 - (2) *Limitations.* One (1) on-site WECS shall be allowed as an accessory use per property.
 - (3) *Property setbacks.* The distance between a WECS and the nearest property line shall be at least one and one-half (1.5) times the height of the WECS. No part of the WECS structure, including guy wire anchors, may extend closer than ten (10) feet to the owner's property line.
 - (4) *Other required setbacks.* The distance between a WECS and a road or a public right-of-way shall be at least one and one-half (1.5) times the height of the WECS.
 - (5) *Site grading/driveways.* All access driveways shall be subject to Monroe County Road Commission approval. Site grading and driveways shall not block the flow of water from adjacent parcels.
 - (6) *Height.* The height of an on-site WECS shall be less than one hundred fifty (150) feet in height. Height shall be measured from the existing grade to the tip of the turbine blade at its highest point.
 - (7) *Noise.* Audible noise or the sound pressure level of an on-site WECS shall not exceed fifty-five (55) dB(A) at the property line closest to the WECS. This sound pressure level may be exceeded during short-term event such as utility outages and/or severe windstorms.
 - (8) *Shadow flicker.* The applicant shall conduct an analysis of potential shadow flicker. The analysis shall identify the locations of shadow flicker that may be caused by the WECS and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify impacted areas where shadow flicker may affect occupants or users of the structures or properties in the impacted area. The analysis shall describe measures that will be taken to eliminate or mitigate negative impacts.
 - (9) *Construction codes, towers, and interconnections standards.*
 - a. Every WECS shall comply with all applicable state construction codes and local building permit requirements.
 - b. Every WECS shall comply with Federal Aviation Administration requirements, the Airport Zoning Act, the Tall Structure Act (PA 259 of 1959), and any other applicable state or federal laws or regulations.
 - c. An on-site WECS that is tied to the electrical grid shall comply with Michigan Public Service Commission and utility interconnection requirements. Off-grid WECS are exempt from this requirement.
 - (10) *Safety.*
 - a. *Design safety certification.* The safety of the design of every WECS shall be certified by the applicant's professional engineer registered in the State of Michigan and reviewed by the township. If WECS construction is approved, the professional engineer shall certify that the construction and installation of the WECS meets or exceeds the manufacturer's construction and installation standards, and any applicable state and federal laws and regulations prior to operation.
 - b. *Controls and brakes.* Every WECS shall be equipped with manual and automatic controls to limit rotation of blades to a speed not to exceed the design limits of the WECS. The applicant's professional engineer must certify that the rotor and overspeed control design and fabrication conform to applicable design standards. No changes or alterations from certified design shall be permitted unless accompanied by a professional engineer's statement of certification approved by the township.
 - c. *Lightning protection.* Every WECS shall have lightning protection.

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- d. *Guy wires.* If an on-site WECS is supported by guy wires, the wires shall be clearly visible to a height of at least six (6) feet above the guy wire anchors.
 - e. *Grade clearance.* The minimum vertical blade tip clearance from grade shall be twenty-five (25) feet from any WECS employing a horizontal axis rotor.
 - f. *Interference.* Every WECS shall be designed and operated to minimize or mitigate interference with existing electromagnetic communications, such as radio, telephone, microwave, or television signals.
 - g. *Color.* Towers and blades shall be painted a non-reflective neutral color designed on the application and approved by the township or as otherwise required by law.
 - h. *Climb prevention.* Every WECS must be protected by anti-climbing devices such as:
 - 1. A perimeter chain-link fence to restrict unauthorized access. Such fencing shall be secured to the ground to prevent underground access, as well as six (6) feet in height with a one (1) foot extension arm consisting of a minimum of three (3) strands of barbed-wire placed above the fencing and slanting outward as measured from the natural grade of the fencing perimeter; or
 - 2. Anti-climbing devices twelve (12) feet from the base of pole including anti-climb panels, anti-climb brackets, and other similar devices.
 - i. *Removal of abandoned on-site WECS.* In the event an on-site WECS is abandoned or unused for a period of one hundred eighty (180) days, or if an on-site WECS is damaged, the owner of the tower or the land shall promptly remove the tower and all related equipment. Failure to remove the tower and related equipment in accordance with the foregoing shall subject the owner to fines established by the township board. In addition, by accepting a permit for the on-site WECS, the applicant agrees that in the event the tower and equipment is not removed as required, after thirty (30) days' notice from the township, the township may undertake such removal and bill the costs to the applicant plus an administrative fee of fifteen percent (15%) which, if not paid within thirty (30) days, shall be assessed against the land on which the tower and equipment is located and collected in the same manner as delinquent taxes.
- (d) *Application required.* An application for on-site WECS shall be submitted to the township for review and approval by the township building official, and shall include the following information:
- (1) Name, address, and contact information.
 - (2) A general, written description of the proposed project as well as a legal description (property identification number) of the property on which the WECS would be located.
 - (3) A plan showing a map with the physical features and land uses of the project area, both before and after construction of the proposed WECS. The plan shall include:
 - a. The project area boundaries.
 - b. The location, height, and dimensions of all existing and proposed structures, and fencing.
 - c. Distance of proposed WECS from all property lines and permanent structures.
 - d. The location, grades, and dimensions of all temporary and permanent on-site WECS access roads.
 - e. Existing topography.
 - f. Water bodies, waterways, wetlands, and drainage ditches (county drains).
 - g. All new infrastructure related to the project.

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- h. The location of all overhead utility wires.
 - (4) Proof of the applicant's liability insurance covering the WECS.
 - (5) Documentation of the manufacturer's designed sound pressure levels (decibels) for the unit to be installed.
 - (6) The applicant shall provide evidence of ownership of the land which the WECS is to be located.

(Ord. No. 01-20, § 18.179, 2-10-20)

Sec. 18-180. Wireless communication facilities.

- (a) *Intent and purpose.* It is the intent of this section to provide standards for the location, construction, and maintenance of wireless communication facilities in a way which will retain the integrity, character, property values, and aesthetic quality of neighborhoods and the township, and minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. The priority of the township is to minimize the overall number of newly established locations for wireless communication support facilities within the community by encouraging the colocation of existing wireless communication support facilities where possible. It is required that all new and modified wireless communication support facilities shall be designed and constructed so as to accommodate colocation. This section also requires that wireless communication antennas, wireless communication facilities and wireless communication support facilities shall adhere to all applicable local, state, federal laws and regulations and the standards of this section.
- (b) *Authorization.*
 - (1) Subject to the standards and conditions set forth in this section, wireless communication facilities shall be permitted uses in the following circumstances, and in any districts:
 - a. An existing structure which will serve as an attached wireless communication facility where the existing structure is not, in the discretion of the township, proposed to be either materially altered or materially changed in appearance.
 - b. A proposed colocation upon an attached wireless communication facility which has been approved earlier by the township.
 - c. An existing structure which will serve as an attached wireless communication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
 - d. An existing wireless communication support structure established within a right-of-way having an existing width of more than two hundred four (204) feet.
 - (2) If it is demonstrated by an applicant that a wireless communication facility is required to be established outside an area identified in section 18-180(b)(1), then wireless communication facilities may be applied for elsewhere in the township and must follow the district specific criteria and is subject to the criteria and standards set forth in this chapter.
- (c) *General regulations.*
 - (1) *Standards and conditions applicable to all facilities.* All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the township.

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- a. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
 - b. Facilities shall be located and designed to be harmonious with the surrounding areas.
 - c. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - d. The maximum height of the new or modified support structures and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the structures. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
 - e. The setback of the support structure shall be equal to the height of the structure.
 - f. There shall be unobstructed access to the support structure for operation, maintenance, repair, and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will be needed to access the site.
 - g. The division or property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
 - h. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed, and maintained to be architecturally compatible with the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
 - i. The design and appearance of the support structure and all accessory buildings, shall be reviewed and approved so as to minimize distraction, reduce visibility, maximize aesthetic appearance and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
 - j. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
 - k. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
- (d) *Standards and conditions.* Applications for wireless communication facilities, which may be approved as special land uses, and in addition to review requirements as set forth in article VII, shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions set forth herein.
- (1) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one (1) or more of the following factors:
 - a. Proximity to an interstate or major thoroughfare.
 - b. Areas of population concentration.
 - c. Concentration of commercial, industrial, and/or other business centers.

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- d. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - e. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - f. Other specifically identified reason creating need for the facility.
- (2) The proposal shall be reviewed in conformity with the colocation requirements of this section.
- (e) *Application requirements.*
- (1) A site plan prepared in accordance with article VI, site plan review shall be submitted showing the location, size, screening, and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - (2) The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
 - (3) The application shall include a description of surety to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in section 18-180(g), removal. In this regard, the surety shall be in a form approved by the township attorney.
 - (4) The applicant shall include a map showing existing and known proposed wireless communication facilities within the township, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the township in the location, and in the area, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. Any proprietary information may be submitted with a request for confidentiality in connection with the development pursuant to MCL 15.243(1)(g). This chapter shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
- (f) *Colocation.*
- (1) *Feasibility of colocation.* Colocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:
 - a. The wireless communication provider entity under consideration for colocation will undertake to pay market rent or other market compensation for colocation.
 - b. The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - c. The colocation being considered is technologically reasonable, e.g., the colocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - d. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the township, taking into consideration the several standards set forth herein.
 - (2) *Requirements for colocation.*
 - a. An approval for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.

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- b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.

(g) *Removal.*

- (1) A condition to every approval of wireless communication facility shall be adequate provision for removal of all or part of the facility by users and the owners when the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The applicant shall notify the township upon cessation of operations or removal of antenna.
- (2) The situations in which removal of a facility is required, as set forth in paragraph (f)(1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the township.
- (3) If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after written notice, the township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn on collected for the security posted at the time application was made of establishing the facility.

(Ord. No. 01-20, § 18.180, 2-10-20)

Secs. 18-181—18-200. Reserved.

ARTICLE IX. GENERAL PROVISIONS

Sec. 18-201. Purpose.

It is the purpose of this article to provide regulations that are generally applicable to all uses regardless of zoning district.

(Ord. No. 01-20, § 18.201, 2-10-20)

Sec. 18-202. Number of buildings on a lot.

Not more than one (1) principal detached single-family dwelling unit shall be located on a lot, nor shall a principal detached single-family dwelling unit be located on the same lot with any other principal building or structure, except as otherwise permitted herein.

(Ord. No. 01-20, § 18.202, 2-10-20)

Sec. 18-203. Voting place.

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a township or other public election.

(Ord. No. 01-20, § 18.203, 2-10-20)

Sec. 18-204. Accessory buildings.

No temporary buildings shall be erected in the township except in compliance with the following:

- (1) *Use of accessory buildings and structures.* Attached and detached accessory buildings and structures associated with residential dwelling shall only be used for the storage of personal property and for the conduct of a permitted home occupation, as regulated in section 18-213. Such buildings and structures shall not be used as dwelling units or for the conduct of any other business, profession, trade or occupations or as storage that is offered for rent.
- (2) *Timing of construction.* No accessory building or structure shall be constructed or established on a parcel unless there is a principal building, structure or use being constructed or already established on the same parcel of land, unless otherwise approved by the zoning board of appeals. The zoning board of appeals shall require that a cash performance guarantee be posted to ensure completion of the main building, as a condition of approval for prior construction of an accessory building.
- (3) *Attached accessory buildings and structures.* Where the accessory building is structurally attached to a main building (such as an attached garage, breezeway, or workshop) it shall be considered a part of the principal building for the purposes of determining conformance with setback, height, and lot coverage requirements.
- (4) *Detached accessory buildings and structures.*
 - a. *Setbacks.* In the R-1 and R-2 zoning districts, side and rear setbacks shall be three (3) feet. In all other zoning districts, side and rear setbacks of accessory structures shall comply with the with the setback requirements in section 18-68. When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of a front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in the rear of such corner lot. A building accessory to a residential building shall in no case be located nearer than then (10) feet to a street right-of-way line.
 - b. *Distance between buildings.* No detached building accessory to a residential building shall be located closer than ten (10) feet to any building on the site.
 - c. *Height.* Accessory buildings in the R-1 and R-2 districts shall not exceed fourteen (14) feet in height. Accessory buildings and structures in all other zones shall comply with the maximum building height requirement for the district in which they are located, as established in section 18-68. Accessory buildings and structures associated with a legal farm operation protected under the Right to Farm Act shall be exempt from the height restrictions of this section.
 - d. *Lot coverage.* Accessory buildings and structures shall be included in computations to determine compliance with maximum lot coverage standards established in section 18-68.
- (5) *Location.* Accessory buildings and structures shall not be located within a dedicated easement or right-of-way. Additionally, all accessory structures shall be located outside of the required front setbacks as established in section 18-68 and behind the front building line of the principal structure.
- (6) *Area in relation to principal buildings.* The total floor area of all attached and detached accessory structures in R-1 and R-2 zoning districts shall not exceed the total floor area of the main dwelling on the same lot.

(Ord. No. 01-20, § 18.204, 2-10-20; Ord. No. 01-21, § 2, 3-22-21)

Sec. 18-205. Temporary buildings.

No temporary buildings shall be erected in the township except in compliance with the following:

- (a) *Temporary dwellings.* No temporary structure whether of a fixed or moveable nature, may be erected, altered or moved upon in whole or in part for any dwelling purpose for any length of time except as provided in this section. If a dwelling is destroyed or damaged by a natural or manmade event, such as fire, flood, windstorm or tornado, to an extent that is uninhabitable for a period of time, a temporary dwelling, including a mobile home, approved by the township board, may be moved on to the lot, after obtaining a permit from the building official for use as a temporary dwelling during replacement or repair of the permanent dwelling. The temporary dwelling shall be placed so as to conform to all yard requirements of the zoning district in which it is located, and shall be connected to a private water supply and sewage disposal systems approved by the county health department or to public water supply and sewage disposal systems.
 - (1) The building official shall establish a reasonable date for removal of the temporary dwelling; such date shall not exceed one hundred eighty (180) days from the date of issuance of such permit which shall be subject to renewal for a specific length of time approved by the building official for demonstrated cause. In unique circumstances or cases of extreme hardships, relief may be sought under the provisions of section 18-353. The temporary dwelling shall be removed from the lot within two (2) weeks of the date of occupancy of the replaced or repaired dwelling with the date of occupancy to be as listed on the certificate of occupancy. A performance bond in an amount established by the township board shall be provided to ensure removal of the temporary building.
 - (2) The building official shall provide a written statement setting forth the conditions and permissions granted under this section to the residents so dislodged and shall retain a copy in his files. The building official shall notify the township board and planning commission in writing of each such permission granted under this section.
- (b) *Temporary construction structures.* Temporary buildings and/or structures may be used as construction facilities provided that a permit is obtained for such use from the building official.

(Ord. No. 01-20, § 18.205, 2-10-20)

Sec. 18-206. Essential services and other public property.

It is the intent of this article to place essential services and property owned, leased, or operated by public agencies, including local, state, federal, or any other public or governmental body or agency, under the provisions of this article as follows:

- (a) Essential services shall be permitted in any district.
- (b) Buildings constructed in conjunction with an essential service, shall constitute and be treated as special land uses in any zoning district pursuant to the requirements of article VII.
- (c) Property owned, leased, or operated by the state or the federal government shall be exempted from the provisions of this section only to the extent that said property may not be constitutionally regulated by the township.
- (d) Wireless communication facilities shall not be regulated as an essential service and are subject to the provisions of section 18-180. Wireless communication facilities owned by a governmental agency shall be regulated as a special land use in all districts.

(Ord. No. 01-20, § 18.206, 2-10-20)

Sec. 18-207. Utility engineering and construction.

All proposed design and construction of utilities, pavement, drives sidewalks, and stormwater management facilities shall comply with township engineering and construction standards.

(Ord. No. 01-20, § 18.207, 2-10-20)

Sec. 18-208. Dwelling unit standards.

- (a) Each dwelling unit and any addition thereto shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a manufactured home, as defined herein, such dwelling and any addition shall be installed pursuant to the manufacturer's instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulation of the State Manufactured Housing Commission, and shall have a perimeter wall as required above. If the dwelling unit is a manufactured home, as defined herein, each unit shall be installed with the towing system, axles, wheels, and undercarriage or chassis removed.
- (b) The minimum floor area per dwelling unit shall be in accordance with the schedule set forth in section 18-67(f).
- (c) The minimum width of any side of a single-family dwelling shall be at least twenty (20) feet. The side of a single-family dwelling shall be considered to be the face along the narrowest dimension of the building.
- (d) Each dwelling unit shall be connected to public water and sanitary sewer mains, if available, or to on-site water and sanitary sewage facilities approved by the county health department.
- (e) All construction shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.
- (f) Not more than one (1) single-family dwelling shall be permitted on a lot, except in a planned unit development, a manufactured housing park, or as a temporary dwelling as provided in section 18-205, or unless other permitted in this chapter.
- (g) No dwelling unit shall be removed from a foundation until a permit therefore has been issued by the building official, in accordance with the Michigan State Construction Code.
- (h) The foregoing standards shall not apply to a manufactured home located in a licensed manufacturing housing community, except to the extent required by state or federal law, or otherwise specifically required in the ordinance of the township pertaining to such developments.

(Ord. No. 01-20, § 18.208, 2-10-20)

Sec. 18-209. Access drives.

Access drives may be placed in required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Any walk, terrace or other pavement, servicing the like function, and not in excess of nine (9) inches above grade upon which placed, shall for the purpose of this chapter not be considered to be a structure, and shall be permitted in any required yards.

(Supp. No. 19)

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Sec. 18-210. Entrance structures.

- (a) *Location.* Entrance structures may be provided for residential areas, shopping centers, industrial parks, and similar developments. The structure(s) may consist of walls, columns or gates, and may be located within required yards. The location and design of an entrance structure shall not interfere with pedestrian, bicycle, or vehicular traffic movement; and shall conform to the requirements of section 18-211 and shall not create a safety hazard.
- (b) *Building permit.* An entrance structure shall not be constructed until a building permit has been issued. The planning commission shall have approved the location, design, and maintenance provisions for an entrance structure before the building permit may be issued.
- (c) *Maintenance.* All entrance structures shall be regularly maintained in good and safe condition. A mechanism shall be established for assuring the required maintenance.
- (d) *Application requirements.* Entrance structures should be approved with a development's site plan. However, if an entrance structure is considered to an existing development the following information should be provided for consideration:
 - (1) Precise location of the structure.
 - (2) Plan and elevation drawings of the structure, including dimensions.
 - (3) Location of electrical wiring and fixtures, if applicable.
 - (4) Provisions regarding the maintenance of the structure.
- (e) *Identification sign.* An identification sign permitted in the district in which the entrance structure is to be located may be mounted on an entrance structure or made a structural part thereof. Such signs shall conform to all sign regulations as set forth in article XIII, except setback requirements. No sign containing advertising material shall be mounted on, or made a structural part of, an entrance structure.
- (f) *Security columns and gates for single-family residential properties.*
 - (1) *Location.* Security columns and gates must be setback at least ten (10) feet from the road right-of-way or five (5) feet from any public sidewalk, whichever is greater.
 - (2) *Dimensions.*
 - a. Columns may not exceed four (4) feet by four (4) feet in width.
 - b. Columns, including decorative features, cannot exceed a height of eight (8) feet above grade.
 - c. Gates cannot exceed a height of six (6) feet above grade.
 - d. Fencing or a wing wall on either side of gate may reach a height of six (6) feet above grade with a maximum length of eight (8) feet from each side of a column.
 - e. Any portion of the entrance structure that extends more than eight (8) feet from any side of the column must comply with the provisions as set forth in section 18-266, fences.
 - (3) *Other.*
 - a. Gates must swing inward to site.
 - b. Gates may not have spikes.
 - c. Fence and/or gate shall be of uniform design and well-maintained.

Sec. 18-211. Site grading.

- (a) *Intent.* Site grading regulations are established to ensure adequate drainage away from structures and to a natural or established drainage course and to ensure protection of trees and vegetation on sites where grading is to take place.
- (b) *Scope of application.* A grading permit shall be required, subject to review by the building official, in all instances where grading, excavating, filling, stockpiling, balancing or other alterations to the land are proposed. "Filling" includes the dumping of soil, sand, clay, gravel, or other material on a site.
 - (1) *Exemptions.* Where minor alterations to the land that do not affect the stormwater drainage pattern are proposed, a grading permit shall not be required. Minor alterations are defined as one hundred (100) cubic yards of fill, twenty (20) cubic yards of excavation, or fifty (50) cubic yards of balancing per half-acre, not to exceed one hundred (100) cubic yards. If the stormwater drainage pattern of the land will be altered, a grading permit shall be required regardless of the scope of the alterations.
 - (2) *Fee.* The grading permit fee shall be established by resolution of the township board.
 - (3) *Extraction.* The requirements of this section shall not apply to any extraction operation governed by the regulations of the township extractive operations ordinance or by the section of article XVI of the township codified ordinances governing extractive operations.
 - (4) *County drain commissioner.* Activities of the Monroe County Drain Commissioner's office, including clearing and dredging of regulated drains and ditches, shall be exempt from the requirements of this section.
- (c) *Grading plan.* In the event that a grading permit is required, the applicant shall first submit three (3) copies of the grading plan for review and approval by the building official or designee (e.g., township engineer), and other authorities having jurisdiction, such as the Michigan Department of Environmental Quality. A licensed professional engineer or licensed professional surveyor shall prepare such plans. Two (2) signed, approved copies of the grading plan shall be retained by the township and one copy returned to the applicant.
- (d) *Grading plan standards.* At a minimum, grading plans shall show existing and proposed grade elevations adjacent to existing and proposed structures on the subject property and at the structures within one hundred (100) feet of the lot line on adjacent properties. In addition, sufficient existing and proposed elevations shall be shown for the site and for as much of the adjacent property as is necessary to establish the proposed surface drainage pattern.
 - (1) *Amount of material.* If excavation or filling is proposed, the amount of material to be excavated or filled shall be indicated on the grading plan.
 - (2) *Basis for elevations.* All elevations shall be based on U.S.G.S. datum. Elevations and location of benchmarks used for determining elevations shall be shown on the plan.
 - (3) *Slope away from building and finished floor elevations.* All buildings and structures shall be constructed at an elevation that provides a sloping grade away from the building or structure, thereby causing surface water to drain away from the walls of the building to a natural or established drainage course. The grade shall not exceed five percent (5%) slope away from the building or structure for a minimum distance of ten (10) feet. The slope shall be measured from the highest point along the side lot line to the building line.

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- (4) *Runoff onto adjacent properties.* New grades shall not be established that would permit an increase in the runoff of surface water onto adjacent properties, except directly through an established drainage course, swale, ditch, or easement.
 - (5) *Stockpiling.* The open storage of undistributed soil, sand, clay, gravel, and similar material for a period of more than thirty (30) days shall be prohibited, except where permitted as part of an approved construction project, approved excavation operation, or approved use in an industrial district.
 - (6) *Suitable fill material.* Fill material brought into the township shall consist of clean, compactable, natural earth materials free of contamination from hazardous substances. Fill material shall contain no more than five percent (5%) broken concrete and shall not contain any other foreign matter, including brick, crockery, or other debris or waste. The building official or township engineer may require verification from a qualified soil-testing laboratory that the fill is free of all contamination.
- (e) *Review, inspection, and approval procedures.* The township engineer and other authorities having jurisdiction shall review grading plans. The building official may issue a grading permit after the determination has been made that the requirements set forth herein and in other applicable ordinances have been complied with.
 - (f) *Final grading plan.* An as-built plan, prepared by a licensed professional engineer or licensed professional surveyor and clearly indicating compliance with the approved grading plan, shall be submitted prior to the issuance of an occupancy permit.

(Ord. No. 01-20, § 18.211, 2-10-20)

Sec. 18-212. Ponds.

- (a) *Size and location requirements.*
 - (1) No pond construction will be permitted on a parcel of land containing less than five (5) acres. Such pond shall not exceed twenty percent (20%) of the total parcel area. No soil, sand, earthen rock, gravel or other materials shall be removed from the parcel. One (1) pond shall be permitted per parcel.
 - (2) A pond shall be permitted as an accessory use in the AG, R-1 and R-2 districts on a parcel of land with a principal residence. No pond permit shall be issued until a principal residence "rough in" is inspected and approved by the township building official, except farm ponds as defined in article II.
 - (3) No pond shall be located closer than one hundred (100) feet from the front, side, and rear lot lines or any right-of-way, nor closer than fifty (50) feet from the required principal use structure, nor closer than one hundred (100) feet from any septic tank and/or septic field.
 - (4) All earth excavated during construction of the pond shall be evenly graded out on the parcel consistent with the approved design plans. All extracted material must remain on the subject property. Excavated material shall not be placed where it will impede drainage or cause flooding on adjacent parcels.
 - (5) No pond shall be located closer than fifty (50) feet from any telephone, electrical or other utility line located above or below ground.
 - (6) A pond shall be constructed in such a manner that no overflow, spillage, or seepage shall encroach on adjacent lots or parcels.
 - (7) The side slopes of the pond shall be stable and be no steeper than a horizontal to depth ratio of three to one (3:1); except that sand banking shall be no steeper than a horizontal to depth ratio of four to one (4:1), to a depth of six (6) feet, and that a pond without soil sides or bottom, such as peat, shall not be permitted.
 - (8) Ponds shall have a minimum depth of eight (8) feet in the middle of the pond measured from the anticipated low water mark.

(b) *Township approval process.*

- (1) A pond shall not be created, built, or used until a plan is submitted, and a permit shall have been obtained from the township building official and a permit fee and any inspections fees shall have been paid in an amount as set by the township board.
 - (2) A plot plan and an application form (provided by the township) shall be completed by the applicant. The plan shall be a scale drawing that must provide sufficient information and details concerning the following:
 - a. The size and dimensions of the proposed pond including at least one (1) cross section of the pond.
 - b. The proposed location of the pond and its relationship to all existing dwellings within one hundred (100) feet, existing or proposed buildings on the subject parcel, livestock pens or other structures, easements, existing septic system and drainfield on the subject parcel and adjacent parcels, utility lines including gas, electric, telephone and cable, property line of the subject parcel with verification by a mortgage survey, and dimensions from all property lines and the street right-of-way.
 - c. Proposed site grading and finished elevations shall be illustrated on the site plan in sufficient detail to determine the direction of stormwater runoff and the drainage system to receive runoff.
 - d. The area of the pond and its percentage of the total ground surface area of the lot upon which the pond is located.
 - e. All rivers, streams, lakes, ponds, wetlands and floodplains which are located on the subject property.
 - (3) The applicant shall provide evidence that all appropriate permits have been applied for and granted, as may be required for the Monroe County Drain Commissioner, Monroe County Health Department, MDEQ and other agencies within jurisdiction.
 - (4) After the building official finds that all the required plot plan and application materials are submitted and meet the requirements found herein, an on-site visit shall be scheduled for the building official to review the property where the pond is to be constructed.
 - (5) The building official's approval shall become null and void if substantial construction has not been commenced within six (6) months following the final approval of the plot plan, or if construction has not been completed within twelve (12) months following issuance of a pond permit. A permit issued in accordance with the provisions of this section shall remain valid for twelve (12) months from the day of issuance. Prior to the permit expiration date, the time limit may be extended by the building official for no more than an additional six (6) months, if in the opinion of the building official, the applicant is diligently proceeding with construction consistent with the approved plan and the additional time is reasonably necessary to complete the approved improvements.
- (c) All ponds shall have a safety station for each one-half (0.5) acre of the pond's water surface when measured at the high water level, and each such safety station shall have an approved U.S. Coast Guard life ring with one hundred (100) feet of rope and a ten (10)-foot pole on a wooden post extending four (4) feet above grade on which a deep water ring shall be mounted.
- (d) A pond shall be maintained so as to ensure that unsanitary conditions or obnoxious odors will not be created by the growth of biological organisms. If a pond is not maintained and becomes a detriment to the health, safety and welfare of the community, the Berlin Charter Township Board shall have the authority to have the pond cleaned and properly maintained or filled in, both at the owner's expense and collected in the same manner as delinquent general property taxes.

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- (e) The requirements of this section shall not apply to the following operations, provided such operations do not, or are not likely to affect the drainage or lateral support of any adjacent or contiguous property or the safety of any persons, and provided such operations are adequately regulated by other laws, ordinances or regulations:
- (1) The excavation of any swimming pool, stormwater detention basin, basement or temporary excavation, pit, hole, trench, or other temporary movement of any soil matter or earth material in which water may potentially accumulate as a result of a bona fide permit issued by an authorized township official.
 - (2) The removal of any soil matter or earth materials resulting from the clearing, deepening or straightening of any drain under the jurisdiction of the Monroe County Drain Commission, or any ditch or drain under the jurisdiction of any public road authority such as the Monroe County Road Commission.
 - (3) The creation of a landscape pond or water comprised of an assemblage of materials (i.e., concrete, wood, plastic, vinyl, and/or masonry) as defined in article II, whether permanent or temporary, portable or non-portable, above or below grade, capable of containing water to a maximum depth of no more than twenty-four (24) inches measured from the deepest point, and not exceeding more than two hundred (200) square feet in water area.

(Ord. No. 01-20, § 18.212, 2-10-20)

Sec. 18-213. Home occupation.

A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions, and further subject to the approval of the planning commission and the township board:

- (a) Not more than one (1) person outside of the family shall be engaged in such operation.
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty percent (20%) of the floor area of the dwelling unit may be used for the purpose of the home occupation.
- (c) A home occupation shall be conducted within the dwelling unit or within an accessory building.
- (d) There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall not be external alterations uncustomary in residential areas.
- (e) No article shall be sold or offered for sale on the premises except such as is prepared within the dwelling or accessory building or is provided as incidental to the service or profession conducted therein.
- (f) Parking for the home occupation shall not exceed two (2) parked vehicles.
- (g) Exterior storage of material, equipment or refuse associated with or resulting from a home occupation shall be prohibited.
- (h) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor or electrical interferences which are nuisances to persons off the lot. Any electrical equipment process which creates visual or audible interferences with any radio or television receivers off the premises or which causes fluctuations in line voltages off the premises shall be prohibited.

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- (i) Signs not customarily found in residential areas shall be prohibited, except however, that one (1) non-illuminated sign, professionally prepared, not more than four (4) square feet in area may be installed on the premises. Such signs shall conform with section 18-285.

(Ord. No. 01-20, § 18.213, 2-10-20)

Sec. 18-214. Portable storage units.

- (a) Portable storage units shall be permitted in single-family residential zoning district subject to the following regulations:
 - (1) The maximum allowable size for a portable storage unit is two hundred (200) square feet.
 - (2) No more than two (2) portable storage units shall be permitted on a property at any time.
 - (3) Portable storage units shall not be on a property for more than ninety (90) days within any three hundred sixty-five (365) day period regardless of the number of portable storage units. The zoning official may grant an extension, not to exceed thirty (30) days, for extenuating circumstances which would include, but not be limited to, natural disasters, fire, or Acts of God.
 - (4) Portable storage units shall not be placed such that they obstruct pedestrian or vehicular movements nor shall they be located in a clear vision area (see section 18-243).
- (b) The above regulations shall apply to portable storage units in all other zoning districts, other than single-family residential districts, except that the units shall not be on a property for more than one hundred eighty (180) days within any three hundred sixty-five (365) day period regardless of the number of portable storage units. The zoning official may grant an extension, not to exceed thirty (30) days, for extenuating circumstances which would include, but not be limited to, natural disasters, fire, or Acts of God.

(Ord. No. 01-20, § 18.214, 2-10-20)

Sec. 18-215. Storage containers.

- (a) Storage containers shall not be located in the required front setback area.
- (b) Storage containers may be permitted on site during new construction, repair of fire damage, or Acts of God, and remodeling of a building or structure.
- (c) Storage containers may be permitted on a temporary basis as follows:
 - (1) No more than three (3) storage containers shall be permitted per business for a single ninety (90) day period per calendar year.
 - (2) A permit for temporary storage containers shall be issued by the zoning official.
- (d) Storage containers may be permitted on a permanent basis subject to the following requirements:
 - (1) The storage container must be located in an area screened by an opaque fence or wall not less than seven (7) feet in height. The fence or wall shall be constructed of durable material, such as wood or masonry. Wire fencing or fencing with plastic, aluminum, or other filler strips shall not be used.
 - (2) The storage containers shall not block ingress or egress doors, fire department hose connections, utility pedestals, wall mounts, access aisles, etc.
 - (3) At no time shall there be more than three (3) storage containers on the premises.
 - (4) Storage containers shall not be stacked nor shall anything be stored on top of the containers.

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- (5) Storage containers shall not occupy parking spaces to the extent that the premises are no longer in compliance with the minimum parking requirements herein.
- (6) Storage containers no longer in use shall be removed from the premises.

(Ord. No. 01-20, § 18.215, 2-10-20)

Sec. 18-216. Keeping of animals.

(a) Horses and other livestock may be kept only in accordance with the following schedule:

ZONING DISTRICT	REGULATION
1. Bona fide farm operations in AG.	Horses, Ponies and Other Livestock.
	There shall be no zoning limits on the number of equines (horses or ponies) or other livestock kept, provided that all generally accepted agricultural and management practices (GAAMPs) are followed as regulated by the Michigan Department of Agriculture (MDA).
2. Residentially used lots zoned AG.	Horses, Ponies and Other Livestock.
	HORSES or PONIES: Two (2) equines (horses or ponies) may be kept on lots of five (5) acres or more. One (1) additional equine may be kept for each acre of lot area in excess of two and one-half (2.5) acres not to exceed six (6) horses.
	CATTLE: One (1) per acre. The combined number of cattle and horses or ponies may not exceed one (1) animal per acre.
	PIGS or SHEEP or GOATS: Two (2) per acre. If a combination of horses, cows, sheep, goats and pigs are to be maintained, two (2) sheep, goats or pigs may replace either a cow or a horse or pony in the total number allowed as indicated above.
	POULTRY: Thirty-five (35) per acre, in any combination, in addition to other livestock.

- (b) All animals shall be properly fenced and contained.
- (c) Barns suitable for housing of animals and storage of the necessary hay and grain they consume may be constructed on the premises in accordance with section 18-204. All barns and out-buildings shall require a zoning compliance permit. Where such buildings abut a residentially zoned or used lot, barns and out-buildings shall conform to minimum setback requirements for principal residential buildings.
- (d) Special training or exercising corrals shall be located not less than one hundred (100) feet from any lot line.
- (e) Except on farms, accumulations or manure shall be limited to a single designated area and shall be a minimum of one hundred fifty (150) feet from all public rights-of-way, a minimum of one hundred (100) feet from side and rear lot lines, and a minimum of one hundred (100) feet from all dwellings.
- (f) The following discretionary standards shall be used in considering special approval for the keeping of horses or ponies on lots of two (2) acres or more in residentially used lots zoned AG:

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- (1) A fenced corral or pen with fence construction sufficient to contain horses on the owner's property shall be provided.
 - (2) The facilities and conditions shall be such as to assure that the public health, safety and welfare is safeguarded with particular reference to objectionable noises, odors, infestations, insects, fences, security and nuisances.
 - (3) Provision shall be made to ensure that the keeping of horses or ponies will not adversely affect the peaceful use of adjacent lots.
 - (4) The potential impact on the view from neighboring lots in relationship to unsightly areas such as barnyards, manure piles, barn doors, gates, chutes, fences, etc., shall be considered.
- (g) Other animals which are not specifically permitted hereunder are prohibited except for pets and other animals permitted by the Monroe County Health Department and under conditions designed to protect the public health, safety and welfare. Exotic animals, furbearing animals and game are allowed in the AG district after special approval from the township, in accordance with the standards of this section and article VII.

(Ord. No. 01-20, § 18.216, 2-10-20)

Sec. 18-217. Hobby and commercial kennels.

- (a) Hobby kennels shall be permitted as an accessory use in any zoning district where single-family dwellings are permitted uses.
- (b) Commercial kennels shall be a special land use in the AG and B-2 districts subject to the following conditions:
 - (1) A minimum lot size of five (5) acres in the B-2 district, and ten (10) acres in the AG district shall be maintained.
 - (2) Any building or fenced area where animals are kept shall be located a minimum of two hundred (200) feet from any public right-of-way, one hundred (100) feet from any property line, and one hundred fifty (150) feet from any residential dwelling located off the premises.
 - (3) The kennel shall be established and maintained in accordance with all applicable state, county and township sanitation regulations. Odor, dust, noise, drainage, or insects shall not constitute a nuisance to adjoining properties.
 - (4) A site plan shall be submitted in accordance with article VI.

(Ord. No. 01-20, § 18.217, 2-10-20)

Sec. 18-218. Hobby and commercial horse stables.

- (a) An indoor riding arena, whether for a hobby or commercial horse stable, shall require a minimum of ten (10) acres.
- (b) Hobby stables shall be permitted as an accessory use in the AG district, subject to the restrictions set for in section 18-216.
- (c) A commercial stable shall be established and maintained in accordance with all applicable state, county, and township sanitation regulations.
- (d) A site plan shall be submitted in accordance with article VI.

(Ord. No. 01-20, § 18.218, 2-10-20)

Secs. 18-219—18-230. Reserved.

ARTICLE X. DEVELOPMENT OPTIONS

Sec. 18-231. Condominium projects.

- (a) *Intent.* The intent of this section is to regulate condominium projects to ensure compliance with this chapter and other applicable standards of the township, to provide procedures and standards for review and approval or disapproval of such developments, and to ensure that each project will be consistent and compatible with other developments in the community.
- (b) *Approval required.* Pursuant to authority conferred by Section 141 of the Condominium Act, preliminary and final site plans for all condominium projects shall be approved by the Berlin Charter Township Planning Commission, in accordance with the provisions set forth in article VI.
- (c) *General requirements.*
 - (1) Where a site condominium is proposed, each site condominium unit shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
 - (2) Relocation of boundaries between adjoining site condominium units, (if permitted in the condominium documents, as provided in Section 48 of the Condominium Act MCL 559.148), shall comply with all regulations of the zoning district in which located and shall be approved by the township attorney. These requirements shall be made a part of the bylaws and recorded as part of the master deed by reference.
 - (3) Each site condominium unit that results from a subdivision of another condominium unit, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the zoning official. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
 - (4) No permit for construction shall be issued until final engineering plans have been approved and all applicable permits and approvals have been secured from other governmental entities.
- (d) *Site plan approval.* Approval of the site plan and condominium documents by the township shall be required as a condition of the right to construct, expand, or convert a condominium project. The following information shall be submitted for site plan approval:
 - (1) A site plan in accordance with the standards and procedures set forth in article VI.
 - (2) Master deed and bylaws, which shall be reviewed with respect to all matters subject to regulation by the township, including, without limitation: on-going preservation and maintenance of drainage, retention, wetland and other natural and/or common area; maintenance of private roads; and maintenance of stormwater, sanity, and water facilities and utilities.
 - (3) Engineering plans and information in sufficient detail to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project.
 - (4) The applicant shall provide proof of approvals by all county and state agencies having jurisdiction over improvements in the condominium development. The township shall not approve a site plan until each county and state agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.

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- (e) *Revision of condominium subdivision plan.* If the condominium subdivision plan is revised, the site plan shall be revised accordingly and submitted for review and approval or denial by the township before any building permit may be issued, where such permit is required.
 - (f) *Amendment of master deed or bylaws.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the township before any building permit may be issued, where such permit is required. The township may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.
 - (g) *Monuments.* Monuments shall be established in the manner required by the Condominium Act.

(Ord. No. 01-20, § 18.231, 2-10-20)

Sec. 18-232. Open space developments.

- (a) *Intent.* It is the intent of this section to promote the goals of the township master plan and to permit the development of single-family dwellings in patterns which will:
 - (1) Protect and preserve rural character, open space, and productive agricultural lands.
 - (2) Minimize demand for public services.
 - (3) Encourage a more creative approach to single-family residential development than conventional land divisions and allow greater flexibility in the siting of units.
 - (4) Provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands and vegetation, water bodies and other natural assets.
 - (5) Reduce the number driveways accessing county primary and local roads.
 - (6) Minimize light levels and light pollution.
- (b) *Eligible property.* The open space preservation option shall be a permitted use in the AG and R-1 districts, and in the R-2 district where sanitary sewers are provided.
- (c) *Criteria.* In the review of a proposed development under this section, the township shall make a finding that the intent of the open space preservation option, as set forth in subsection (a) and one (1) or more of the standards set forth in this subsection are met:
 - (1) The parcel contains natural assets which would be preserved through the use of open space preservation. Such assets may include woodlands; natural habitat for wildlife; wetlands; bodies of water (i.e., streams, rivers, and lakes); unusual topographic features; or other natural assets which are to be preserved.
 - (2) The parcel contains productive agricultural lands which would be preserved through the use of cluster development.
 - (3) When completed, the development shall have at least fifty percent (50%) of the land area remaining left perpetually in an undeveloped state, i.e., a conservation easement, plat dedication, restrictive covenant, or other legal means that run with the land.
- (d) *Density regulations.*
 - (1) Land found within the districts noted in subsection (b) may be developed, at the option of the landowner, with the same number of dwelling units on a portion of land that, as determined by the township, could otherwise be developed, under existing ordinances.

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- (2) *Calculating density.* The base density calculation is an estimated number of housing units that could reasonably be expected on a parcel or parcels if developed in a conventional manner. For the purpose of determining base density, the following standards shall apply:
- a. *Useable lot area.* It is recognized that certain site elements must be subtracted from the total lot area to obtain a reasonable base density. Usable lot area for the purpose of determining base density shall be the lot area as defined with the following to be subtracted from the total lot area:
 - i. For the development of infrastructure including roads, stormwater detention, and other similar facilities, twenty percent (20%) of the lot area shall be subtracted.
 - ii. Twenty-five percent (25%) of all wetland areas shall be subtracted from the lot area. A wetland delineation shall be completed on-site to make this determination.
 - iii. All land found within the ordinary high-water elevation of any lake, pond, river, stream, or creek shall be subtracted.
 - iv. Fifty percent (50%) of all soils identified as "very limited" for septic tank absorption fields.
 - b. *Base density calculation.* Once the useable lot area is established, the minimum lot size of the underlying zoning district may be used to determine the maximum base density as shown in the following calculation:
 - A = Useable lot area
 - B = Minimum required lot area of underlying zoning district
 - C = Base density
 - $A / B = C$
- (e) *Site design requirements.* All open space developments submitted under this option shall conform to the following site design requirements:
- (1) *Type of dwelling unit permitted.* Development is restricted to single-family detached and two-family units. Projects may be proposed as subdivisions or site condominiums, although portions of projects may include land divisions allowable under state law. In no case shall allowable project density be exceeded.
 - (2) *Common access and road frontage.* No lot or parcel shall have direct driveway access to county-designated primary or local roads. All lots or parcels shall have frontage or direct access to a public or private interior road which meets one (1) of the following conditions:
 - a. A public street which has been accepted for maintenance by the Monroe County Road Commission.
 - b. A permanent and unobstructed private road approved and built in accordance with the township guidelines of development or a road which is part of a condominium development where design, construction, and perpetual maintenance of the road have been approved by the township.
 - c. The extent of road frontage shall be determined by the township, in its discretion, taking into consideration: the extent and importance of natural resources, topographical conditions, floodplains, and wetlands to be preserved on the property, the size the shape of the development site, public safety, aesthetics, and impact upon the surrounding developments.
 - (3) *Water supply and sewage disposal.*
 - a. An applicant shall demonstrate that all lots proposed under the open space preservation option are capable of meeting applicable county and/or state agency approvals for on-site water supply

and sewage disposal. Inasmuch as the capability of the parcel for on-site water supply and sewage disposal is material to the determination of potential development density, the township shall require percolation tests, soil borings, and other information to determine suitability of soils for on-site sewage disposal. These tests must be conducted under the supervision of a registered engineer, certified sanitarian, or other competent licensed provision in accordance with uniform procedures established by the department of environmental quality.

- b. Pursuant to subsection (d), a preliminary site plan with a conventional layout is required in order to demonstrate project density. The township board may waive the requirement for percolation tests, soil borings, and other information on each individual lot of the preliminary site plan with a conventional layout, when it can be demonstrated by the applicant that one (1) or more of the following conditions exist:
 - i. Conducting the necessary testing would result in unreasonable damage to significant nature resources and features that are intended to be preserved through the application of the open space development option.
 - ii. Previous studies acceptable to the township board have been conducted on the site which verify the suitability of soils and subsurface conditions for on-site water supply and sewage disposal.
- (4) *Setbacks.* Setback requirements shall be established in a manner which permits variation in the siting of individual dwelling units in order to encourage creativity in design and compatibility with natural resources and other features intended to be preserved. The following minimum setback requirements for each dwelling unit shall be applied:

Table 18-232-E-1. Minimum Setbacks and Lot Width per Dwelling Unit for Single-Family Developments			
Setbacks / Districts	A-1	R-1	R-2
Front	40 feet	40 feet	25 feet
Rear	40 feet	40 feet	25 feet
Side - Least	20 feet	10 feet	10 feet
Side - Total	40 feet	25 feet	25 feet
Distance Between Structures	40 feet	25 feet	25 feet

Table 18-232-E-2. Minimum Setbacks and Lot Width per Dwelling Unit in Regular Condominiums for Two-Family Attached Units			
Setbacks/Districts	A-1	R-1	R-2
Minimum Setbacks*			
Internal Drives/Street	40 feet	40 feet	25 feet
Edge of Water**	50 feet	35 feet	35 feet
Distance Between Structures			
Side to Side	40 feet	20 feet	20 feet
Side to Front	55 feet	35 feet	35 feet
Side to Rear			

Front to Front	70 feet	50 feet	50 feet
Front to Rear			
Rear to Rear			

* Where the cluster development contains drives or streets without a recorded easement, setbacks shall be measured from a point thirty-three (33) feet from the centerline of the drive or street.

** A minimum of twenty-five (25)-foot wide undisturbed open space setback shall be required from the edge of any, lake, pond, river, stream or wetland; provided that the planning commission may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.

- (5) *Open space.* When completed, the balance of the parent parcel that is not specifically devoted to development associated with dwelling units shall be left in an undeveloped state.
 - a. The percentage of land to be left in an undeveloped state shall be no less than fifty percent (50%) of the parent parcel.
 - b. The term "undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use, open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of public.
 - c. Approval of an open space preservation option under this section shall be conditioned upon recording appropriate conservation easements, deed restrictions, plat dedications, restrictive covenants, or other instruments for the purpose of providing for long-term maintenance and preservation of the land to be left in an undeveloped state. Such easement and/or other instrumentation shall be in a form and contain the content approved by the township attorney and shall run with the land.
- (6) *Greenbelts.* It is the intent of the township that rural open space developments shall not appear to be more intense than conventional developments as viewed from off-site. In addition to any required minimum setback specified in subsection (e)(4) above, a greenbelt, having the minimum width of one hundred (100) feet, shall be required along any adjacent county primary or local road. The greenbelt shall be measured from the future right-of-way line. The township planning commission, at its discretion, may permit either minor reductions in width or variations in width of the greenbelt taking into consideration topographic and/or other natural resource conditions, density of existing vegetation to be preserved, and size and shape of the development site.
- (7) *Transition from adjacent parcels.* In order to provide an orderly transition of density when an open space development abuts a single-family residential district of equal or lower density, the township, at its discretion, shall require the designation of open space and/or the addition of landscape screening along the common boundaries.
- (f) *Review procedures.* An application for an open space development shall be reviewed as follows:
 - (1) *Subdivisions.* If an open space development is proposed as a subdivision, review of the preliminary and final plats shall proceed as provided in the Berlin Township Subdivision Ordinance.
 - (2) *Site condominiums.* If an open space development is proposed as a site condominium, review shall provide as provided in section 18-231 and article VI.
 - (3) *Metes and bounds divisions.* If an open space development is for land division by metes and bounds descriptions, the review shall proceed as provided for preliminary and final site plans in article VI.

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- (g) *Review standards.* A proposed open space development shall meet all of the following standards for approval. The planning commission shall make the necessary findings for compliance with this section upon its review of the final site plans for site condominiums and metes and bounds land divisions under this section. It shall be the responsibility of the township board to make such findings for subdivisions developed under this section after review and recommendation by the planning commission. All findings shall be in writing and shall be recorded in the minutes of the meeting at which the decision is made.
- (1) The proposed open space development must be consistent with the master plan and any other applicable adopted plan.
 - (2) The proposed open space development must not adversely affect existing or future uses or the value of adjacent properties.
 - (3) A site plan shall meet all requirements and standards for preliminary and final site plans as provided in article VI of the zoning ordinance.
 - (4) The proposed open space development shall meet all requirements and standards in this section and all other applicable provisions of the zoning ordinance.
 - (5) The proposed open space development must comply with all applicable federal, state, and local rules and regulations.
 - (6) *Design standards.*
 - a. The open space development shall be designed to promote preservation of natural features. Lots or site condominium units, roads, stormwater management facilities, and other improvements shall be designed and situated to minimize alteration of or intrusion into the natural environment.
 - b. Lots or site condominium units shall be located on soils that are most suitable for drain fields.
 - c. Dwelling units shall be located away from environmentally sensitive areas. They shall not be located in areas most suitable for open space. Dwelling units shall be located as far as possible from agricultural areas.
 - d. Placement of wells, septic tanks, and drain fields shall comply with all requirements of Monroe County.
 - e. Each lot or site condominium unit shall have access to and frontage on an approved street.
 - f. Pedestrian access shall be provided within a development between lots or site condominium units and non-agricultural open space, between open space areas, and to appropriate on- and off-site uses.
 - g. The planning commission or township board, whichever applies, may require that structures of historic, cultural, or architectural significance on the site of an open space development be retained, if suitable for rehabilitation. Adaptive reuse for a permitted use may be allowed.
- (h) *Conditions of approval.* The planning commission or township board, whichever applies, may impose reasonable conditions for approval of an open space development and all elements of the proposed open space development that will assure that the development and all elements of the proposed open space development will be consistent with the intent and purpose of requirements of this section, the zoning ordinance, and subdivision control ordinance.
- (i) *Recording action.*
- (1) Upon approval of a final site plan by the planning commission, or final approval of a preliminary plat by the township board, the applicant shall record an affidavit with the Monroe County Register of Deeds that contains the full legal description of the property in the open space development, the date of

township approval, the conditions the planning commission or township board imposed, and declares that all improvements will be carried out pursuant to the approved open space development plan or plat, unless an amendment is endorsed by the planning commission or township board, whichever applies. The deed restrictions and conservation easement shall be duly filed with the Monroe County Register of Deeds. The applicant shall promptly submit copies of the recorded documents to the township clerk.

- (2) Upon approval of a final site plan by the planning commission, or final approval of preliminary plat by the township board, the township clerk shall promptly record the approval of the open space development on the township's official zoning map, which entry shall be signed by the township supervisor and attested to by the township clerk.

(j) *Time limits.*

- (1) An approved open space development shall expire and be of no effect if construction does not commence within twelve (12) months after approval unless the approving body grants an extension. If the applicant does not comply with the conditions specified in the approval, the approving authority or zoning official shall issue a stop work order and no further work shall be done until such time as the conditions are met to the satisfaction of the approving authority.
- (2) Each phase of a development shall be commenced within twelve (12) months of the schedule set forth in the approval. If construction of any phase is not timely commenced as provided herein, the approval of the open space development shall become null and void and no further work may be conducted on the site until such time as adequate assurances to the satisfaction of the approving authority are made that the development will be completed as approved by a date certain as determined by the approving authority.
- (3) The applicant may apply in writing to the approving body for an extension of time in which to commence and/or complete construction. The application for extension must include an explanation of reasons justifying the requested extension. The body granting the original approval may grant a requested extension not exceeding twelve (12) months for good cause. Not more than one (1) extension may be approved.

(k) *Continuing compliance.*

- (1) An applicant who fails to comply with the approved final site plan or the preliminary plat as finally approved, whichever applies, shall be deemed in violation of the zoning ordinance, and subject to enforcement and penalties as provided in section 18-240.
- (2) A development agreement and performance guarantee shall be required as a condition of final site plan and preliminary plat approval. The guarantee and agreement shall be in a form approved by the township board and shall ensure completion of a proposed open space development as proposed.

(Ord. No. 01-20, § 18.232, 2-10-20)

Secs. 18-233—18-240. Reserved.

ARTICLE XI. ACCESS, PARKING AND LOADING REQUIREMENTS

Sec. 18-241. Intent and purpose.

This article is intended to ensure that the parking and circulation aspects of all developments are designed with regard to safety, efficiency, and convenience. This article is also intended to ensure off-street parking and

loading facilities are sufficient in number, adequately sized, and properly designed to meet the needs and demands associated with land uses now in place in the township or with land uses allowed by this chapter.

(Ord. No. 01-20, § 18.241, 2-10-20)

Sec. 18-242. Access to public and private streets.

- (a) In any zoning district, every use, building, or structure established after the effective date of this chapter, shall be on a lot or parcel that adjoins a public road or private road complying with the provisions of chapter 13, article IV, except as provided in subsection (c) below. The area of a private road easement shall not be included in the minimum required area of the lot.
- (b) When a proposed building or structure is not serviced by an approved driveway or private road as provided for in chapter 13, article IV, private roads, or is not serviced by a dedicated public road; the zoning official shall not issue a zoning compliance permit for the proposed structure.
- (c) Two (2) or more contiguous parcels of commercially zoned land used for commercial, industrial, office, or multiple-family residential purposes may share driveway access provided all other standards are met. Where shared driveway access is proposed, evidence of the appropriate access easement agreements shall be provided.

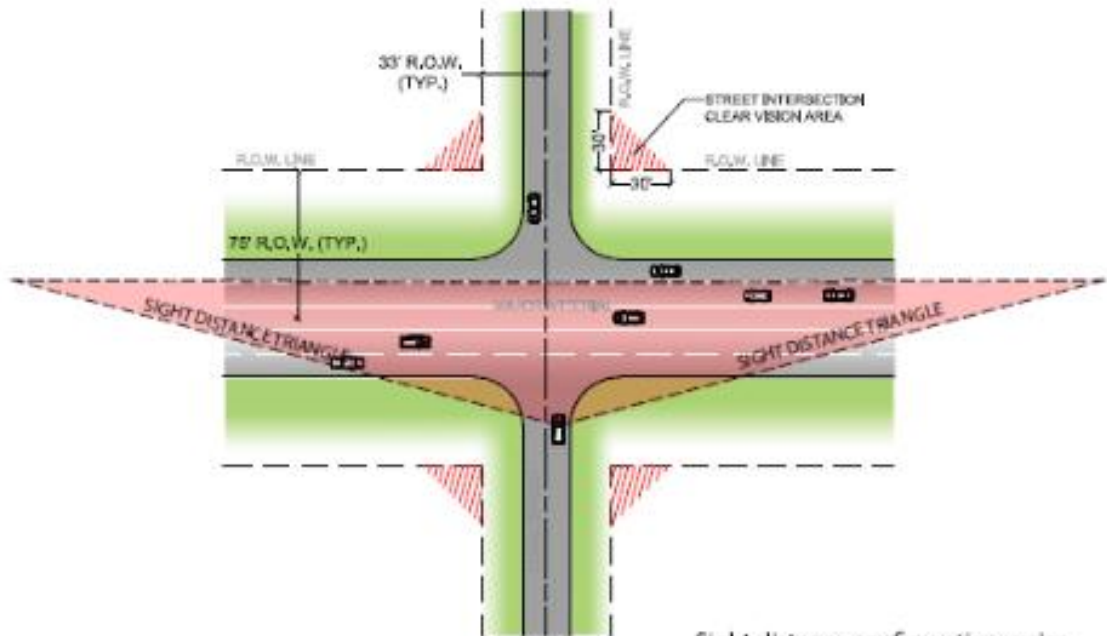
(Ord. No. 01-20, § 18.242, 2-10-20)

Sec. 18-243. Visibility at intersections and driveways.

No fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be higher than three (3) feet on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersection street right-of-way lines and a straight line joining the two street lines at points which are thirty (30) feet distant from the point of intersection, measured along the street right-of-way lines. Trees may be planted in this triangular area, provided that the lowest foliage is ten (10) feet or higher from the ground.

Figure 18-243-A. Clear Vision Area

CLEAR VISION AREAS - STREET INTERSECTION



Sight distance configuration varies depending on a variety of factors including road speed and grade. Driveways shall be located to provide safe sight distances, as determined by the applicable road agency.

(Ord. No. 01-20, § 18.243, 2-10-20)

Sec. 18-244. Traffic impact analysis.

A traffic impact analysis may be required by the township engineer to analyze the effect of development upon existing street traffic. The traffic impact analysis shall be paid for by the applicant.

(Ord. No. 01-20, § 18.244, 2-10-20)

Sec. 18-245. Access management standards.

- (a) *Applicability.* All permitted and special land uses that are subject to site plan review shall meet the requirements set forth in this section. Access to public roads shall be controlled in the interest of public safety.
- (b) *Access barrier.* Each building or group of buildings, parking and/or service areas, shall be physically separated from public roads by a curb, or other suitable barrier against unchanneled motor vehicle access or egress, except for driveway access authorized herein. In addition to providing the access barrier, greenbelt requirements shall be provided in accordance with section 18-262.
- (c) *Driveway access standards.* Driveways shall conform to the following performance standards or to standards adopted by the Monroe County Road Commission, whichever is more stringent:

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- (1) Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal peak traffic period.
 - (2) There must be sufficient on-site storage to accommodate at least three (3) queued vehicles waiting to park or exit without using a portion of the public right-of-way obstructing existing vehicle sight distance, or otherwise interfering with street traffic.
 - (3) Provisions for circulation between adjacent parcels are encouraged through coordinated or joint parking systems.
 - (4) Driveways shall be designed to accommodate all vehicle types having occasion to enter and exit the site, including delivery vehicles. There shall be clear delineation and/or separation, where appropriate, of entry and exit lanes within driveways.
 - (5) Loading and unloading activities shall not hinder vehicle ingress or egress.
 - (6) Driveway placement must be such that an existing vehicle has an unobstructed sight distance according to the minimum adopted by the Monroe County Road Commission.
- (d) *Number of access points.* Each lot or parcel shall be permitted one (1) access point. This access point may consist of an individual driveway, or a shared access with an adjacent use in accordance with section 18-242.
- (e) *Spacing of access points.* All spacing of access points shall comply with the township engineering standards, other applicable policies, Monroe County Road Commission Standards, Michigan Department of Transportation standards, or the standards of any other applicable body.
- (f) *Additional driveways.* An additional driveway may be permitted by the planning commission upon finding that the conditions of (1) and (2), or (3) below exist. The additional driveway may be required to be along a side street or a shared access with an adjacent site:
- (1) The site has a frontage of over six hundred sixty (660) feet and the spacing standards between access points listed below are met; or
 - (2) The additional access will not prevent adjacent lands from complying with the access spacing standards when such lands develop or redevelop in the future; or
 - (3) A traffic study, set forth in township regulations, demonstrates the additional driveway will provide improved conditions for the motoring public and will not create negative impacts on through traffic flow.
- (g) *More restrictive standards.* The appropriate road agency may require a more restrictive standard than contained herein.

(Ord. No. 01-20, § 18.245, 2-10-20)

Sec. 18-246. Off-street parking.

- (a) *Applicability.* The standards set forth in this section shall apply to all uses for which off-street parking is provided.
- (b) *Parking and vehicle storage.*
 - (1) *Residential districts.*
 - a. Parking of motor vehicles in residential districts shall be limited to passenger vehicles, and no more than one (1) commercial vehicle of the light, delivery type, not to exceed three-fourths ($\frac{3}{4}$) ton, shall be permitted for each dwelling unit. The parking of any other type of commercial vehicle, except those belonging to a church or school and parked on church or school property, is

prohibited. Parking spaces for all use types may be provided either in garages or parking areas conforming to the provisions of this article.

- b. No recreational vehicles shall be parked or stored in the front yard of any lot in a residential district, except for a period not to exceed twenty-four (24) hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- (2) *Other districts.*
- a. In any commercial or office zoning district, parking or storage of semi-trailers shall be prohibited for a period of more than twenty-four (24) hour period.
 - b. Unlicensed operative and licensed or unlicensed inoperative automotive vehicles or trailers of any type shall not be parked or stored in residentially zoned property other than in completely enclosed buildings.
 - c. Storage or products, materials, or equipment in semi-trailers shall be prohibited in any zoning district.
 - d. Sales of products, merchandise, or other materials from semi-trailers shall be prohibited in any zoning district.
- (3) *Location of parking.*
- a. *One- and two-family dwellings.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or parcel as the building they are intended to serve but shall not be considered a parking facility under the provisions of this chapter.
 - b. *All other uses.* Off-street parking required for all uses, other than one-and two-family dwellings shall be located on the same lot or parcel as the building or buildings they are intended to serve, and within three hundred (300) feet of the main entrance of the building intended to be served, unless otherwise modified by subsection 18-246(b)(8) below.
- (4) *Required greenbelt, setbacks, and screening.*
- a. Off-street parking facilities, including maneuvering lanes, shall not be located within the front greenbelt required in accordance with section 18-262. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum of ten (10)-foot setback is maintained between off-street parking and the abutting side and rear lot lines.
 - b. Off-street parking shall be landscaped and screened in accordance with section 18-262.
- (5) *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply.
- a. *Floor area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the useable floor area as defined.
 - b. *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
 - c. When units or measurements determining the number of required parking spaces shall result in the requirement of a fractional space, any fraction up to and including one-half (0.5) shall be disregarded and fractions over one-half (0.5) shall require one (1) parking space.
- (6) *Parking duration.* The parking requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not intended to provide for the storage or prolonged parking in any such parking area for a period longer than twenty-

four (24) hours. Storage space in connection with the business of vehicle repair, sales, or service is exempt from this time limitation.

(7) *Off-street parking requirements.*

- a. *New uses or buildings.* The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing building shall be determined in accordance with table 18-246-C, no more or less parking may be approved except under the flexibility provisions found in subsection 18-246(b)(8) below. Parking requirements listed in table 18-246-C shall not include off-street stacking spaces for drive-through facilities set forth in section 18-249.
- b. *Similar use requirements.* When a use is not specifically mentioned, the requirements of off-street parking for similar use shall apply.
- c. *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with table 18-246-C.

(8) *Flexibility in application.*

- a. The township recognizes that due to the specific requirements of any given development, inflexible application of the parking standards set forth in table 18-246-C may result in development of inadequate parking or parking far in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites, the latter situation may result in excessive paving and stormwater runoff and a waste of land area which could be left as open space.
- b. The planning commission may permit deviations from the requirements of table 18-246-C and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question. In the event a deviation is granted, the following shall apply:
 - i. An applicant may request a parking deviation, as part of a current site plan, special land use, or rezoning application, or may request a parking deviation as a separate and distinct action with no other request.
 - ii. The applicant shall provide a parking study with adequate detail and information to assist the planning commission of the appropriateness of the request.
 - iii. The planning commission may attach conditions to the approval of a deviation from the off-street parking requirements that bind such approval to the specific use in question.
 - iv. The planning commission may require the applicant to set aside area for reserve parking (land-banking) to be constructed as needed, although this is not a prerequisite for the approval of a deviation. Where an area is set aside for reserve parking, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities such as maneuvering lanes and drainage.
- (c) *Schedule of required off-street parking spaces.* The minimum number of off-street parking spaces by type of use shall be determined in accordance with table 18-246-C below:

Table 18-246-C. Schedule of Off-Street Parking Spaces	
Use	Parking Requirement
Residential	

Single-family and two-family residential	2 spaces per each dwelling unit
Multiple-family residential	1 space per each efficiency unit; and 2 spaces per each dwelling unit with one or more bedrooms.
Mobile home park	2 spaces per each mobile home unit; plus 1 space per each employee
Housing for the Elderly	
Convalescent and nursing facilities	1 space per each 3 beds or 2 rooms, whichever is less; plus 1 space per each employee
Senior assisted or independent living	1 space per 0.65 dwelling units; plus 1 space per each employee
Institutional and Gathering	
Places of worship	1 space per each 3 seats or 6 feet of pews in the main unit of worship
Primary and secondary schools	1 space per teacher, employee, or administrator, in addition to the requirements for separate auditorium or stadium seating
Post-secondary schools, including high schools, colleges, and commercial schools	1 space per teacher, employee, or administrator; plus 1 per each 10 students, in addition to the requirements for auditorium or stadium seating
Social clubs, fraternal organizations, and other similar uses	1 space per each 3 persons allowed within the maximum occupancy load as established by the fire or building codes
Places of assembly and auditoriums	1 space per each 3 seats or 6 feet of bleacher seating
Day care centers and preschools	2 spaces; plus 1 space per each 8 children of licensed capacity
Family day care homes, group day care homes, and adult foster care homes	1 space per 6 clients; plus 1 space per each employee
Office	
Banks, credit union, savings and loan	1 space per each 200 square feet of floor area; plus 2 spaces per each non-drive-up ATM
Office or professional buildings (non-medical)	1 space per 300 square feet of floor area
Medical, dental, and veterinary offices, including clinics and medical laboratories	1 space per each 200 square feet of floor area
Medical clinics, outpatient centers, 24-hour urgent care centers, etc.	2 spaces per exam or outpatient procedure/operating room;

	1 space per laboratory or recovery room; and 1 space per employee
Hospitals	1 space per bed; plus 1 space per each 2 employees
General Commercial/Retail	
All commercial/retail	1 space for each 250 square feet of floor area
Commercial/retail centers	1 space for each 200 square feet of floor area
Vehicle sales and service	1 space for each 250 square feet of floor area; plus 2 spaces per each vehicle service bay
Recreational vehicles, boat, mobile home, and similar sales	1 space for each 500 square feet of floor area; plus 2 spaces per each vehicle sales service bay
Restaurants	
Standard restaurant	1 per each 3 seats, based on maximum seating capacity as determined by the building code
Fast food restaurant	1 per each 75 square feet of floor area
Commercial Services	
Vehicle fueling/multi-use station	1 space per each 125 square feet; plus 2 parking spaces per fueling station
Vehicle repair	2 spaces per service bay; plus 1 space per each tow truck, if applicable; plus Adequate spaces for overnight parking; plus 1 space per employee
Vehicle wash	2 spaces; plus 1 space per employee
Barber/beauty salons	2 spaces for each chair or station
Funeral home/mortuary	1 space per each 70 square feet of service parlors, chapels, and reception area; plus 1 space per each funeral vehicle stored on premises
Lodging	1 space per guest room; plus 1 space per employee; plus Additional spaces required for dining establishments calculated separately as noted herein
Banquet halls or conference rooms and similar uses without fixed seats	1 space for every 2 persons of capacity authorized by the fire or building code, or 1 space for each 100 square feet of floor area, whichever is greater; plus Any required parking for other uses such as restaurants, gift shops, etc.
Self-storage mini-warehouse	1 space per each 100 storage units, with a minimum of six (6) spaces
Recreational	

Health fitness centers, athletic clubs, martial arts studios, and other similar uses	1 space per each 200 square feet
Bowling alleys	5 spaces per each lane
Indoor and outdoor recreational uses of public or private ownership or use	1 space for each 1,000 square feet of enclosed recreational space; plus 1 space for each employee; 2 spaces for each court (tennis, racquetball, etc.); and 6 spaces for each hole of golf
Industrial	
Light industrial, manufacturing, laboratories, research and development centers, and related accessory offices	1 space per each 550 square feet of floor area
Warehousing	1 space per each 1,500 square feet of floor area; plus 1 space per each employee

(Ord. No. 01-20, § 18.246, 2-10-20)

Sec. 18-247. Off-street parking design and construction.

- (a) The construction of any parking facility shall be in accordance with the requirements of this chapter. Plans for the development of any parking lot must comply with article VI, site plan review.
- (b) All such parking facilities, driveways, or loading areas required for uses other than single- or two-family residential shall be hard-surfaced with a pavement having an asphalt or concrete binder, shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a certificate of occupancy being issued. The planning commission shall have the discretion of waiving certain hard-surfacing requirements provided the following conditions are met:
 - (1) The proposed driveways, loading, turn-around, or storage areas will receive only limited use and are not used for employee parking, customer parking, or primary access.
 - (2) Gravel surfacing and potential problems arising from dust or scattered gravel will not impact neighboring properties.
- (c) All illumination for all such parking facilities shall meet the standards set forth in section 18-265.
- (d) Adequate ingress and egress to the parking facility, by means of clearly defined drives, shall be provided for all vehicles. Backing directly onto a street shall be prohibited.
- (e) Each driveway connecting a parking area from a street shall be at least twenty-five (25) feet from any adjacent property located in any single-family residential district.
- (f) Connecting curbs shall be provided and located to prevent any vehicle from encroaching upon necessary pedestrian walkways or damaging required landscaping.
- (g) Landscaping shall comply with section 18-262.

- (h) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations:

Table 18-247-H. Parking Dimensions				
Parking Pattern	Maneuvering Lane Width (in feet)		Parking Space Dimensions (in feet)	
	One-Way	Two-Way	Width	Length
0°—Parallel	12	20	9	24
30°—53°	16	22	9	18
54°—74°	16	22	8	18
75°—90°	20	22	9	18

- (i) *Barrier-free parking.* Off-street barrier-free parking facilities shall be provided in accordance with requirements of the State of Michigan.

(Ord. No. 01-20, § 18.247, 2-10-20)

Sec. 18-248. Off-street loading requirements.

- (a) *Where required.* On the same premises with every building or use involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained space for standing, loading, and unloading services in order to avoid undue interference with access to the site or parking facilities. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted for review in conjunction with a site plan, as set forth in article VI.
- (b) *Off-street loading/unloading design standards.*
- (1) Each off-street loading/unloading space shall not be less than the following:
 - a. All spaces shall be laid out in the dimension of at least ten (10) by fifty (50) feet, or five hundred (500) square feet in area, with clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or cement binder so as to provide a permanent, durable and dustless surface.
 - b. In the case of mixed uses on one (1) lot or parcel, the total requirements for off-street loading/unloading facilities shall be the sum of the various uses computed separately.
 - c. All off-street loading/unloading facilities that make it necessary to back out directly into a public road shall be prohibited. All maneuvering of trucks, autos, and other vehicles shall take place on the site and not within a public right-of-way.

Table 18-248-B. Off-Street Loading Requirements	
Gross Floor Area (In Square Feet)	Loading and Unloading Space Required in Terms of Square Feet of Usable Floor Area
0—1,400	None
1,401—20,000	One (1) space
20,001— 100,000	One (1) space, plus one (1) space for each 20,000 square feet, in excess of 20,001 square feet

100,001 and over	Five (5) spaces
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- d. It is the intent of this chapter to minimize excessive areas of pavement which reduces aesthetic standards and contributes to high rates of stormwater run-off. The planning commission may grant a waiver in the loading space requirements set forth in table 18-248-B, if the applicant is able to demonstrate and the planning commission is able to determine that such loading space is not required, based on documented evidence, to accommodate the use on a typical day.
- (2) Required greenbelt, setbacks, and screening.
- a. Subject to the limitations of the next paragraph, a loading-unloading space may occupy part of any required side or rear yard. In no event shall any part of a required front yard be occupied by such loading space.
 - b. Off-street loading/unloading areas, including maneuvering aisles, shall not be located within the front greenbelt required in accordance with section 18-262. Any loading/unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, fence, or compact planting not less than six (6) feet in height.
 - c. Off-street loading/unloading which abuts residentially zoned or used property shall be screened in accordance with section 18-262.
 - d. Off-street loading/unloading space areas shall not be construed as or counted toward, the supplying of area required as off-street parking space area.

(Ord. No. 01-20, § 18.248, 2-10-20)

Sec. 18-249. Stacking spaces for drive-through facilities.

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space within a defined stacking lane which meets the following requirements.

- (a) *Dimensions.* Each stacking lane shall be a minimum of ten (10) feet in width. Each stacking space shall be computed on the basis of twenty (20) feet in length.
- (b) *Identification.* Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety and does not interfere with access to parking and maneuvering lanes.
- (c) *Escape lane.* For all drive-through facilities which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be served.
- (d) *Number of spaces.* The number of stacking spaces per service lane shall be provided for the following uses. When a use is not specifically mentioned, the requirements for off-street stacking spaces for the similar use shall apply.

Table 18-249-D. Stacking Spaces Per Service Lane	
Use	Stacking Spaces Per Service Lane
Banks	4
Dry Cleaning	4
Fast Food Restaurant	8
Car Wash (self-serve) — Entry	3

Car Wash (self-serve) — Exit	1
Car Wash (automatic) — Entry	6
Car Wash (automatic) — Exit	3

(Ord. No. 01-20, § 18.249, 2-10-20)

Secs. 18-250—18-260. Reserved.

ARTICLE XII. SITE DESIGN STANDARDS

Sec. 18-261. Intent.

The intent of this article is to promote the public health, safety, and welfare, and improve the site design and visual appearance of the township by requiring consistent standards for such site elements as landscaping, waste receptacles, equipment screening, noise barriers, and lighting.

(Ord. No. 01-20, § 18.261, 2-10-20)

Sec. 18-262. Landscaping.

- (a) *Landscape design purpose.* Landscaping is the organization of outdoor space and shall be treated as a design element as important as building placement and vehicular circulation. The landscape plan shall be designed to achieve the following purposes:
- (1) To preserve and enhance the identity or character of the site.
 - (2) To screen or filter views, buffer incompatible land uses, and blend inharmonious land uses.
 - (3) To integrate and unify various parts of the site.
 - (4) To articulate outdoor and architectural spaces.
 - (5) To improve the local environment by controlling soil erosion, moderating harsh or unpleasant sounds, removing air pollutants, controlling light trespass and reflection, moderating winds and the effects of climate, and promoting stormwater infiltration thereby helping to prevent flooding.
 - (6) To preserve and enhance existing environmental systems and wildlife habitat, including woodlands, wetlands, and grasslands.
- (b) *Landscape plan requirements.* A separate, detailed landscape plan shall be submitted as part of the site plan review as set forth in article VI. On sites of greater than one (1) acre, landscape plans shall be prepared and sealed by a registered landscape architect licensed in the State of Michigan. The landscape plan shall include, but not necessarily be limited to, the following items:
- (1) Location, spacing, size, root type, and descriptions for each plant type proposed for use within the required landscape area.
 - (2) On parcels of more than one (1) acre, existing and proposed contours on-site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet.
 - (3) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

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- (4) Planting and staking details in either text or drawing form to ensure proper installation of proposed plant materials.
 - (5) Identification of existing wetlands, forested areas, trees, and vegetative cover to be preserved.
 - (6) Identification of grass and other ground cover and method of planting.
 - (7) Identification of mulch in planting beds.
 - (8) Typical straight cross-section, including slope, height, and width of berms.
- (c) *Buffering between land uses.*
- (1) Upon any improvement for which a site plan is required, a landscape buffer shall be required to create a visual screen at least six (6) feet in height along all adjoining boundaries whenever a non-residential use or a residential use of higher density abuts residentially zoned property. A landscape buffer may consist of earthen berms and plant materials, or plant materials only, so as to maintain a minimum opacity of at least eighty percent (80%). Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1)-foot above the established grade of the area to be concealed and the top or the highest point of the required screen.
 - (2) Where there is a need to provide a greater visual, noise, or dust barrier or to screen more intense development, a solid wall or fence may be required by the planning commission. Such wall or fence shall be a minimum of six (6) feet in height as measured on the side of the proposed wall having the higher grade and shall be constructed on both sides with textured concrete, split-face concrete block, wood, brick or stone. Precast panels and formed concrete structures may be used if they provide surface detail and texture equal to or greater than, the aforementioned materials. In addition, a minimum of one (1) tree and six (6) shrubs meeting the minimum size requirements set forth in subsection 18-262(i)(4) shall be planted adjacent to and for each thirty (30) linear feet of wall or fence.
 - (3) Sites adjacent to I-75, I-275, and railroad rights-of-way. Sites adjacent to I-75, I-275, and railroad rights-of-way shall maintain a minimum fifty (50)-foot undisturbed buffer measured from the right-of-way. If existing vegetation is not sufficient to provide a landscape screen, the planning commission may require additional landscaping in accordance with this subsection.
- (d) *Parking lot landscaping.*
- (1) *Interior landscape areas.* Each separate area within a parking lot shall be adequately planted and maintained and shall be located in such a manner as to: divide and break-up the expanse of pavement; define parking areas; designate vehicular circulation; and separate parking lots from off-street parking. The following specific standards shall apply:
 - a. Separate landscaped islands shall be required within parking lots of sixteen (16) spaces or greater. No more than a row of twenty-four (24) spaces are permitted without an island. Where size and configuration of a parking lot would prevent maintenance or impede traffic flow as a result of requiring landscaped areas within parking lots, the planning commission may approve alternative landscaping along the perimeter of the parking lots.
 - b. There shall be one (1) canopy tree meeting the minimum size requirements set forth in subsection 18-262(i)(4) for every eight (8) parking spaces, landscape islands within a designated parking area shall be a minimum of one hundred fifty (150) square feet in area and nine (9) feet in width.
 - c. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

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- (2) *Perimeter landscape areas.* In order to reduce the visual impact, minimize conflicts between neighboring uses, and reduce the effect of headlight glare and parking lot lighting on adjacent uses and roadways, the perimeter of parking lots shall be screened in accordance with the following standards:
- a. Parking lots which are adjacent to residentially zoned or used property, which serve a non-residential use or a residential use of higher density shall be screened from that residential use in accordance with the standards set forth in subsection 18-262(c).
 - b. Parking lots which are visible from a public or private road shall be screened from view with a landscaped berm varied in height from between two (2) to three (3) feet along the perimeter of those sides which are visible. The berm shall be planted with a minimum of one (1) deciduous or evergreen tree and six (6) shrubs, meeting the minimum size requirements set forth in subsection 18-262(i)(4) for every thirty (30) linear feet, or major portion thereof. The planning commission, at its discretion, may approve alternative landscape plantings, such as a solid hedge, or a solid wall in lieu of a landscape berm.
- (3) *Landscape strips.* A minimum of three (3)-foot wide landscape strips (not including vehicle overhangs) should be provided between paved parking surfaces and buildings, fences, and property lines wherever possible. Trees and shrubs shall be planted clear of the vehicle overhang area.
- (e) *Front greenbelt landscaping.*
- (1) A landscaped greenbelt equivalent in depth to the required front yard setback shall be required for any lot or any portion of a lot fronting on a public or private road, and shall be landscaped within a minimum of one (1) tree, plus six (6) shrubs meeting the minimum size requirements set forth in subsection 18-262(i)(4) for each thirty (30) linear feet, or major portion thereof, of frontage abutting said right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and/or other living plant material.
 - (2) Driveways from public rights-of-way through required landscape strips shall be permitted, but such driveways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a spacing arrangement which is detrimental to plant development.
- (f) *Foundation landscaping.* Foundation plantings shall be provided along the front or sides of any buildings which face a public or private road and/or is adjacent to a parking lot or other area which provides access to the building by the general public. Foundation planting areas shall be integrated into the sidewalk system (between the front and sides of the building and the parking area and/or associated driveways) adjacent to the building. Foundation planting areas shall contain, at a minimum, one (1) ornamental tree and six (6) shrubs for each thirty (30) linear feet of applicable building frontage. Individual planting areas shall be a minimum of eight (8) feet in width.
- (g) *General site landscaping.* In addition to any required screening, front greenbelt, foundation landscaping and/or parking lot landscaping required by this section, twenty-five percent (25%) of the site area, excluding existing public right-of-way, or private road easement shall be landscaped. Such site landscaping shall include preservation of existing plant material, grass, ground cover, trees, shrubs, and/or other living plant material, but shall not be solely grass. In meeting general site landscaping requirements, particular attention shall be paid to such site elements as transformers, mechanical equipment, ground sign bases, entry ways, and/or retention and detention areas. In particular, the integration of stormwater retention and detention ponds in the overall landscape concept is recommended. Ponds with a natural, rather than square or rectangular, design and appearance shall be encouraged. Fenced retention/detention ponds within a front yard shall be strictly prohibited.

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- (h) *Subdivision and site condominium landscaping.* Landscaping for subdivisions and site condominiums, which shall include, but not be limited to residential, office, commercial, and industrial development, shall be provided in accordance with the following requirements:
- (1) *Street trees.* The frontage of all internal public or private streets shall be landscaped on both sides with the equivalent of one (1) tree for every forty (40) lineal feet, or fraction thereof. Such street trees shall meet the minimum size requirements set forth in subsection 18-262(i)(4) and shall be an appropriate species for a street environment. The planning commission may determine that existing trees which are preserved within the road right-of-way or easement may meet all or part of the street tree requirement.
 - (2) *Screening from public roads.* Where a subdivision or site condominium abuts a public right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in section 18-262(c) shall be met.
 - (3) *Other site improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.
- (i) *Miscellaneous landscape requirements.* The following minimum standards shall apply:
- (1) *Quality.* Plant materials and grasses shall be of generally acceptable varieties and species, free of insects, and disease, hardy to the county, shall conform to the current minimum standard of the American Association of Nurserymen, and proof of compliance as to any required governmental regulations and/or inspections.
 - (2) *Composition.* A mixture of plant material, such as evergreen, deciduous trees, and shrubs, is recommended to discourage insect and disease infestation; however, a limited mixture of hardy species is recommended in order to unify the design and visually blend with neighboring plants. Where plantings are adjacent to a road right-of-way, selection of plant materials that are tolerant of road salt spray and air pollutants are required.
 - (3) *Plant material spacing.*
 - a. Plant materials shall not be placed closer than four (4) feet from the fence line or property line.
 - b. Where plant materials are placed in two (2) or more rows, plantings shall be staggered in rows.
 - c. Evergreen trees shall be planted not more than thirty (30) feet on centers. Narrow evergreens shall be planted not more than six (6) feet on centers. Deciduous trees shall be planted not more than thirty (30) feet on centers.
 - d. Tree-like shrubs shall be planted not more than ten (10) feet on centers.
 - e. Large deciduous shrubs shall be planted not more than four (4) feet on centers.
 - (4) *Minimum plant size requirements.*
 - a. Evergreen trees, minimum size, five (5) feet in height.
 - b. Narrow evergreens, minimum size, three (3) feet in height.
 - c. Tree-like shrubs, minimum size, four (4) feet in height.
 - d. Large deciduous shrubs, minimum size, six (6) feet in height.
 - e. Large deciduous trees, minimum size, eight (8) feet in height.

- (5) *Berms.* Berms shall be constructed with slopes not to exceed a one to three (1:3) gradient and shall be planted to prevent erosion. Berm slopes shall be protected with grass, shrubs, or other form of natural ground cover. The highest point of the berm, extending along the length of the berm, shall be sufficiently rounded to avoid scalping by maintenance equipment.
- (6) *Existing trees.*
- a. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the township, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant materials shall be installed prior to construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to remain. Other protective techniques may be used provided such techniques are approved by the township.
 - b. In the event that healthy trees which are used to meet the minimum requirements of this chapter, or those labeled to remain, are cut down, destroyed, damaged, or excavated at the dripline, as determined by the planning commission, the property owner shall replace them with trees which meet ordinance requirements.
- (7) *Installation, maintenance, and completion.*
- a. All landscaping required by this chapter shall be planted prior to obtaining a certificate of occupancy. In the alternative, a performance bond shall be placed in escrow in the amount of the cost of landscaping, to be released only after landscaping is completed.
 - b. All landscaping elements shall be installed, and earthmoving or grading performed according to accepted good planting and grading procedures.
 - c. The owner of the property required to be landscaped shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first.
- (j) *Prohibited species.* Installation of the following trees and/or shrubs to satisfy landscape ordinance requirements shall be strictly prohibited:

Table 18-262-J. Prohibited Tree Species	
Common Name	Latin Name
American Elm	<i>Ulmus americana</i>
Amur Cork tree	<i>Phellodendron amurense</i>
Amur Maple	<i>Acer ginnala</i>
Austrian Pine	<i>Pinus nigra</i>
Black Alder	<i>Alnus glutinosa</i>
Black Locust	<i>Robinia pseudoacacia</i>
Black Poplar	<i>Populus nigra</i>
Box Elder	<i>Acer Negundo</i>
Buckthorn	<i>Rhamnus utilis</i>
Callery Pear	<i>Pyrus calleryana (and cultivars)</i>
Common Buckthorn	<i>Rhamnus cathartica</i>
Ginkgo (Female)	<i>Ginkgo biloba</i>
Glossy Buckthorn	<i>Rhamnus frangula</i>
Horse Chestnut	<i>Aesculus hippocastanum</i>
Norway Maple	<i>Acer platanoides</i>
Rock Elm	<i>Ulmus thomasii</i>

Scots Pine	<i>Pinus sylvestris</i>
Siberian Elm	<i>Ulmus pumila</i>
Slippery Elm	<i>Ulmus rubra</i>
Tree of Heaven	<i>Ailanthus altissima</i>
White Mulberry	<i>Morus alba</i>
Willows	<i>Salix spp.</i>

(Ord. No. 01-20, § 18.262, 2-10-20)

Sec. 18-263. Trash and recycling containers.

- (a) *Where required.* The standards set forth in this section shall apply to all uses that have refuse and/or recycling disposal service by collective trash container. This does not include curbside pick-up for single-family residential uses; however, all residential buildings of more than two (2) dwelling units shall provide trash enclosures.
- (b) *Container standards.*
 - (1) Containers shall be screened on all sides with an opaque masonry wall, and gate at least as high as the container, but not less than six (6) feet in height and shall be constructed of material which is compatible with the architectural materials used in the site development.
 - (2) Containers shall be consolidated to minimize the number of collection sites.
 - (3) Containers and enclosures shall meet all required setbacks, shall be located behind the front face of the building, and shall be located away from public view insofar as possible.
 - (4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
 - (5) Concrete pads and aprons of appropriate size and construction, a minimum of six (6)-inches thick, shall be provided.
 - (6) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.
 - (7) Screening and gates shall be of a durable construction. Gates shall be constructed of heavy-gauge metal or frame with covering of wood or other suitable material. Gates shall be secured with sturdy hinges or sliders and latches. If the enclosure is situated directly adjacent to parking spaces or drives, it shall be protected at its base by concrete curb blocks.

(Ord. No. 01-20, § 18.263, 2-10-20)

Sec. 18-264. Equipment screening.

- (a) *Where required.* The standards set forth in this section shall apply to all uses for which mechanical equipment including, but not limited to, generators, heating, ventilation, and air conditioning, is placed upon a roof of any building or on the ground outside of the building.
- (b) *Screening requirements.* All equipment shall be screened as follows:
 - (1) *At-grade equipment.*

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- a. At-grade equipment shall be screened with architectural and/or landscape materials matching or harmonious with the building or landscape materials provided elsewhere on site.
 - b. Landscape materials shall be evergreen species or other species approved by the planning commission so as to provide a screen year-round.
 - c. Walls provided to screen mechanical equipment shall be an opaque fence or wall, with a gate, at least as high as the equipment being screened.
 - d. At-grade equipment shall be located in a side or rear yard, screened from public view.
 - e. At-grade equipment shall be situated so that it does not cause excessive nuisance or offense to occupants of nearby buildings.

(2) *Rooftop screening.*

- a. Rooftop equipment shall be screened with architectural materials matching or harmonious with the building.
- b. Screens provided to obscure mechanical equipment shall be an opaque barrier at least as high as the equipment being screened.
- c. Rooftop equipment shall be located on the side or rear of a pitched-roof building, screened from public view.
- d. Rooftop equipment shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

(Ord. No. 01-20, § 18.264, 2-10-20)

Sec. 18-265. Exterior lighting.

- (a) *Intent.* The purpose of this section is to decrease light pollution and to improve the aesthetics of the township in general while providing adequate illumination to parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas to ensure the security of property and the safety of persons using such public or common areas.
- (b) *Lighting plan requirements.* If lighting is provided, the following information must be provided with the final site plan submission:
 - (1) Location of all freestanding, building-mounted and canopy light fixtures on the site plan and/or building elevations.
 - (2) Photometric grid overlaid on the proposed site plan, indicating the overall light intensity throughout the site (in foot-candles) and ten (10) feet beyond the parcel lines. The zoning official may waive the requirement for sites with parking lots of twenty (20) spaces or less or for sites that are not adjacent to residentially zoned property.
 - (3) Specifications and details for the type of fixture being proposed, including the initial lumen rating, type of lamp, method of shielding, type of lens, and all applicable accessories.
 - (4) Only non-glare, color-corrected lighting shall be permitted. For all non-residential uses, full cut-off shades are required for light sources so as to direct the light onto the site and away from adjoining properties. The light source shall be recessed into the fixture so as not to be visible from off-site. All fixtures shall be parallel to the ground.
- (c) *Illumination levels.*

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- (1) Lighting for uses adjacent to residentially zoned or used property shall be designed and maintained such that illumination levels do not exceed 0.1 foot-candles along property lines. Lighting for uses adjacent to non-residential properties shall be designed and maintained such that illumination levels do not exceed 0.3 foot-candles along property lines.
 - (2) Maximum lighting levels shall not exceed twenty-five (25) foot-candles directly beneath a light fixture. Lighting levels shall not exceed three (3) foot-candles as measured directly between two (2) fixtures. The planning commission may allow for an increased level of lighting above maximum permissible levels when the planning commission determines that the applicant has demonstrated that such lighting is necessary for safety and security purposes.
 - (3) For the purposes of this section, all lighting measurements shall be taken at ground level.
- (d) *Freestanding lighting height.* For parking lots having less than one hundred (100) parking spaces, lighting fixtures shall not exceed a height of sixteen (16) feet. For parking lots having one hundred (100) spaces or more, lighting fixtures shall not exceed a height of eighteen (18) feet. Height of freestanding lighting fixtures shall be measured from the ground level to the centerline of the light source.
 - (e) *Freestanding lighting location.* Light poles shall be located not less than five (5) feet from the edge of a drive or parking space, where feasible, and shall not interfere with traffic flow, access to fire hydrants, or other utilities.
 - (f) *Building lighting.* The lighting of a building façade for architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:
 - (1) All building façade lighting shall be low intensity. All building façade lighting shall be fully shielded and fully confined from projecting into the sky by eaves, roofs, or overhangs, and mounted as flush to the wall as possible.
 - (2) Internally illuminated architectural bands or external lighting directed on buildings may be approved where it can be shown that the treatment will serve a legitimate function and will not adversely impact neighboring properties.
 - (g) *Flagpole lighting.* A flagpole may be illuminated by one (1) of the following methods:
 - (1) With one (1) upward-aimed spotlight fixture, fully shielded and directed away from streets, shining only on the flag and minimizing light spill into the dark night sky. The fixture shall be placed as close to the base of the flagpole as reasonably possible.
 - (2) With one (1) downward-aimed light fixture, fully shielded and directed away from streets, shining only on the flag and minimizing light spill into the dark sky.
 - (h) *Duration.* All exterior lighting fixtures, existing or hereafter installed and maintained upon private property, shall be turned off or reduced in lighting intensity between 11:00 p.m. and sunrise. The following exceptions may be approved by the planning commission:
 - (1) Where greater lighting levels are necessary for security or safety purposes; or
 - (2) Where permissible commercial or industrial uses such as sales, assembly and repair operate after 11:00 p.m., in which case the lighting levels shall be turned off or reduced after the use ceases for that day.
 - (i) *Signs.* Signs shall be illuminated only in accordance with the regulations set forth in article XIII. In addition, signs within residential districts shall not be illuminated.
 - (j) *Exempt lighting.* The following are exempt from the lighting requirements of this section, except the zoning official may require a lighting and photometric plan when deemed necessary to protect the public health, safety, and welfare:
 - (1) Holiday decorations.

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- (2) Lighting for an approved temporary use or special event.
 - (3) Sports fields.
 - (4) Shielded pedestrian walkway lighting.
 - (5) Ornamental low voltage (twelve (12) volts or less), low wattage ornamental landscape lighting fixtures, and solar operated light fixtures having self-contained rechargeable batteries, where any single light fixture does not exceed one hundred (100) lumens.
- (k) *Prohibited lighting.*
- (1) Wall-pak lighting.
 - (2) The use of search lights, lasers, or any similar high intensity light for outdoor advertisement or entertainment.
 - (3) Flood lights.
 - (4) Flashing, moving, strobe, or intermittent type lighting.
 - (5) Exterior or interior exposed luminous tube lighting (neon, cold cathode, or similar source), or exposed bulb fluorescent lighting.
- (l) *Street lighting.* Subdivision or site condominium street lighting is not required. The planning commission may allow street lighting when the planning commission determines the applicant has demonstrated a need for street lighting.

(Ord. No. 01-20, § 18.265, 2-10-20)

Sec. 18-266. Fences.

- (a) *General requirements.* It shall be unlawful for any person, firm, or corporation to construct, or cause to be constructed, any fence on any property within the township, except in accordance with these regulations.
- (b) *Location of fences.*
- (1) All fences shall be located entirely on the property of the owner of the fence. Adjoining property owners may jointly install a fence on the common property line.
 - (2) No fence shall be located within a public easement in which public utilities are located or are proposed to be located without first receiving the approval of the affected public utility.
- (c) *Height regulations.*
- (1) *Residential districts.* Fences located on residential lots or parcels shall comply with the following regulations:
 - a. Only ornamental type fences shall be located in a required front setback or in a required side setback adjoining a public or private street and shall not exceed three (3) feet in height.
 - b. Fences located in any required side setback not adjoining a street or in any required rear setback shall not exceed six (6) feet in height.
 - (2) *Commercial district.* Fences shall not exceed six (6) feet in height. Fences in a front yard or a street yard shall not be permitted in a commercial or office district except where required by the planning commission.
 - (3) *Industrial district.* Fences shall not exceed twelve (12) feet in height or, when located in a front or street yard, have fifty percent (50%) opacity.

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- (4) In determining the height of a fence that separates two (2) adjoining lots and that is located within two (2) feet of the common property line, the maximum height at any point shall be measured from the lowest grade at that point within two (2) feet on either side of the common property line.
- (d) *Vision clearance.* All fences shall comply with section 18-243, visibility at intersections, herein. A fence that is located at the intersection of a driveway and a public sidewalk, or a sidewalk along a private street, shall not impede vision between the driveway and sidewalk.
- (e) *Safety of fences.*
- (1) No spikes, nails, barbed wire, or other pointed objects or sharp protrusions shall be placed on, attached to, or permitted to remain on, any fence below the height of ten (10) feet except in the case of fences that enclose farmland, in which case barbed wire may be permitted at any height of the fence.
- (2) Fences shall not contain any electric charge or current, except fences that enclose land used for agricultural purposes, in which case electrically charged fence wires shall be permitted, provided such wires shall be attached to the inside face of the fence posts. All electrically charged fences shall be of a type and make approved by Underwriters Laboratories.
- (f) *Retaining walls.* A retaining wall shall be regulated as a fence if the wall projects more than eighteen (18) inches above the grade of the ground being retained.
- (g) *Public utility fences.* Fences that enclose public utility installations shall not be located in any required setback where the lot is located in a residential zoning district. Such fences shall comply with all other provisions of this chapter.
- (h) *Maintenance.* Fences shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or other condition endangers life or property is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the building official or other authorized person shall serve written notice to the owner, agent, or person in control of the property on which such fence is located. The notice shall describe the unsafe conditions, shall specify the repairs or modifications required to make the fence safe, or shall require an unsafe fence or any portion thereof to be removed. The notice shall provide a time limit for such repairs, modifications, or removal to be made.
- (i) *Exemptions.* Non-electrically charged fences enclosing land for agricultural purposes shall be exempt from the requirements and regulations of this section.
- (j) *Fences in special districts.* Fences located on a lot or parcel in a PUD or other special zoning district shall be exempt from the regulations of this section but shall be regulated as provided in the approved plan for that lot or parcel.

(Ord. No. 01-20, § 18.266, 2-10-20)

Secs. 18-267—18-280. Reserved.

ARTICLE XIII. SIGNS

Sec. 18-281. Purpose.

Purpose. The purpose of this chapter is to regulate the location, size, construction, type, illumination, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, and welfare, and protect property values and community character. While this chapter recognizes that

signs and billboards (outdoor advertising) are necessary to promote commerce and public information, failure to regulate them may lead to: poor identification of individual businesses; deterioration and blight of business and residential areas of the township; create conflicts between different types of land use; and reduce traffic safety to pedestrians and motorists.

(Ord. No. 01-20, § 18.281, 2-10-20)

Sec. 18-282. General sign regulations.

The following regulations shall apply to all signs in Berlin Charter Township. All signs must direct attention to a business or profession conducted on the premise or to a commodity, service, or entertainment primarily sold, offered, manufactured, processed, or fabricated thereon unless specified elsewhere in these regulations:

(a) *Construction standards.*

- (1) *General requirements.* All permanent signs shall be designed and constructed in a safe and stable manner in accordance with the township's adopted building and electrical codes. All electrical wiring associated with a freestanding sign shall be installed underground.
- (2) *Building code compliance.* All permanent signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted building code.
- (3) *Framework.* All signs attached to a structure shall be designed so that the supporting framework, other than the supporting elements on a freestanding sign, is contained within or behind the face of the sign or within the building to which the sign is attached so as to be totally screened from view.

(b) *Illuminated signs.*

- (1) Only indirectly illuminated signs shall be allowed in residential zoning districts provided such signs are shielded as to prevent direct light rays from being visible from the public right-of-way or any adjacent residential property.
- (2) Indirectly or internally illuminated signs are permitted in the non-residential districts provided such signs are shielded so as to prevent direct light rays from being visible from the public right-of-way or any adjacent residential property.
- (3) No sign shall have blinking, flashing, or fluttering lights or other illuminating devices which have a changing light intensity, brightness, or color, or which are so constructed and operating as to create an appearance of writing or printing. Nothing contained in this chapter shall be construed as preventing use of lights or decorations related to religious and patriotic festivities.
- (4) Signage lighting shall be turned off upon closing.
- (5) Neon and LED signs are permitted in non-residential districts which permit internally illuminated signs. Neon and LED lighting is prohibited outside of the sign structure and shall not be permitted as accent lighting along a building wall or window, unless as allowed by the planning commission during the building and lighting review as part of site plan review as set forth in article VI.
- (6) Backlighting of awnings is prohibited.

(c) *Measurement of sign area.*

- (1) The area of a sign shall be computed as including the entire area within the regular geometric form of a square, rectangle, triangle, or circle. If the sign utilizes more than one (1) separate geometric form, a square or rectangle may be combined with a contiguous circle or triangle. The

form(s) shall encompass all the display areas of the sign including all elements of the matter displayed.

- (2) Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back, parallel to one another and less than twenty-four (24) inches apart, the area of the sign shall equal the area of one (1) face.
 - (3) Frames and structural members not bearing copy or display material shall not be included in the computation of sign area.
- (d) *Sign height.*
- (1) The height of freestanding signs in residential zoning districts shall not exceed five (5) feet.
 - (2) The height of freestanding signs in non-residential districts shall not exceed eight (8) feet in height. However, freestanding signs up to fifteen (15) feet in height may be permitted by the planning commission, if located adjacent to I-75 or I-275.
 - (3) Sign height shall be measured to the top edge of the sign, from the adjacent grade.
- (e) *Setback requirements for signs.* Unless specified elsewhere in this article, all freestanding signs shall maintain a minimum fifteen (15)-foot setback from all road rights-of-way and shall be located no closer than fifteen (15) feet from the edge of the principal entrance driveway and all property lines. Freestanding signs shall also be setback a minimum of twenty-five (25) feet from the right-of-way of an existing interstate freeway.
- (f) *Business flags.* Business flags shall be permitted in all non-residential zoning districts, subject to the following regulations:
- (1) Flags shall be located on the same lot as the business, building, or use.
 - (2) Flags shall meet the yard requirements for signs and the height limits for structures in the zoning district in which they are located.
 - (3) The area of each business flag shall not be included in the sign area that is permitted on a lot.
 - (4) Not more than one (1) business flag shall be permitted for each public road frontage of the lot on which it is located.

(Ord. No. 01-20, § 18.282, 2-10-20)

Sec. 18-283. Prohibited signs.

- (a) *Swinging signs.* Signs which swing or otherwise noticeably move as a result of wind pressure because of the manner of suspension or attachment are prohibited.
- (b) *Moving signs.* Except as otherwise provided in this section, any sign or portion thereof which moves or assumes any motion constituting a non-stationary or fixed condition are prohibited, including banners, pennants, search lights, twirling signs, balloons, feather flags, or other gas-fill figures.
- (c) *Parking of advertising vehicles.* No person shall park any vehicle or trailer on a public right-of-way, public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or is located thereon any sign or advertising device for the purpose of directing people to a business or activity. Currently licensed vehicles and trailers that have painted upon them in a permanent manner the name of the product which they deliver and/or the name and address of the owner shall be excluded from this provision.

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- (d) *Abandoned signs.* Signs that advertise an activity business, product, or service no longer conducted or available on the premises on which the sign is located are prohibited.
 - (e) *Portable signs.* Portable signs, including sandwich board signs, and sidewalk, curb signs, or banners are prohibited.
 - (f) *Painted wall signs.* Signs which are painted directly on to a wall or any other structural part of a building are prohibited.
 - (g) *Roof signs.* Signs which are erected or constructed wholly on and over the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof are prohibited.
 - (h) *Fence signs.* Signs which are pasted or attached to utility poles or placed upon trees, fences, rocks, or in an unauthorized manner to walls or other signs are prohibited.
 - (i) *Projecting signs.* Signs located in, or which project into or overhang a public right-of-way, are prohibited, except as allowed by local, state or federal law or regulation, as otherwise permitted in a mixed-use district.
 - (j) *Miscellaneous signs.*
 - (1) Tacking, pasting, or otherwise affixing of signs or posters visible from a public right-of-way except "no trespassing," "no hunting," "beware of animal," warning of danger signs, and other legal postings as required by law, located on the walls of buildings, barns, sheds, on trees, poles, posts, or fences are prohibited.
 - (2) Signs which imitate an official traffic sign or signal which contains the words "stop," "go," "slow," "caution," "danger," "warning," or similar words except as otherwise provided in this section are prohibited.
 - (3) Signs which are of a size, location, content, coloring, or manner or illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction that a street or road intersection are prohibited.
 - (4) Signs which contain, statements, words, or pictures of an obscene, pornographic, or immoral character are prohibited.
 - (5) Signs which emit audible source, odor, or visible matter are prohibited.

(Ord. No. 01-20, § 18.283, 2-10-20)

Sec. 18-284. Signs permitted in all districts without a sign permit.

Subject to the other conditions of this chapter, the following signs shall be permitted anywhere within Berlin Charter Township without a permit.

- (a) *Directional signs.*
 - (1) *Size and height.* A directional sign shall be located on the property to which it is directing traffic and shall not exceed four (4) square feet in area for each sign and four (4) feet in height.
 - (2) *Location.* Directional signs may be located in the front setback area, provided they are setback at least fifteen (15) feet from the existing or planned right-of-way line.
 - (3) *Logos.* A directional sign shall not contain logos or other forms of advertising.
 - (4) *Illumination.* Direct illumination of directional signs is prohibited.
- (b) *Incidental signs.* Incidental signs containing information on credit cards, business affiliations, hours of operation, open/closed, etc. The combined area of all such signs shall not exceed two (2) square feet.

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- (c) *Temporary freestanding residential yard signs.* In all residential zoning districts, temporary freestanding yard signs are permitted within the following parameters:
- (1) *Size.* The total number of signs shall not exceed an aggregate area of eighteen (18) square feet.
 - (2) *Single sign.* The total sign area for a single sign shall not exceed six (6) square feet.
 - (3) *Height.* No sign shall exceed a maximum height of four (4) feet.
 - (4) *Placement.* No sign shall be in place for a period exceeding three (3) consecutive months.
 - (5) *Location.* No sign shall be placed within a public right-of-way.
 - (6) *Illumination.* Sign illumination is prohibited.
- (d) *Temporary freestanding non-residential yard signs.* In all non-residential zoning districts temporary freestanding yard signs are permitted within the following parameters:
- (1) *Size.* The total number of signs shall not exceed an aggregate area of twenty (20) square feet.
 - (2) *Single sign.* The total sign area for a single sign shall not exceed eight (8) square feet.
 - (3) *Height.* No sign shall exceed a maximum height of four (4) feet.
 - (4) *Placement.* No sign shall be in place for a period exceeding six (6) consecutive months.
 - (5) *Location.* No sign shall be placed in a public right-of-way.
 - (6) *Illumination.* Sign illumination is prohibited.
- (e) *Window signs.*
- (1) *Size.* In total, the message shall cover not more than twenty-five percent (25%) of the window area.
 - (2) *Placement.* Signs shall be affixed directly to the window.
 - (3) *Illumination.* Front-lit illumination is prohibited. Back-lit illumination is allowed in non-residential districts.
- (f) *Construction maintenance or service work being performed signs.*
- (1) *Number.* One (1) sign may be placed on parcel(s) of which work is being performed, subject to a valid permit being issued for such work.
 - (2) *Duration.* The sign may remain on-site during the duration of work and must be removed when work is complete.
 - (3) *Size and height.* The total construction sign area shall not exceed six (6) square feet and four (4) feet in height. Construction signs are permitted in addition to the permanent signs allowed in each zoning district.
- (g) *Signs exempt from regulation.*
- (1) Signs not exceeding one (1) square foot in area bearing only property numbers, post office box numbers, names of occupants or premises, or other identification of premises not having commercial connections.
 - (2) Legal notices, identification information, or directional signage erected, or required by governmental bodies.
 - (3) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, moving lights, or back-lit areas.

(Ord. No. 01-20, § 18.284, 2-10-20)

Sec. 18-285. Signs permitted in residential districts.

Subject to the other provisions of this chapter, the following signs shall be permitted in the recreation conservation, agriculture, and residential districts with a sign permit.

- (a) *Identification sign for permitted or conditional use other than residential.*
 - (1) *Number.* One (1) identification sign shall be permitted for each public street frontage.
 - (2) *Size.* Each sign shall not exceed eighteen (18) square feet in area, not more than eight (8) feet in height.
- (b) *Residential development signs.*
 - (1) *Number.* One (1) identification sign within the boulevard at the entrance to the development or two (2) single-sided signs incorporated into a landscape wall as shown on an approved landscape plan shall be permitted for each public street frontage for a subdivision, multiple-family building development or manufactured housing community.
 - (2) *Size.* Each sign shall not exceed thirty-two (32) square feet in area.
 - (3) One (1) additional sign advertising "For rent" or "Vacancy" may be placed on each public street frontage of a rental residential development, provided that such sign shall not exceed three (3) square feet in area and is incorporated into the identification sign.

(Ord. No. 01-20, § 18.285, 2-10-20)

Sec. 18-286. Signs permitted in non-residential districts.

Subject to the other provisions of this chapter, the following signs shall be permitted in the commercial, mixed-use, waterfront marina, and industrial zoning districts with a sign permit.

- (a) *Single buildings.* Signs permitted for single buildings on developed lots or group of lots developed as one (1) lot, not in a shopping center or business center subject to subsection (b) below.
 - (1) *Freestanding signs.*
 - a. *Number.* One (1) freestanding sign shall be permitted per street frontage. On parcels adjacent to I-75, only off-premises advertising signs (billboards) are permitted to face I-75.
 - b. *Size.* The total area of the freestanding sign shall not exceed one-half (0.5) of a square foot per one (1) lineal foot of lot frontage, but in no case shall any freestanding sign exceed forty-eight (48) square feet in area.
 - c. *Setbacks.* Freestanding signs shall maintain setbacks as outlined in section 18-282(e).
 - d. *Setback from residential districts.* Freestanding signs shall be located a minimum distance of fifty (50) feet to any residential zoning district or property utilized for a residential use.
 - (2) *Wall signs.*
 - a. *Number.* One (1) wall sign shall be permitted per street frontage on each parcel. Also, buildings adjacent to I-75 shall be permitted one (1) wall sign facing I-75.
 - b. *Size.* The total area of wall signage shall not exceed one and one-half (1.5) square feet per lineal foot of building frontage, but in no case shall the wall sign exceed forty-eight (48)

square feet in area. No exterior wall signage for a business without ground floor frontage shall exceed twenty-four (24) square feet in area.

(b) *Shopping center/business centers.*

(1) *Freestanding signs.*

- a. *Number.* One (1) freestanding sign shall be permitted per street frontage.
- b. *Size.* The total area of the freestanding sign shall not exceed one (1) square foot for each one (1) linear foot of building which faces one (1) public street, but in no case shall any freestanding sign exceed two hundred (200) square feet.
- c. *Setbacks.* Freestanding signs shall maintain setbacks as outlined in section 18-282(e).
- d. *Setback from residential districts.* Freestanding signs shall be located a minimum distance of fifty (50) feet to any residential zoning district or property utilized for a residential use.

(2) *Wall signs.*

- a. *Number.* Each business in a shopping center or business center with ground floor frontage shall be permitted exterior wall signs.
- b. *Size.* The sign area for exterior wall signs shall be computed as one (1) square foot for each one (1) linear foot of building frontage occupied by the business. All businesses without ground floor frontage shall be permitted one (1) combined exterior sign not more than twenty-four (24) square feet in area.

(c) *Awning and canopy signs.* Signs on awnings and canopies shall be permitted, subject to the following standards.

- (1) *Coverage.* The total area of the lettering and logo shall not exceed twenty-five percent (25%) of the total area of the awning or canopy that is visible from the street.
- (2) *Compliance with size requirements for wall signs.* The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.
- (3) *Projection.* Limitations imposed by this section concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the setback requirements for the district in which they are located.

(d) *Window Signs.* Temporary and permanent window signs shall not exceed twenty-five percent (25%) of the total window area. The area of permanent window signs shall be counted in determining compliance with standards for total area of wall signs on the parcel. Temporary window signs shall comply with the requirements in this section.

(e) *Menu/price boards.* In addition to the signs permitted above, drive-through businesses with pick-up windows may have two (2) menu/price boards and each shall not exceed thirty-two (32) square feet in area and shall be a maximum height of six (6) feet.

(f) *Vehicle fueling/multi-use stations.*

(1) *Fuel price sign.*

- a. *Number.* One (1) gasoline price sign shall be permitted for each gas station.
- b. *Size.* The fuel price sign shall not exceed twenty (20) square feet in area. Fuel price signs shall be counted in determining compliance with the standards for total area of wall or freestanding signs permitted on the parcel.

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- c. *Illumination.* Fuel prices may be LED numerals provided the following are met:
 - 1. Numerals shall not exceed twelve (12)-inches in height.
 - 2. All numerals shall be either red or green in color. LED background may only be black.
 - 3. The numerals may not display light of such intensity or brilliance to cause glare, impair the vision of an ordinary driver, or constitute a nuisance.
 - (2) *Canopy.*
 - a. *Number.* A vehicle fueling or service station may have one (1) additional sign to be located on the fueling canopy for each public street frontage.
 - b. *Size.* Canopy signs can be one-half (0.5) a square foot of sign area for each one (1) linear foot of canopy face length adjacent to facing public street frontage not to exceed eight (8) square feet.
 - (3) *Pump signage.*
 - a. *Number.* One (1) per fuel pump face.
 - b. *Size.* Maximum of one (1) square foot.

(Ord. No. 01-20, § 18.286, 2-10-20)

Sec. 18-287. Signs permitted in PUD districts.

Signs shall be permitted in a PUD district in accordance with the sign regulations in the zoning district that is most similar to that use area provided, however, those more restrictive sign regulations in the approved area plan shall control.

(Ord. No. 01-20, § 18.287, 2-10-20)

Sec. 18-288. Outdoor advertising signs (billboards).

- (a) *Location.* Outdoor advertising signs shall be permitted only on parcels abutting interstate highways, freeways, and other primary highways in the commercial and industrial zoning districts provided that such sign shall not be placed on a parcel having any other structure within one hundred (100) feet of the sign, and no other structure shall be placed on the parcel within one hundred (100) feet of the sign, except that minimum distances from other outdoor advertising signs shall be regulated as set forth in section 18-288(b) and the signs shall not be located within fifty (50) feet of any boundary of such parcel.
- (b) *Distance from other signs.* There shall be a minimum of one thousand five hundred (1,500) feet between off-premises advertising signs along an interstate freeway and a minimum of one thousand four hundred (1,400) feet between outdoor advertising signs along any other public road or highway.
- (c) *Area.* Outdoor advertising signs shall not exceed three hundred (300) square feet in area per sign face.
- (d) *Number.* A double-face (back to back) or a v-type structure shall be considered a single sign provided the two (2) faces are not separated by more than two (2) feet, or the interior angle does not exceed twenty degrees (20°), whichever is applicable.
- (e) *Height.* The maximum height of outdoor advertising signs shall be twenty-five (25) feet.

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- (f) *No signs on roof.* Outdoor advertising signs shall not be located on or over the roofs of buildings, nor have one (1) sign located above another.

(Ord. No. 01-20, § 18.288, 2-10-20)

Sec. 18-289. Electronic message signs.

Electronic message signs (EMS) shall be permitted within all non-residential zoning districts, either as a freestanding or a wall-mounted sign subject to the sign regulations for each zoning district, and subject to the following additional regulations:

- (a) An electronic message sign (EMS) shall only be permitted as part of a static sign and shall not exceed fifty (50%) of the total sign area of the static sign.
- (b) Frequency of message change shall be no more than once every thirty (30) seconds.
- (c) Scrolling words or images are prohibited.
- (d) The rate of change between two (2) messages shall be one (1) second or less.
- (e) EMS owners shall permit township, state, and federal governments to post messages in the event of an emergency.
- (f) The EMS shall include light sensors; and be capable of programming variable light output.
- (g) Light output shall be programmed to dim in response to ambient light.

(Ord. No. 01-20, § 18.289, 2-10-20)

Sec. 18-290. Non-conforming signs.

Non-conforming signs shall not:

- (a) Be re-established after the related activity, business or usage has been discontinued for ninety (90) days or longer.
- (b) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign.
- (c) Be re-established after damage or destruction, if the estimated expense of reconstruction exceeds fifty percent (50%) of the replacement cost as determined by the building official.

(Ord. No. 01-20, § 18.290, 2-10-20)

Sec. 18-291. Permits and fees.

- (a) *Application.* Application for a permit to erect or replace a sign, or to change copy, shall be made by the owner of the property, or an authorized agent, to the township zoning official, by submitting the required forms, fees, exhibits, and information.
- (b) *Application requirements.* An application for a sign permit shall contain the following:
 - (1) The applicant's name and address in full, and a complete description of his/her relationship to the property owner.
 - (2) The property owner's written consent to the application.

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- (3) The address of the property.
 - (4) A complete description and scale drawings of the sign, including all dimensions and the area in square feet.
- (c) *Review of application.*
- (1) *Planning commission review.* Sign permit applications submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed by the planning commission as part of the required site plan review. Proposed signs must be shown on the site plan.
 - (2) *Zoning official review.* The zoning official shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
 - (3) *Issuance of a permit.* Following review and approval of a sign application by the planning commission or zoning official, as appropriate, the building official shall have the authority to issue a sign permit.
- (d) *Inspection.*
- (1) All signs must be inspected and approved by the zoning official for conformance to this chapter prior to placement on the site. Foundations, electrical, etc., must be approved by the building official prior to pouring of concrete for the sign support structure.
- (e) *Expiration.* A sign permit shall become null and void if the work for which the permit was issued has not been commenced six (6) months after the date of the permit. Sign permits may be extended for a period of thirty (30) days upon request by the applicant and approval of the zoning official.
- (f) *Maintenance.* Painting, repainting, cleaning, and other normal maintenance and repair of a sign or a sign structure, unless a structural or size change is made, shall not require a sign permit.

(Ord. No. 01-20, § 18.291, 2-10-20)

Sec. 18-292. Sign removal.

- (a) *Legal non-conforming signs.* The zoning official shall order the removal of any sign erected or maintained in violation of this chapter except for legal non-conforming signs. In the case of permanent signs, written notice shall be given to the owner of the sign or of the building, structure, or premises on which said sign is located ordering removal of the sign or such action as is necessary to bring the sign into compliance with this chapter and specifying a reasonable period of time for removal and/or compliance. Upon failure to remove the sign or to comply with this notice within the specified time, the township may remove the sign immediately and without further notice, at its discretion. Any sign deemed a safety hazard, signs prohibited under the provisions of section 18-283, and signs improperly erected in any public right-of-way, may be removed without notice. Any cost of removal incurred by the township may be assessed to the owner of the property on which such sign is located, and such charge shall be a lien on the property.
- (b) *Expiration.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located within thirty (30) days after the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the township may remove it in accordance with the provisions stated in section 18-292(a) preceding. These removal provisions shall not apply where a subsequent owner or lessee conducts the same type of business and agrees to maintain the signs to advertise the type of business being conducted on the premises and provide the signs comply with the other provisions of this chapter.
- (c) *Nuisance.* Any sign maintained in violation of this chapter is a nuisance per se as provided in section 18-40 and subject to the penalties contained therein.

(Ord. No. 01-20, § 18.292, 2-10-20)

Sec. 18-293. Enforcement.

Knowing and willful violation of the provisions of this chapter shall be a municipal civil infraction. Enforcement of this chapter may proceed through the municipal civil infraction process. Each day that such violation continues after receipt of written notice to remove a sign shall be deemed a separate offense. Violation of these regulations shall result in a revocation of the subject sign permit.

(Ord. No. 01-20, § 18.293, 2-10-20)

Secs. 18-294—18-310. Reserved.

ARTICLE XIV. ENVIRONMENTAL PROVISIONS

Sec. 18-311. Purpose.

Environmental standards are established in order to preserve the short-term and long-term environmental health, safety, and quality of the township. No use that does not conform to the environmental standards set forth in this article and all applicable federal, state, county, and local requirements shall be permitted.

(Ord. No. 01-20, § 18.311, 2-10-20)

Sec. 18-312. Performance standards.

No parcel, lot, building, or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- (a) *Fire hazard.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.
- (b) *Radioactivity or electrical disturbance.* No activity shall emit dangerous radioactivity at any point, or unreasonable electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance. Radiation shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- (c) *Hazardous substances.* Any activity requiring storage or handling of hazardous substances shall abide by the following standards:
 - (1) Areas storing hazardous substances must be designed to prevent spills and discharges to the air, surface of the ground, stormwater system, groundwater, lakes, streams, rivers, or wetlands.
 - (2) Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for maximum anticipated time necessary for the recovery of any released substance.

- (3) General purpose floor drains shall be allowed only if they are authorized to be connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
 - (4) State and federal requirements for storage, spill prevention, records keeping, emergency response, transport, and disposal of hazardous substances shall be met. No discharge shall be allowed without required permits and approvals.
- (d) *Airborne emissions.*
- (1) *Smoke and air contaminants.* It shall be unlawful for any person to permit the emission of any smoke or air contaminant from any source whatsoever to a density greater than that permitted by applicable federal and state clean air standards. There shall not be discharged from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, or nuisance to the public; or which endanger comfort, repose, health, or safety of persons; or which cause injury or damage to business or property.
 - (2) *Odors.* The emission of odors which shall be found obnoxious to any considerable number of persons at their place of work or residence shall be prohibited. Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.
 - (3) *Gases.* The escape of emission of any gas that is injurious, destructive, or harmful to persons or property, or explosive, shall be unlawful, and shall be abated.
- (e) *Glare.* Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.
- (f) *Noise.*
- (1) *General requirements.* No use, operation, or activity shall be carried on that causes or creates measurable noise levels that are unreasonably loud or that unreasonably interfere with the peace and comfort of others, or that exceed the maximum noise level limits prescribed in table 18-312-F-1 as measured at any point on property adjacent or in close proximity to the lot, parcel, or other property on which the operation or activity is located.
 - (2) *Methods and units of measurement.* The measuring equipment and measurement procedures shall conform to the latest American National Standards Institute (ANSI) specifications. The sound measuring equipment shall be properly calibrated before and after the measurements.

Because sound waves having the same decibel (Db) level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (that is, depending on whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with ANSI specification shall be used on any sound level meter used to take measurements required in this section. All measurements in table 18-312-F are expressed in Db(A) to reflect the use of the A-weighted filter.
 - (3) *Table of maximum noise levels.* Except as otherwise provided in this section, noise levels shall not exceed the limits set forth in the following table 18-312-F:

Table 18-312-F. Noise Level Standards		
Use	Time	Sound Level (A-Weighted) Decibels - Db(A)

Residential	7:00 a.m. to 7:00 p.m.	60
	7:00 p.m. to 10:00 p.m.	55
	10:00 p.m. to 7:00 a.m.	50
Commercial, Business, Office, and Mixed Uses	7:00 a.m. to 7:00 p.m.	65
	7:00 p.m. to 7:00 a.m.	50
Industrial	Anytime	65

- (4) *Background noise.* Where existing background noise exceeds the maximum permitted levels specified in table 18-312-F, the noise caused or created by a specific operation or activity may exceed the levels specified in the table, provided that the sound level on property adjacent or in close proximity to the lot or parcel on which the operation or activity is located does not exceed the background noise level.

For purposes of this subsection, background noise shall mean noise being produced by permitted uses conducted in a legally accepted manner from all sources other than those occurring on the lot or parcel on which the operation or activity is located. Background noise levels shall be determined by measurement at substantially the same time and location as the noise levels caused or created by the complained-of operation or activity.

- (5) *Exceptions.* Noise resulting from the following activities shall be exempt from the maximum permitted sound levels provided such activity occurs in a legally accepted manner.

- a. Lawfully permitted construction activity between the hours of 7:00 a.m. and 7:00 p.m.
- b. Performance of emergency work, including snow removal.
- c. Warning devices necessary for public safety, such as police, fire, and ambulance sirens, tornado, and civil defense warning devices, and train horns.
- d. Outdoor school and playground activities when conducted in accordance with the manner in which such spaces are generally used, including, but not limited to, school athletic and school entertainment events.
- e. The operation or use of any organ, bell, chimes, or other similar means of announcing religious services at a place of religious worship.
- f. An un-amplified human voice.
- g. Public works maintenance, repair, or improvement projects being conducted by or on behalf of public agencies.
- h. Agribusinesses.

- (g) *Vibration.* No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.

- (1) No use shall generate any ground-transmitted vibration in excess of the limits set forth in table 18-312-G. Vibration shall be measured at the nearest adjacent lot line.
- (2) The instrument used to measure vibrations shall be a three (3) compartment measuring system capable of simultaneous measurement of vibration in three (3) mutual perpendicular directions.
- (3) The vibration maximums set forth by table 18-312-G are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

Table 18-312-G. Vibration Standards	
Particle Velocity (inches per second)	
<i>Along Non-Residential District Boundaries</i>	<i>Along Residential District Boundaries</i>
0.10	0.02
0.20	0.02

- (4) The values stated in table 18-312-G may be multiplied by two (2) for impact vibrations, i.e., non-cyclic vibration pulsations not exceeding one (1) second in duration and having a pause of at least two (2) seconds between pulses.
- (5) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.
- (h) *Waste and rubbish dumping.* No person shall keep garbage, sewage, filth, refuse, waste, trash, debris or rubbish, including cans, bottles, wastepaper, cartons, boxes and crates, or other offensive or obnoxious matter. No person shall pile, place, store or dump any such refuse on any land within the township in such a manner as to constitute a nuisance or create a hazard to health, safety, and general welfare of the citizens of the township. All waste material, trash and rubbish must be disposed of at least once each month in accordance with the laws and ordinances of the township. Nothing contained in this article shall prevent the reasonable use of garbage, fertilizers, manure and similar material for the improvement of land situated within a zone which is being utilized for farming purposes in accordance with the State of Michigan Generally Accepted Agriculture Management Practices (GAAMPs). However, the storing, piling, placing, or dumping of the first above mentioned materials from other than one (1) household shall be deemed to be a commercial operation, whether such operations be carried on for a profit or not, and in such case shall comply with the regulations for landfills contained in the Berlin Charter Township Codified Ordinances.

(Ord. No. 01-20, § 18.312, 2-10-20)

Sec. 18-313. Preservation of environmental quality.

The preservation and enhancement of natural features is essential to maintaining Berlin Township's character, ecological diversity and stability, economic well-being and quality of life. For purposes of the section, "natural features" shall include wetlands, watercourses, floodplains, woodlands and trees. When natural features exist on a site proposed to be developed, the applicant shall do the following:

- (a) *Federal, state, and local permits.* Development in or affecting natural features may be regulated by the federal, state, county or township governments, and require licenses, permits or approvals. Permits and approvals required by Berlin Charter Township shall not relieve a person from obtaining applicable permits or approvals from other relevant jurisdictions. Similarly, obtaining permits from the federal, state or county government does not relieve a person from obtaining the required permits from Berlin Charter Township.

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- (b) *Site plan review required.* In any zoning district, none of the following natural features shall be obstructed, removed, altered, transformed or otherwise impacted in any way at any time by any person except as provided in article VI of this chapter:
- (1) Area, water level, vegetation, edge, bank, shore or natural condition of a river, stream, watercourse, drainageway, lake, or pond, whether filled or partly filled with water or dry in certain seasons.
 - (2) Area, water level, vegetation, or natural conditions of a marsh, swamp, or regulated wetland.
 - (3) Living tree(s). Site plans to be reviewed by the planning commission shall be accompanied by the information described in section 18-313(c) below. Any such alterations shall be made in conformance to applicable local, state, and federal requirements.
- (c) *Natural features impact statement.* As part of the site plan review process, as set forth in this chapter, the applicant is required to determine if natural features exist on the site. If one (1) natural feature is determined to exist on a site, then the applicant shall submit a natural features impact statement containing the following information:
- (1) Site inventory map clearly showing locations and types of natural features both on-site and those within one hundred (100) feet beyond the property lines. The drawing shall delineate:
 - a. Edges of woodlands and description of plant community type.
 - b. Edges of wetlands, watercourse stream banks, ordinary pond, and high-water marks of water features, floodways, floodplains, areas of hydric soils, and highly permeable soils.
 - (2) A written description that illustrates the quality, character, and health of the natural features.
 - (3) The following standards are intended to protect large mature trees on office, commercial, and industrially zoned properties.
 - a. A tree inventory shall be provided identifying the species, size, and location of living trees with a diameter breast height (4.5 feet above grade) of eight (8) inches or greater in required setback areas. These trees shall be preserved.
 - b. Tree trimming and tree removal necessary to provide vehicular drives, sidewalks/paths, clear vision areas, utilities, drainage systems, etc., shall be permitted. The removal of diseased, storm damaged, and invasive trees shall be permitted.
 - (4) *Natural features protection plan.* In addition to the natural features impact statement, the applicant shall provide a natural features protection plan as part of the preliminary site plan review process, showing:
 - a. Natural features that are excluded from development.
 - b. Natural features that will be retained as part of the development, and the measures taken to sustain the natural features.

(Ord. No. 01-20, § 18.313, 2-10-20)

Sec. 18-314. Natural feature setbacks.

- (a) *Where required.* A natural features setback shall be maintained in relation to all areas defined in this section as being a natural feature, unless and to the extent it is determined to be in the public interest not to maintain such setback, in accordance with the standards set forth in subsection (d) below.

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- (b) *Natural features for setback purposes.* The following are considered natural features for purposes of this article:
- (1) A wetland subject to regulation by the Michigan Department of Environmental Quality; or
 - (2) A watercourse, defined as any waterway including a river, stream, ditch, channel, canal, waterway, lake, pond, or any body of surface water having definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.
- (c) *Regulated activities.* Within an established natural feature setback, there shall be no:
- (1) Construction.
 - (2) Deposit of any material, including structures.
 - (3) Removal of any soils or minerals.
 - (4) Clearing of any native vegetation.
 - (5) Dredging, filling or land balancing.
 - (6) Constructing or undertaking seasonal or permanent operations.
- (d) *Setback standards.* The following setbacks shall apply:
- (1) A twenty-five (25)-foot non-disturbance setback from the boundary or edge of a protected wetland.
 - (2) A twenty-five (25)-foot non-disturbance setback from the ordinary high-water mark of a watercourse.
 - (3) In addition, no building or construction shall occur within the greater of:
 - a. One hundred (100) feet from the high-water mark of any watercourse.
 - b. Within the 100-year floodplain, according to the provisions of chapter 8, flood damage control of the Berlin Charter Township Codified Ordinance.

(Ord. No. 01-20, § 18.314, 2-10-20)

Secs. 18-315—18-330. Reserved.

ARTICLE XV. NON-CONFORMITIES

Sec. 18-331. Intent.

- (a) *Intent.* It is the intent of this article to provide regulations governing lots, parcels, buildings, structure and the uses thereof, which were legal before this chapter was adopted, or amended, including legal non-conforming lots, parcels, buildings, structures, which would be prohibited, regulated, or restricted under the provisions of this chapter. It is the intent of this article to permit these buildings and structures, herein referred to as non-conformities, to remain until the non-conformity is abandoned, discontinued, significantly damaged, destroyed, or removed.
- (b) These non-conformities are declared by this chapter to be incompatible with the uses, buildings, and structures lawfully permitted by this chapter. The regulations contained in this article are designed to ensure that such non-conformities will be properly regulated so as to result in a minimum of disharmony in the district in which they are located.
- (c) It is the intent of these regulations to gradually eliminate non-conforming uses and structures over time.

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- (d) The tenancy, ownership, or management of any non-conforming use or non-conforming structure may change without altering the legal status of the non-conforming use or non-conforming structure.

(Ord. No. 01-20, § 18.331, 2-10-20)

Sec. 18-332. Non-conforming lots and parcels.

Non-conforming lots and parcels shall be subject to the following:

- (a) Any non-conforming lot shall be used only for a use permitted in the district in which it is located.
- (b) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this chapter, subject to the provisions of subsection (3) below. This provision shall apply, even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the zoning board of appeals.
- (c) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of such parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by a dwelling unit.

(Ord. No. 01-20, § 18.332, 2-10-20)

Sec. 18-333. Non-conforming uses of land.

The lawful use of any land existing on the effective date of this chapter or amendment thereto, may be continued even though such use does not conform to the provisions of this chapter, so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this chapter.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this chapter.
- (c) If such nonconforming use of land ceases for any reason for a period of more than six (6) consecutive months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

Where non-conforming off-street parking, landscaping, signage, fences, and other similar land uses exist, those uses shall be made to conform to the terms of this chapter when any legal use, principal or accessory, located on the land in question is established or expanded in such a manner that would necessitate site plan review and approval in accordance with article VI.

(Ord. No. 01-20, § 18.333, 2-10-20)

Sec. 18-334. Non-conforming buildings and structures.

- (a) *Purpose.* Where a lawful structure exists as of the effective date of adoption or amendment of this chapter, that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (b) *Restriction on creating non-conformities.* No such structure may be enlarged or altered in a way which increases its non-conformity; for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to required setbacks and land coverage are met.
- (c) *Restriction on movement.* Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (d) *Restrictions on alteration or modification.* If a non-conforming structure or building is altered or modified so as to eliminate, remove, or lessen any or all of its non-conforming characteristics, then such non-conforming characteristics shall not be later re-established or increased. The zoning board of appeals shall determine if a proposed alteration should decrease the degree of non-conformity.
- (e) *Restrictions on replacements—Non-residential.* Should a non-conforming, non-residential structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (f) *Restrictions on replacements—Residential.* Should a residential dwelling be damaged or destroyed by fire, flood, or any other means, it shall not be reconstructed in a manner which increases the non-conformity, or in a manner by which the structure extends beyond the original, pre-catastrophe footprint. Such reconstruction may occur without a variance from the Zoning Board of Appeals, provided that a building permit for the reconstruction is applied for within one (1) year of the damage or destruction.

(Ord. No. 01-20, § 18.334, 2-10-20)

Sec. 18-335. Non-conforming uses of structures and land.

- (a) *Purpose.* If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (b) *Prohibition of enlargement of a building housing a non-conforming use.* No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (c) *Extension throughout building.* Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- (d) *Changing use.* In any district, if no structural alterations are made, any non-conforming use may be changed to another non-conforming use of the same or a more restricted classification provided that the zoning board of appeals, either by general rule or by making findings in the specific case, may find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the zoning board of appeals may require appropriate condition and safeguards in

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accordance with the purpose and intent of this chapter. Where a non-conforming use of a structure, land or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less conforming use.

- (e) *Prohibition of re-establishment if replaced by a conforming use.* A non-conforming use of any structure or structure and premises which is replaced by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- (f) *Discontinuance or termination of non-conforming use of a structure.* When a non-conforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excluded from this provision.
- (g) *Removal.* Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(Ord. No. 01-20, § 18.335, 2-10-20)

Sec. 18-336. Repairs and maintenance.

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the effective date of this chapter or amendment, shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. No. 01-20, § 18.336, 2-10-20)

Sec. 18-337. Uses allowed as special land uses not non-conforming uses.

Any use which is permitted as a special land use as provided in this chapter shall not be deemed a non-conforming use in such district.

(Ord. No. 01-20, § 18.337, 2-10-20)

Sec. 18-338. Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, structures and premises provided there is no change in the nature or character of such non-conforming uses.

(Ord. No. 01-20, § 18.338, 2-10-20)

Secs. 18-339—18-350. Reserved.

ARTICLE XVI. ZONING BOARD OF APPEALS

Sec. 18-351. Creation and membership.

- (a) *Creation.* There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in Act No. 110 of the Public Acts of Michigan of 2006, as amended.
- (b) *Membership.* The zoning board of appeals shall be composed of five (5) members. The board shall be appointed by the township board and shall be composed of the following five (5) members whose terms shall be as stated:
 - (1) One (1) shall be a member of the township planning commission.
 - (2) The remaining regular members shall be selected or appointed by the township board from the electors residing in the unincorporated areas of the township provided that no elected officer of the township, nor any employee of the township board, may serve simultaneously as an additional member.
 - (3) An employee or contractor of the township shall not serve as a member of the zoning board of appeals.
- (c) *Alternate members.* Two (2) alternate members may be appointed for the same term as regular members of the ZBA. Alternate members may be called on a rotating basis to sit as regular members in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of a conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.
- (d) *Terms of office.*
 - (1) The member of the planning commission shall serve three (3) year terms, except that such terms shall be concurrent with service on the planning commission.
 - (2) The additional members shall serve for three (3) year terms.
 - (3) Should a vacancy occur, a successor shall be appointed not more than one (1) month after the vacancy has occurred. All such vacancies or unexpired terms shall be filled for the remainder of the term of the member being succeeded.
- (e) *Removal.* A member of the zoning board of appeals may be removed by the township board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing by the township board.
- (f) *Conflict of interest.* A member of the zoning board of appeals shall disqualify herself or himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(Ord. No. 01-20, § 18.351, 2-10-20)

Sec. 18-352. Meetings.

- (a) *Meetings.* Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such times other times as the zoning board of appeals may specify in its rules of procedure.
 - (1) A member of the zoning board of appeals who is also a member of the planning commission or the township board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the township board. However, the member may consider and vote on other unrelated matters involving the same property.

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- (2) All hearings conducted by the zoning board of appeals 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, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action.
 - (3) The zoning board of appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.
- (b) *Quorum.* The zoning board of appeals shall not conduct business unless a majority of the members of the zoning board of appeals are present.

(Ord. No. 01-20, § 18.352, 2-10-20)

Sec. 18-353. Appeals.

- (a) An appeal may be taken to the zoning board of appeals by any person, or by any officer, department, board or bureau affected by a decision of the building official. Such appeal shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by filing with the building official and with the zoning board of appeals, a notice of appeal, specifying the grounds thereof. The building official shall forthwith transmit to the zoning board of appeals all of the documents and records constituting the action being appealed. Decisions related to planned unit developments or special land uses shall not be appealed to the zoning board of appeals.
- (b) *Stay.* An appeal shall stay proceedings in the furtherance of the action appealed from, unless the building official certifies to the zoning board of appeals that by reason of facts stated in the certificates a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the circuit court on application, and on due cause shown.
- (c) *Hearing.* The zoning board of appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by a duly authorized agent or attorney.
- (d) *Notice.* Notice of the hearing of the appeal shall be given in accordance with section 18-38.
- (e) *Application and fees.* Application for a zoning board of appeals hearing shall be in writing and shall be accompanied by a filing fee as established by the township board which shall be paid to the township clerk at the time the appeal is filed.

(Ord. No. 01-20, § 18.353, 2-10-20)

Sec. 18-354. Jurisdiction.

- (a) *General powers.* The zoning board of appeals has the power to act on matters as provided in this article and Public Act 110 of 2006, as amended. The specific powers of the zoning board of appeals are enumerated in this section.
- (b) *Delegated duties.* The zoning board of appeals shall hear and decide on all matters referred to it upon which it is required to pass under the chapter.
- (c) *Administrative review.* The zoning board of appeals shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the building official or other official in the enforcement of this chapter.

(d) *Interpretation.*

- (1) The zoning board of appeals shall hear and decide requests for interpretation of this chapter or the zoning map, taking into consideration the intent and purpose of this chapter and the master plan.
- (2) In an interpretation of the zoning map, the zoning board of appeals shall be governed by the rules of interpretation set forth in section 18-53.
- (3) A record shall be kept by the zoning board of appeals of all decisions for interpretation of this chapter or zoning map and land uses which are approved under the terms of this section. The zoning board of appeals shall request the planning commission to review any ordinance amendment it deems necessary.

(e) *Variances.* Where, owing to special conditions, a literal enforcement of the provisions of this chapter would involve practical difficulties by reason of narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this chapter, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of property, the zoning board of appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this chapter with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this chapter and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this chapter shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
- (3) That the granting of such variance or modification will be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
- (4) That the granting of such variance will not adversely affect the purpose or objectives of the master plan.
- (5) Absent exceptional circumstances which would otherwise result in substantial injustice, the circumstances or conditions upon which the variance is based do not result from the actions of the applicant or their predecessors in title.
- (6) In consideration of all appeals and all proposed variations to this chapter, the zoning board of appeals shall, before making any variations from this chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, or welfare of the inhabitants of the township.

No provision contained in this section shall be construed to give or grant to the zoning board of appeals the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the township board in the manner provided under Public Act 110 of 2006, as amended.

(f) *Expansions, alterations, and substitutions.* The zoning board of appeals is required to determine whether a non-conforming structure may be enlarged, expanded, or extended, or whether a non-conforming use can be substituted. In considering expansions, alterations, and/or substitutions related to non-conforming structures and uses, the zoning board of appeals shall review the following criteria:

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- (1) The reasons for a non-conformity shall be limited to minimum lot area, lot width, required yards, off-street loading and parking requirements. In no case shall a structure that is non-conforming due to lot coverage, floor area ratio, lot area per dwelling unit, or height requirements be permitted to expand without removing the existing non-conformity, except as permitted under a variance.
 - (2) The existing and proposed uses of such buildings and structures shall be permitted in the district in which situated.
 - (3) The proposed improvement shall conform to all requirements of the district in which situated.
 - (4) The retention of the non-conforming structure is reasonably necessary for the proposed improvement or that requiring removal of such structure would cause undue hardship.
 - (5) The proposed enlarged or otherwise improved non-conforming structure will not adversely affect the public health, safety, and welfare.
 - (6) The proposed improvement is reasonably necessary for continuation of the use of the lot.
 - (7) The zoning board of appeals shall have authority to require modification of the non-conformity, where such requirement is reasonable, as a condition of approval. The zoning board of appeals may attach other conditions of approval which it deems necessary to protect the public health, safety, and welfare.
 - (8) All expansions permitted under this section shall meet all requirements of article VI, site plan review, if a site plan is required. The site plan may be a final site plan and shall be first reviewed by the planning commission. Upon completion of its review, the planning commission shall transmit their review of the site plan to the zoning board of appeals. The zoning board of appeals shall then act upon the request, and return to the planning commission for its action, as applicable.
 - (9) A structure which does not conform to zoning ordinance regulations shall not substitute for, or replace, any conforming or non-conforming structure.
 - (10) A non-conforming use of a structure may be substituted for another non-conforming use upon permission by the zoning board of appeals, provided that no structural alterations are made, and that such non-conforming use is more appropriate than the existing non-conforming use in the district in which it is located. The zoning board of appeals may require appropriate conditions and safeguards in accordance with the intent of this chapter. A non-conforming use, when superseded by a more appropriate use as provided in this subsection, shall not thereafter be resumed.
- (g) *Use variances.* The zoning board of appeals shall not have the jurisdiction to grant variances from uses of land (i.e., a use variance).
- (Ord. No. 01-20, § 18.354, 2-10-20)

Sec. 18-355. Orders.

In exercising the powers provided in this article, the zoning board of appeals may reverse or affirm wholly or in part, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or other body from whom the appeal is taken.

The concurring vote of a majority of the zoning board of appeals shall be necessary to reverse any order, requirement, decision, or determination of the administrative official or other body, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

With an affirmative decision, the zoning board of appeals may impose conditions pursuant to Section 604(7) of Michigan Public Act 110 of 2006, as amended. The decision of the zoning board of appeals shall be final, but any

party aggrieved by a decision of the board may appeal to circuit court within thirty (30) days after the decision is certified or approved or twenty-one (21) days after meeting minutes are approved, whichever is sooner.

(Ord. No. 01-20, § 18.355, 2-10-20)

Sec. 18-356. Notice.

The zoning board of appeals shall make no determination, except in a specific case, until after a public hearing. Notice of the public hearing shall be published in the manner required by section 18-38, notices.

(Ord. No. 01-20, § 18.356, 2-10-20)

Sec. 18-357. Effectiveness.

- (a) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 01-20, § 18.357, 2-10-20)

Secs. 18-358—18-370. Reserved.

ARTICLE XVII. AMENDMENTS

Sec. 18-371. Initiation of amendments.

The township board may from time to time, on recommendation from the planning commission, or its own after requesting recommendation from the planning commission, amend, modify, supplement or revise the district boundaries or the regulations herein, or as the same area subsequently established, pursuant to the authority and procedure authorized in Act No. 110 of the Public Acts of Michigan of 2006, as amended.

(Ord. No. 01-20, § 18.371, 2-10-20)

Sec. 18-372. Application procedures.

- (a) An amendment to this chapter or the official zoning map, except those initiated by the township board or planning commission shall be initiated by submission of a completed application in a form supplied by the township, including an application fee, which shall be established from time to time by resolution of the township board. Fees shall not be required for amendments proposed by the township board or planning commission.
- (b) In the case of an amendment to the official zoning map, the following information shall accompany the application form:

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- (1) A legal description and street address of the subject property.
 - (2) The name and address of the owner(s) of the subject property, and a statement of the applicant's interest in the subject property if not the owner in fee simple title.
 - (3) Applicant's signature or authorized representative.
 - (4) The existing and proposed zoning district designation of the subject property.
- (c) In the case of an amendment to this chapter, other than an amendment to the official zoning map, the specific text of the proposed amendment shall accompany the application form.
- (Ord. No. 01-20, § 18.372, 2-10-20)

Sec. 18-373. Amendment procedures; public hearing and notice.

- (a) Upon initiation of an amendment, a public hearing on the proposed amendment shall be scheduled before the planning commission. All applications for an amendment shall be processed and the required public hearing shall be noticed and conducted in compliance with the Michigan Zoning Enabling Act, as amended.
 - (b) Following the public hearing, the planning commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the township board. In the case of an amendment to the official zoning map, the planning commission shall consider the criteria contained in section 18-374 in making its finding and recommendation.
 - (c) Prior to township board consideration of the zoning amendment, the township shall submit the proposed zoning amendment to the appropriate county commission for review and recommendation.
 - (d) Following receipt of the findings of the planning commission and the county, the township board shall consider the proposed amendment. In the case of an amendment to the text of this chapter, the township board may modify or revise the proposed amendment as recommended by the planning commission and/or county, prior to enactment. In the case of an amendment to the official zoning map, the township board shall approve or deny the amendment, based on its consideration of the criteria contained in section 18-374.
- (Ord. No. 01-20, § 18.373, 2-10-20)

Sec. 18-374. Criteria for amendment to the official zoning map.

- (a) *Review.* In reviewing any application for an amendment to the zoning map, the planning commission and township board shall identify and evaluate all factors relevant to the application. The planning commission shall report its findings in the form of the official meeting minutes of the planning commission, along with its recommendations for disposition of the application to the township board.
- (b) *Findings.* The facts to be considered by the planning commission and township board shall include, but not be limited to, the following:
 - (1) Whether the rezoning is consistent with goals, policies, and uses proposed for the subject parcel in the township's master plan.
 - (2) Whether the rezoning is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
 - (3) Whether the subject parcel possesses natural features and environmental characteristics which would be significantly adversely impacted by a development or use allowed by the requested zoning.
 - (4) Whether the rezoning complies with the purposes of this chapter as described in section 18-02(d).

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- (5) Whether uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning.
 - (6) The ability of the township or other governmental agencies to provide services, infrastructure, and facilities that may be required if the rezoning were approved.

(Ord. No. 01-20, § 18.374, 2-10-20)

Sec. 18-375. Publication.

Following township board approval of a petition to amend the zoning ordinance, notice of the amendment shall be published within fifteen (15) days after adoption in a newspaper of general circulation within the township. The notice of adoption shall include the following information:

- (1) Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- (2) The effective date of the amendment.
- (3) The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. 01-20, § 18.375, 2-10-20)

Sec. 18-376. Amendments required to conform to court decree.

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the township board and published, without necessity of a public hearing or referral thereof to any other board or agency.

(Ord. No. 01-20, § 18.376, 2-10-20)

Sec. 18-377. Conditional rezoning procedures.

- (a) *Intent.* It is recognized that there are certain instances where it would be in the best interest of the township, as well as advantageous to a property owner seeking a change in a zoning classification, if certain conditions could be proposed by a property owner as part of a request for rezoning. It is the intent of this section to provide a process consistent with the provisions of the Michigan Zoning Enabling Act, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- (b) *Application and offer of conditions.*
 - (1) A property owner may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - (2) The required application and process for considering a conditional rezoning request shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 - (3) The notice of public hearing for a conditional rezoning request shall include a general description of the conditions proposed by the property owner.
 - (4) The owner's offer of conditions may not purport to authorize uses and/or developments not permitted in the requested new zoning district.

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- (5) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested.
 - (6) Any use and/or development proposed in conjunction with a conditional rezoning that would require special land use approval under the terms of this chapter may only be commenced if special land use approval for such use and/or development is ultimately granted in accordance with the provisions of this chapter.
 - (7) Any use and/or development proposed in conjunction with a conditional rezoning that would require a variance under the terms of this chapter may only be commenced if a variance for such development standard is ultimately granted by the zoning board of appeals in accordance with the provisions of this chapter.
 - (8) Any use and/or development proposed in conjunction with a conditional rezoning that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use and/or development is ultimately granted in accordance with the terms of this chapter.
 - (9) The offer of conditions may be amended during the processing of a rezoning request provided that any amended or additional conditions are entered voluntarily by the property owner. An owner may withdraw all or part of their offer of conditions any time prior to final rezoning action by the township board provided that, if such withdrawal occurs after the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.
- (c) *Approval.*
- (1) The planning commission and township board shall consider, but not limit themselves to, the facts contained in section 18-374(b) when reviewing a request for a conditional rezoning and conditional rezoning agreement.
 - (2) If the township board approves the rezoning request and offer of conditions, the offered conditions shall be incorporated into a conditional rezoning agreement acceptable to the owner and conforming in form to the provisions of this section. The conditional rezoning agreement shall be incorporated by attachment to the rezoning request at such time as the rezoning is approved by the township board.
- (d) *Conditional rezoning agreement.*
- (1) A conditional rezoning agreement shall be prepared by the township attorney and shall include the following:
 - a. Be in a form recordable with the county register of deeds.
 - b. A statement acknowledging that the agreement runs with the property and is binding upon successor owners of the property.
 - c. A statement confirming that the agreement was proposed by the owner and entered into voluntarily.
 - d. A statement confirming that the property shall not be used or developed in a manner that is inconsistent with the conditions placed on the rezoning.
 - e. A list of conditions proposed by the owner.
 - f. A legal description of the property.
 - g. A sketch plan or other documents in sufficient detail to illustrate any specific conditions proposed by the owner.
- (e) *Compliance with conditions.*

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- (1) Any person who establishes a development or commences a use and/or development on a property that has been the subject of a conditional rezoning shall continuously operate and maintain the use and/or development in compliance with all of the conditions set forth in the conditional rezoning agreement. Any failure to comply with a condition stipulated in the conditional rezoning agreement shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
 - (2) No permit or approval shall be granted under this chapter for any use and/or development that is contrary to the conditional rezoning agreement.
- (f) *Amendment to zoning map.* Upon approval by the township board of a conditional rezoning request and a conditional rezoning agreement, the zoning map shall be amended to reflect a new zoning classification along with a relevant designation providing notice of the conditional rezoning agreement.
 - (g) *Time period for establishing the use and/or development.* A use and/or development authorized by a conditional rezoning and conditional rezoning agreement shall be commenced upon the property within two (2) years from the effective date of the rezoning. A use and/or development of the property is defined as actual physical construction of a substantial nature of the approved building improvements which must have commenced and proceeded meaningfully toward completion in accordance with the necessary township approvals and permits. The two (2) year time limitation may, upon written request by the property owner prior to expiration, be extended by the township board if it is demonstrated to the board's reasonable satisfaction that there is a strong likelihood that the use and/or development will commence within the period of the extension and proceed diligently thereafter to completion and further that the board finds that there has not been a change in circumstances that would render the conditional rezoning and conditional rezoning agreement incompatible with other zoning districts and uses in the surrounding area or be inconsistent with sound planning and zoning policies.
 - (h) *Reversion of zoning.* If the use and/or development approved as a conditional rezoning does not occur within the time frame specified in section 18-376(g) above, then the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act, as amended. The reversion process shall be initiated by the township board requesting that the planning commission proceed with consideration of rezoning of the property to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
 - (i) *Subsequent rezoning of property.* When property that is rezoned as a conditional rezoning with a conditional rezoning agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no conditional rezoning agreement, whether as a result of a reversion of zoning pursuant to section 18-376(h) above or otherwise, the conditional rezoning agreement imposed under the former zoning classification shall cease to be in effect.
 - (j) *Amendment of conditions.*
 - (1) During the two (2) year period for commencement of an approved use and/or development pursuant to section 18-376(g) above, or during any extension thereof granted by the township board, the township shall not add to or alter the conditions in the conditional rezoning agreement.
 - (2) The conditional rezoning agreement may be amended thereafter in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.
 - (k) *Recordation.* A conditional rezoning approval shall not become effective until the conditional rezoning agreement is recorded with the Monroe County Register of Deeds and a certified copy of the agreement is recorded with the township clerk.
 - (l) *Township right to rezone.* Nothing in the conditional rezoning agreement or in the provisions of this section shall be deemed to prohibit the township board from rezoning all or any portion of a property that is subject to a conditional rezoning agreement to another zoning classification.

(m) *Failure to offer conditions.* The township board shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. No. 01-20, § 18.377, 2-10-20)

Sec. 18-378. Moratoria.

In certain instances, it may be in the best interest of the township, its residents and property owners to establish a temporary ban on development as it may either protect the public at large by providing for proper regulation of a use or it may provide a lesser risk that individual landowners will be singled out to bear a special burden that should be shared by the public as a whole. Such instances might be where there is a use proposed which has not been regulated previously, a use which has been overdeveloped, an issue with the critical infrastructure necessary to develop certain uses or other justifiable and articulable criteria which advance a legitimate public interest.

With that purpose in mind, upon making certain findings, the township board shall have the authority to establish and implement moratoria. A moratorium shall only be established by the township board when a determination is made that such action:

- (1) Is necessary to protect the public health, safety, and welfare;
- (2) Advances a legitimate public interest;
- (3) Represents diligence and good faith;
- (4) Is being applied uniformly and fairly; and
- (5) Will not deprive a property owner of all reasonable use for an unreasonable time in light of the issues at hand.

Such determination of the board shall be supported by findings of fact set forth in the public record. A moratorium shall be set for the least period of time necessary to address the matter and in any event shall not be set for a period of more than six (6) months initially. If supported by subsequent findings of facts and a showing of due diligence and not delay, additional extensions of the moratorium may be provided for by the township board. Any such moratoria shall be established by adoption of an ordinance or an amendment thereto.

(Ord. No. 03-21, § 2, 8-23-21)

**APPENDIX A
FRANCHISES**

Ord. No.	Franchisee	Term	Date Adopted
4	Michigan Consolidated Gas Company	30 yrs.	12- 3-57
44A	Detroit Edison Company	30 yrs.	12-12-79
50	Wayne Cablevision, Inc.	15 yrs.	5-19-85
81C	Communications And Cablevision, Inc.	15 yrs.	8-24-81

CODE COMPARATIVE TABLE REVISED COMPILED ORDINANCES

This table gives the location within this Code of those sections of the Revised Compiled Ordinances, as updated through 1979, which are included herein. Sections of the 1979 Compilation, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1979 Compilation. Ordinances adopted prior to such date were incorporated into the 1979 Compilation, as supplemented. This table contains some ordinances which precede the 1979 Compilation, but which were never included in the 1979 Compilation for various reasons. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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Editor's note(s)—The Michigan Statutes Annotated are obsolete and will no longer be updated. References to MSA will be removed from the Code text as pages are supplemented.

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