

**BARTON TOWNSHIP
NEWAYGO COUNTY**

ZONING ORDINANCE

JANUARY 1, 2013



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ZONING ORDINANCE OF THE TOWNSHIP OF BARTON
COUNTY OF NEWAYGO, STATE OF MICHIGAN

TITLE AND PREAMBLE

An Ordinance to establish zoning districts, provisions and regulations for the unincorporated portions of the Township of Barton pursuant to the provisions PA 110 of 2006 Michigan Zoning Enabling Act, as amended, to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this Ordinance; to establish a Zoning Board of Appeals; and to prescribe penalties for the violation of the provisions herein.

THE TOWNSHIP BOARD OF BARTON TOWNSHIP, NEWAYGO COUNTY, MICHIGAN, under the authority of the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, HEREBY ORDAINS AS FOLLOWS:

ARTICLE I – SHORT TITLE AND PURPOSE

1.1. **SHORT TITLE.** This ordinance shall be known as the Zoning Ordinance of the Township of Barton.

1.2. **PURPOSE.** The fundamental purposes of this ordinance are:

1. To implement the goals, objectives, and future land use recommendations of the Township's Master Plan and to regulate the intensity of land use and parcel areas in a manner compatible with said Plan
2. To conserve and protect lands, waters and other natural resources in the Township for their most suitable purposes to meet the needs of the state's residents for food and fiber;
3. To protect productive agricultural lands for agricultural uses;
4. To reduce hazards to life and property from flooding and air and water pollution;
5. To secure safety from fire and other dangers of excessive public costs which result from unguided community development;
6. To avoid undue concentration of population by regulating and limiting the density of uses of land;
7. To provide places of residence;
8. To insure that the uses of the land shall be situated in appropriate locations and relationships for the conservation of property values;
9. To lessen congestion in the public highways and streets;
10. To facilitate the economical provision of adequate streets and highways, educational and recreational facilities, sewerage, drainage and water supply systems while avoiding the installation of such utility services to illogical locations; and
11. To enhance the social and economic stability of Barton Township.

1.3. **SCOPE.** It is not intended by this Ordinance to repeal, annul or interfere with existing provisions of other laws or ordinance, except those specifically or impliedly repealed by this Ordinance or with any private restrictions placed upon property by covenant, deed or with other private agreement unless contrary hereto.

1.4. **CONTROL.** Where this Ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of the Ordinance shall control.

ARTICLE II – DEFINITIONS

2.1. DEFINITIONS. For the purpose of this Ordinance certain terms and words are herewith defined:

Accessory Use: A use that is an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it.

Adult Foster Care Home: Pursuant to Act 218 of the Public Acts of 1979 as amended: means a governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult Foster Care Homes shall not include nursing homes.

Adult Uses: Adult uses shall mean:

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 for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas (as those terms are defined elsewhere herein).

Adult Bookstore or Adult Video Store: means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or,

Instruments, devices, or paraphernalia which 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 material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and may still be categorized as 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 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

Adult Business: means and includes any of the following (all as defined elsewhere in this Section of the Ordinance): Adult Arcade, Adult Bookstore, Adult Video Store, Adult Cabarets, Adult Motels, Adult Motion Picture

Theaters, Adult Panoramas, Adult Theaters, Escort Agency, Nude Model Studios; and Sexual Encounter Centers.

Adult Cabaret: means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear in a state of semi-nudity characterized by the exposure of Specified Anatomical Areas;
2. Live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. 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.

Adult Escort: 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.

Adult Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish Escorts as one of its primary business purposes for a fee, tip, or other consideration.

Adult Motel: a hotel, motel or similar commercial establishment which:

1. Circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions,
2. Offers a sleeping room for rent for a pre-designated period of time that is less than twelve (12) hours; or
3. 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.

Adult Motion Picture Theater: means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Panorama: An establishment having a substantial or significant portion of its business devoted to an entertainment use where patrons view in individual viewing booths, films, tapes or live entertainment showing specified sexual activities or specified anatomical areas.

Adult Theater: means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of semi-nudity characterized by the exposure of Specified Anatomical Areas or live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Automobile Repair Facility: A building, structure or parcel of land, or any portion thereof, used for the diagnosing, repairing, cleaning, equipping and/or painting of motor vehicles.

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and Breakfast. A private residence that offers sleeping accommodations to tourists and is the owner's personal residence.

Building: See Structure.

Building Area. The maximum projected area of a building and its accessory buildings, excluding steps, open porches, terraces and cornices.

Building Coverage. The area on a lot occupied by buildings and structures, including accessory buildings.

Building Envelope: The three-dimensional space on a lot within which a structure is permitted to be built, which is defined by maximum building height regulations and minimum yard setbacks under this Ordinance.

Building Height. The vertical distance measured from the grade, as defined herein, to: (1) if the roof is flat, the highest point; (2) if a gable, hip, gambrel or mansard roof, the average height measured between the eave and the highest point of the roof; (3) where no roof beams exist, or there are structures partly or wholly above the roof, the highest point of the building structure.

Building Inspector. The building inspector of Barton Township, Michigan

Billboard or Signboard: An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

Car Wash. A building and equipment used for the commercial washing, waxing, detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and hand-wash facilities, as well as any combination thereof.

Cemeteries. Privately owned property which guarantees perpetual care of grounds used solely for the interment of deceased human beings or customary household pets

Day Care Center Or Child Care Center: A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for

periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services

Day Care, Family: A private residence in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Day Care, Group: A private residence in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Disposal: The act of burying, incinerating, burning or any other act of getting rid of solid waste and/or toxic or hazardous substances, including the storage or piling of such substances before or after the act of disposal.

Disposal Area: Any area of land upon which a disposal facility is located or proposed for location either wholly or partially in Barton Township.

Disposal Facility: A facility, incinerator, sanitary landfill, pit, excavation, incineration facility consuming solid wastes or any other method of disposal of waste materials and/or toxic or hazardous substances (except of the disposal of human wastes approved by the county health department, and the disposal or use of solid waste and/or toxic or hazardous substances in agricultural operations provided such are in compliance with federal and state licensing and permit requirements and standards, and except for the disposal by burning or incineration of wood or other natural forest products for residential heating purposes or for the production or generation of electrical energy.)

Drive-through Business: A principal or accessory use of an establishment that by design, physical facilities, services or by packaging procedures encourages

or permits some or all customers to receive services, obtain goods or be entertained while remaining in their vehicles.

Dwelling: Any structure or portion thereof which is designed for the use exclusively for residential purposes containing one or more dwelling units.

Dwelling, Multiple Family: A building which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and sanitary facilities for each.

Dwelling, Single Family: A detached building containing one dwelling unit and designed for, or occupied by, only one family.

Dwelling, Two-Family: A building containing two separate dwelling units designed for, or occupied by, two families

Dwelling Unit: A group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes.

Eating and Drinking Establishment: A retail establishment selling food and drink for consumption on the premises, including, but not limited to, restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

Essential Services: The erection, construction, alteration, installation, placement, use, repair or maintenance by public utilities or municipal or other governmental entities or agencies of underground, surface or overhead gas, electrical, steam, fuel, sewage, drainage or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, antennae, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal or other governmental entities or agencies for the general health, safety or welfare.

Family: A head of a household, his or her spouse, children or legal wards living together in a dwelling as a single housekeeping unit.

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Farm Operation: A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to: marketed produce at roadside stands; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

Farm Products: Those plants and animals useful to man and including, but not limited to: forages and sod crops, grains, and feed crops, dairy and dairy

products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber or fur.

Farm Product Processing Facility: A facility involved in the complete or partial conversion of any agricultural product into a commercial product of any kind, or in the processing of agricultural-related waste products. A Farm Product Processing Facility may include, but shall not be limited to, ethanol processing plants, slaughter operations, canning operations, methane processing and refining plants, and similar facilities

Fence: A constructed barrier erected to enclose, screen, or separate lots or portions of lots.

Financial Institution: Commercial establishments such as banks, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

Floor Area: The area of all floors computed by measuring the dimensions of the outside walls of a building excluding attic and basement floor, unenclosed porches and patios, terraces, breezeways, carports, verandas and garages.

Gasoline Station With Convenience Store: Any building, structure or land used for the dispensing, servicing, sale or offering for sale at retail, of any automobile fuels, oils, or accessories that also includes a retail establishment offering for sale such items as prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

Garage – Private: An accessory building or an accessory portion of a principal building designed or used primarily for the storage of noncommercial motor vehicles and residential tools and equipment owned and used by the occupants of the building to which it is accessory.

Golf Course: A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards such as waterways, which may include such accessory uses as a pro shop, a clubhouse, driving range, practice greens and service buildings.

Governmental Office: The offices of any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.

Grade: The median level of the finished surface of the ground adjacent to the exterior walls of the building, determined by subtracting the lowest elevation point from the highest, dividing the result by 2 and adding the resulting quotient to the lowest point.

Grade, Finished: The final elevation of the ground level after development.

Grade, Natural: The elevation of the ground level in its natural state, before construction, development, filling, or excavation.

Greenhouse: Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Home Occupation: An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

Home Occupation - Major: A home occupation, profession, activity, or use that is evident to neighbors by virtue of an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally associated with a residential community.

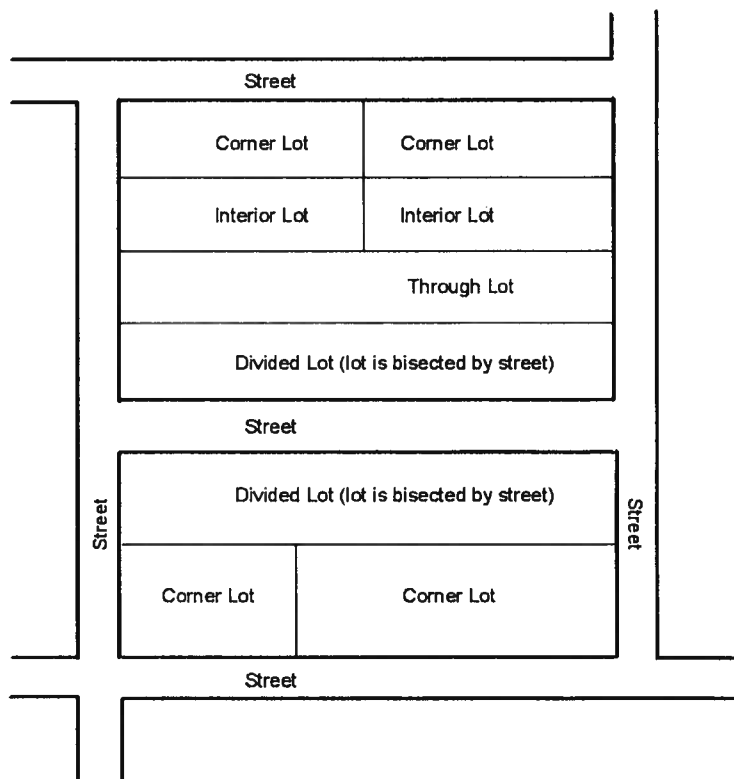
Home Occupation - Minor: A home occupation involving activities which do not affect the residential character of the neighborhood and which, under normal circumstances, would not be detectible by neighbors.

Recycling or Salvage Yard: An open area used for the collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand, salvaged or used waste materials, machinery, vehicles, trailers, equipment, furnishings or parts thereof.

Kennel: Any lot or premises used for the sale, boarding, breeding, treatment or training of household pets.

Lot: A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.

Lot Area: The total area within the boundaries of the lot, excluding any road rights-of-way or access easements.



Lot, Corner: A lot situated at the intersection of two (2) or more streets.

Lot, Flag: A parcel of land separated from a road right-of-way by another parcel and may be accessed through an easement.

Lot, Front Of: The distance between side lot lines at the street right-of-way. If the side lot lines do not intersect the street right-of-way, the lot frontage shall be only that portion of the lot line abutting the street that coincides with the street right-of-way. For an arc-shaped lot line, the lot frontage shall be the tangent or chord dimension toward the interior of the lot.

Lot, Interior: A lot with frontage on one road and abutted by other lots.

Lot Of Record: A lot shown on a document or map on file with the Newaygo County Register of Deeds or in common use by Township or county officials, and which actually exists as so shown, or any part of such lot held in a record ownership separate from that of the remainder thereof. A lot of record is not necessarily in compliance with this ordinance (i.e., it may be non-conforming lot).

Lot, Through: A lot that fronts on two parallel roads or that fronts on two roads that do not intersect at the boundaries of the lot. Also known as a "double frontage lot.

Lot Width: The horizontal straight-line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines

Manufactured Housing: As used herein the term "manufactured housing" shall mean a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year round living as a single family dwelling. Provided, however, that the term "Manufactured Housing" shall not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water utilities.

Manufactured Housing Community: An area where three or more manufactured housing units are parked or intended to be parked, designed or intended to be used as living facilities for one or more families.

Mine, Sand and Gravel: A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

Mini/Self-Storage Facility: A building or portions of buildings offered to the public for a fee on a monthly or yearly basis for the storage of goods.

Nonconforming Structure: A structure, building or portion thereof lawfully existing before the effective date of this ordinance, or the effective date of

amendments hereto, which thereafter does not conform to the provisions in the district in which it is located relative to building height, bulk, area or setbacks.

Nonconforming Use: A use, which lawfully occupied a building or land before the effective date of this ordinance, or the effective date of amendments thereafter, which does not contain a use of land permitted in the district in which it is located.

Nursery: An establishment for the growth, display, and/or wholesale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Nursing Home: As pursuant to Act 368 of the Public Acts of 1978 as amended: means a nursing care facility, including a county medical care facility, but excludes a hospital or a facility which provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

Outdoor Wood Burning Furnace: A boiler, stove or furnace that is fueled by natural wood and other approved fuels and that is not located inside a building or structure intended for habitation or occupancy by humans and domestic animals, and that is installed and operated to provide heat or hot water for a building or structure occupied by humans and domestic animals.

Parallel Plan: A site plan used to illustrate the number of dwelling units which are feasible on a particular site under standard zoning restrictions and applicable Township regulations.

Park: A tract of land, designated, maintained and used by the public for active and/or passive recreation and which is owned and controlled by a public entity or unit of government.

Parking Area: An area used for the parking of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

Parking Space: A surfaced area, enclosed in the main building, in an accessory building, or unenclosed, permanently reserved for temporary storage of one automobile and connected with a street or alley which affords satisfactory ingress and egress for automobiles.

Place of Public Assembly: A place of public assembly shall include theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for entertainment, instruction, worship or similar activities involving assembled groups of people numbering fifty (50) or more.

Planned Unit Development. An area of minimum contiguous size, as specified by this Ordinance, to be planned and developed as a single entity containing mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development problems

Principal Use: The primary or predominant use of any lot.

Professional Office: A facility used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

Professional Service Establishment: An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

Public Utility. Any facility, including but not limited to buildings, property, and roads, which are leased or otherwise operated or funded by a governmental body or public entity.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right of Way: Land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, trailway, electric transmission lines, pipeline, water line, sanitary storm sewer, and other similar essential services, whether public or private, for public purposes.

Road: Any existing or planned publicly controlled and dedicated or privately held vehicular access way, used or intended to be used for access to public or private lands and/or for the conveyance of traffic.

Road, Local: A public road designated a local road by the Newaygo County Road Commission which is not part of the County Primary Road System, which is intended primarily for access to abutting properties. A local road also includes seasonal roads.

Road, Primary: Those roads of considerable continuity which are designated as primary roads by the Newaygo County Road Commission.

Roadside Stand: A building or structure from which agricultural products produced on the premises are sold.

Sawmill: A facility where logs or partially processed logs are sawn, split, shaved, stripped, dried, or chipped. For the purposes of this ordinance, this shall not include the processing of timber for use on the same lot by the owner or resident of that lot.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product which are visible from any public way and used as an outdoor display.

Solid Waste: Any hauled in toxic waste materials (including liquids) or substances as defined by State Law and Regulation, (excepting the disposal of human waste as regulated by federal or state law, or wastes disposed upon

property within the township which originates within the confines of such property and incidental to a legal primary use of such property and which pose no threat to the property, concerns or health, safety and general welfare of the township or its residents), or materials or substances (including liquid) used in conjunction with agricultural production provided such substances or materials and the use thereof are registered and licensed under applicable state and federal laws, excluding substances or materials which are wood or other natural forest products which are used for heating homes or in burning or incineration for the generation of electricity shall be brought to the public attention.

Site Plan. The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to Article XIII of this Ordinance.

Special Land Uses: Land uses which will be permitted in a zoning district only after review and approval of the Township Planning Commission.

Specified Anatomical Areas: 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 human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities: means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or,
4. Excretory functions as part of or in connection with any of the activities set forth in 1-3 above.

Story: That portion of a building included between the surface of any floor and the surface of the floor above it; where there is no second floor, story shall mean the space between the floor and the ceiling next above it. A story shall not include a basement.

Swimming Pool: A constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pool temporarily erected upon the ground holding less than three hundred (300) gallons of water.

Structure: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location. The term building shall mean the same.

Structure, Accessory: A subordinate structure on the same lot as the principal structure occupied or devoted to an accessory use. Where an accessory

structure is attached to a principal structure, such an accessory structure shall be considered part of the principal structure.

Structure, Principal. The structure that contains the principal use of the lot on which it is situated. In a residential district a dwelling is the principal structure on a lot.

Township Board: The Board of Trustees of Barton Township, Michigan.

Toxic or Hazardous: Any material, liquid, solid or other matter which is harmful or dangerous to human health or to birds, fish, wildlife, trees or other plants, as listed in the Michigan Critical Material Register published by the Michigan Department of Natural Resources, or determined to be toxic, harmful or hazardous by the U.S. Environmental Protection Agency, pursuant to Public Law 94-469, or as regulated by and as defined by the Hazardous Waste Management Act, 1979 P.A. 64.

Tributary: A stream that flows into a river, a larger stream, or a lake.

Use: The purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained

Warehouse: A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by and for the owner or operator of the facility, or as a commercial service on behalf of the owner(s) of such items.

Well, Extraction: Wells installed for the commercial extraction of ground water. This definition may include any surface or subsurface pumping or processing equipment or facilities associated therewith, but shall not include irrigation wells.

Wetland: A wetland means both a State regulated wetland and any swamp, bog or fen of at least one half acre in area and any other land that is regularly inundated by water and is of at least one-half acre in area.

Wind Energy System: A windmill or a wind energy conversion system shall mean all, or any combination of the following:

1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft;
2. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
3. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
4. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
5. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wireless Communication Antenna: Any mounted device that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communication signals, optical, laser or other communication signals; including, but not limited to cellular, PCS, land mobile radio, marine, paging, AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.

Yard: An open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the foundation wall of the principal structure shall be used.

Yard, Front: A yard extending across the front of the lot between the side lot lines and located between the building and the front lot line.

Yard, Rear: A yard extending across the rear of the lot between the side lines and located between the building and the rear lot line.

Yard, Side: A yard between the principal building and the side lot line.

Zoning Administrator: The person appointed by the Township Board to administer this Ordinance.

Zoning Board of Appeals: The Barton Township Zoning Board of Appeals, as established in Section XVII of this ordinance.

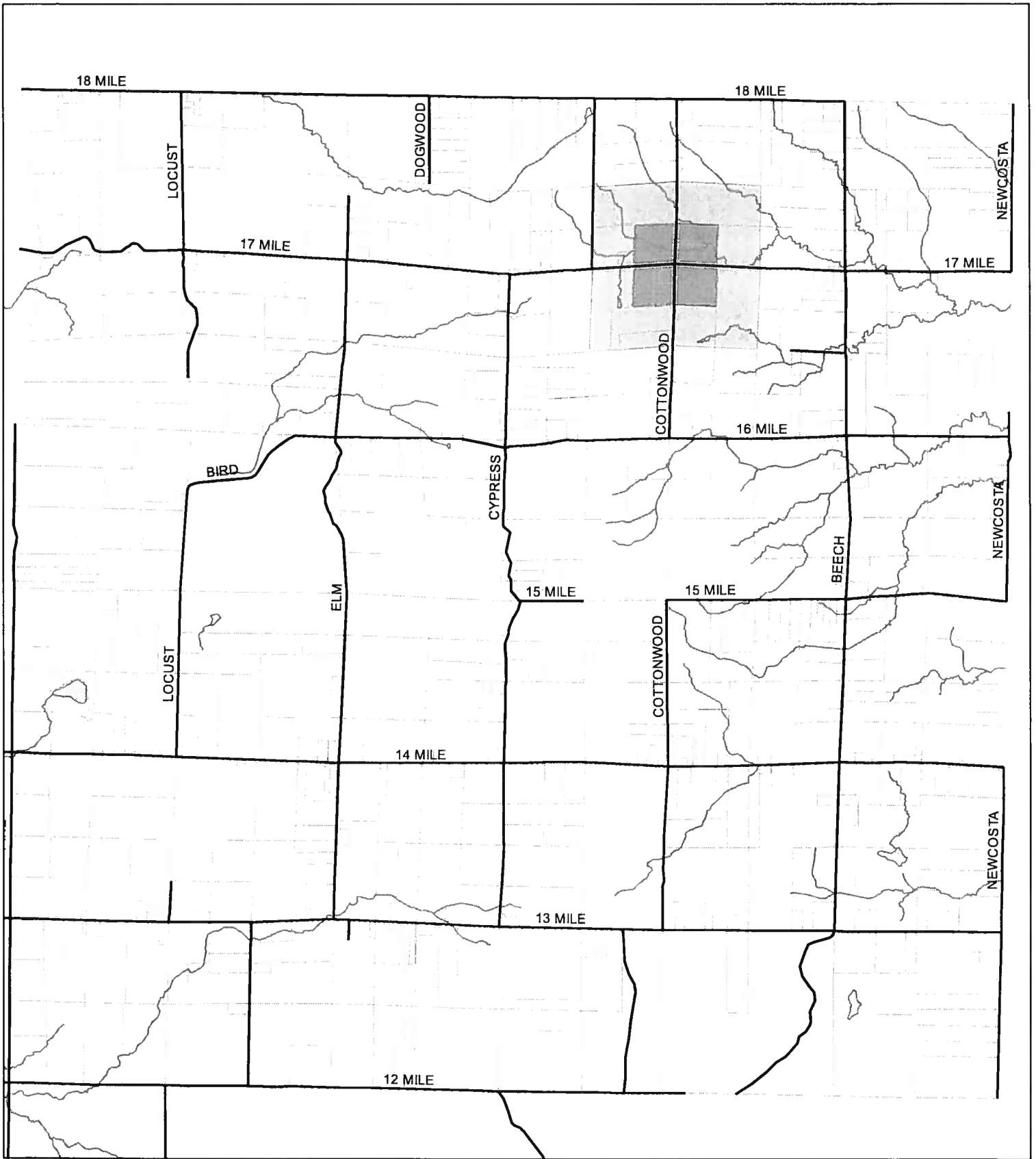
ARTICLE III – CLASSIFICATIONS OF DISTRICTS

3.1. **ZONE DISTRICTS:** For the purpose of this Ordinance, Barton Township is hereby divided into five (5) Zone Districts to be known as:

- AR Agricultural Residential District
- RR Rural Residential District
- UR Urban Residential District
- CB Central Business District
- G Greenbelt District

3.2. **MAP.** The map entitled Zoning Map delineating the above districts is hereby declared part of this Ordinance. Except where references by dimensions are shown on said map, the district boundary lines follow lot lines, municipal boundary lines, section lines, fractional lines or the centerlines of highways, streets or alleys as they existed at the time of the adoption of this Ordinance.

3.3. **LOT DIVIDED BY ZONE LINE.** Where a district boundary line of the Zoning Map divides a lot, the least restricted use shall not extend beyond such line.







Barton Township

Newaygo County, Michigan

Zoning Map

Legend

-  AR, Agricultural Residential
-  RR, Rural Residential
-  UR, Urban Residential
-  CB, Central Business



Williams & Works

Data Source: Newaygo County GIS and the Michigan Center for Geographic Information



3.4. TABLE OF USES. The following table of land uses summarizes the land uses governed under this Ordinance. In the event of a discrepancy between the table and the text of this Ordinance, the text shall prevail.

TABLE OF USES

R: Uses permitted by Right

S: Use permitted by Special Land Use

USE	Zoning District			
	AR	RR	UR	CB
Accessory Uses and Structures	R	R	R	R
Adult Foster Care Facility	R		S	S
Adult Uses				S
Automobile Repair Facility				R
Bed and Breakfast			S	R
Car Wash				R
Cemetery	R	R		
Convenience Store				R
Day care Center				R
Day care, Family (0-6 children)	R	R	R	
Day care, group (7-12 children)			S	
Drive-through Business				S
Dwelling, Multiple Family			S	
Dwelling, Single Family	R	R	R	
Dwelling, Two Family		R	R	
Eating and Drinking Establishment				R
Farm and Farm Operation	R	R		
Farm Product Processing Facility	S			
Financial Institution				R
Gasoline Station with Convenience Store				R
Golf Course		S		
Governmental Office	R	R	R	R
Greenhouse/Nursery	R	R		
Home Occupation, Major	S	S	S	

Home Occupation, Minor	R	R	R	
Manufactured Housing Community			S	
Mine, Sand and Gravel	S	S		
Mini/Self-Storage Facility				S
Park		R		
Place of Public Assembly		S	S	S
Planned Unit Development			S	
Professional Office				R
Professional Service Establishment				R
Retail Business				R
Roadside Stand	R	R		
Sawmill	S			
Warehouse				S
Well, Extraction	S	S		
Wind Energy System	S	S		
Wireless Communication Antenna	S	S		

ARTICLE IV - AR AGRICULTURAL RESIDENTIAL DISTRICT

4.1. INTENT. This district is intended primarily to conserve and protect appropriate Township lands for wildlife, farming, and timber cutover and agricultural uses. Low density single-family residential use, institutional and public uses are also permitted.

4.2. DISTRICT PROVISIONS. Following is a list of uses permitted by right, special land uses, site and building placement standards, and building form standards applicable to the AR District.

A. PERMITTED USES

- Accessory Uses and Structures
- Adult Foster Care Facility
- Cemetery
- Day care, family
- Dwelling, single family
- Farm and Farm Operation
- Governmental office
- Greenhouse/nursery
- Home occupation, minor
- Roadside stand

B. SPECIAL LAND USES

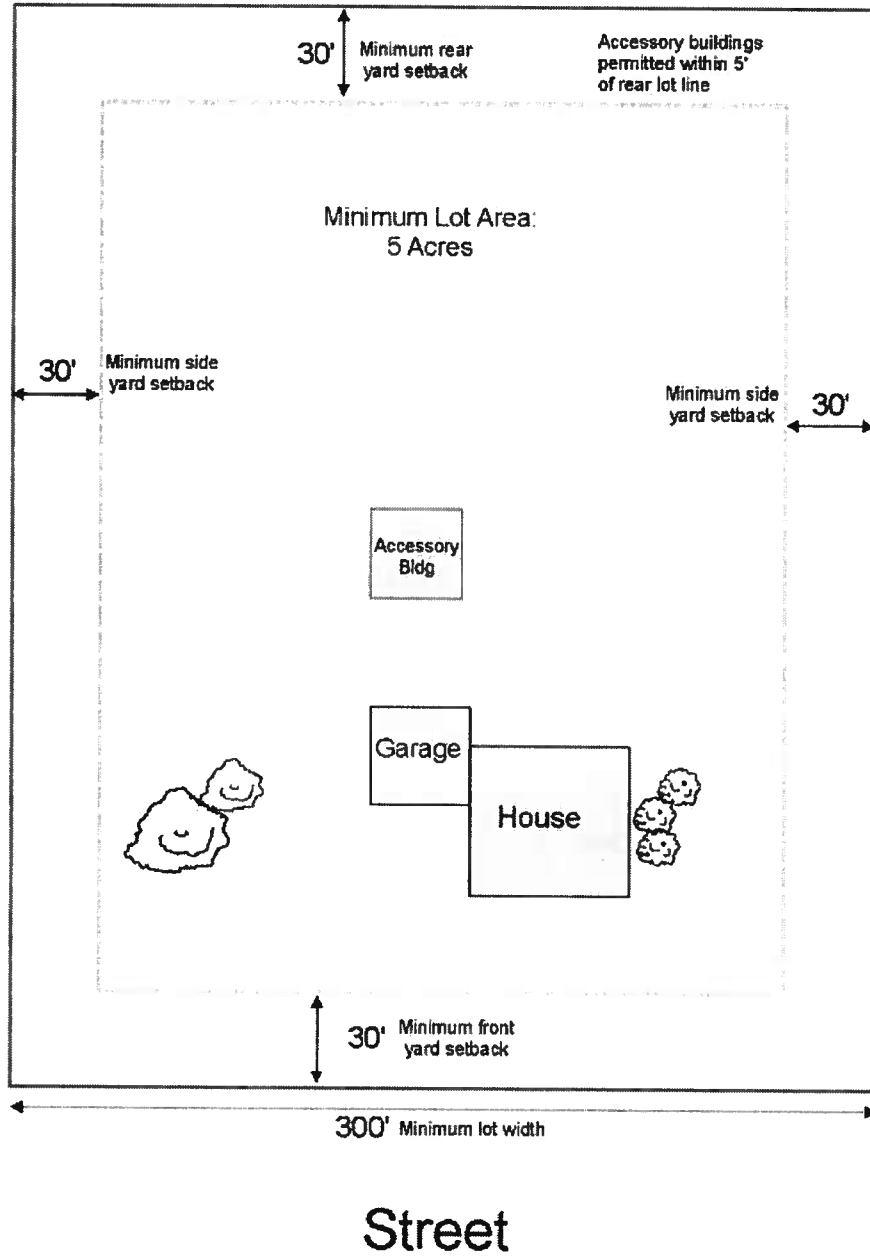
- Farm product processing facility
- Home occupation, major
- Mine, sand and gravel
- Sawmill
- Well, extraction
- Wind energy system
- Wireless communication antenna

C. ADDITIONAL STANDARDS

- Outdoor lighting, subject to Section 9.27
- Signage, subject to Article XII
- Site Plan Review, subject to Article XIII
- Parking and Loading, subject to Article XI

4.3 DIMENSIONAL STANDARDS		
Minimum Lot Area 5 Acres	Minimum Lot Width	300 ft
<u>Minimum Setback Requirements</u>	Maximum Building Height	35 ft
Front 30 ft	Minimum Floor Area	600 sq ft
Side 30 ft		
Rear 30 ft		

AG Agricultural Residential



ARTICLE V – RR RURAL RESIDENTIAL DISTRICT

5.1. INTENT. This district is intended to establish a rural environment consisting primarily of single family dwellings and limited agricultural uses.

5.2. DISTRICT PROVISIONS. Following is a list of uses permitted by right, special land uses, site and dimensional standards applicable to the RR District.

A. PERMITTED USES

- Accessory Uses and Structures
- Cemetery
- Day Care, family
- Dwelling, single family
- Dwelling, two-family
- Farm and Farm Operation
- Governmental Office
- Greenhouse/nursery
- Home Occupation, Minor
- Parks
- Roadside stand

B. SPECIAL LAND USES

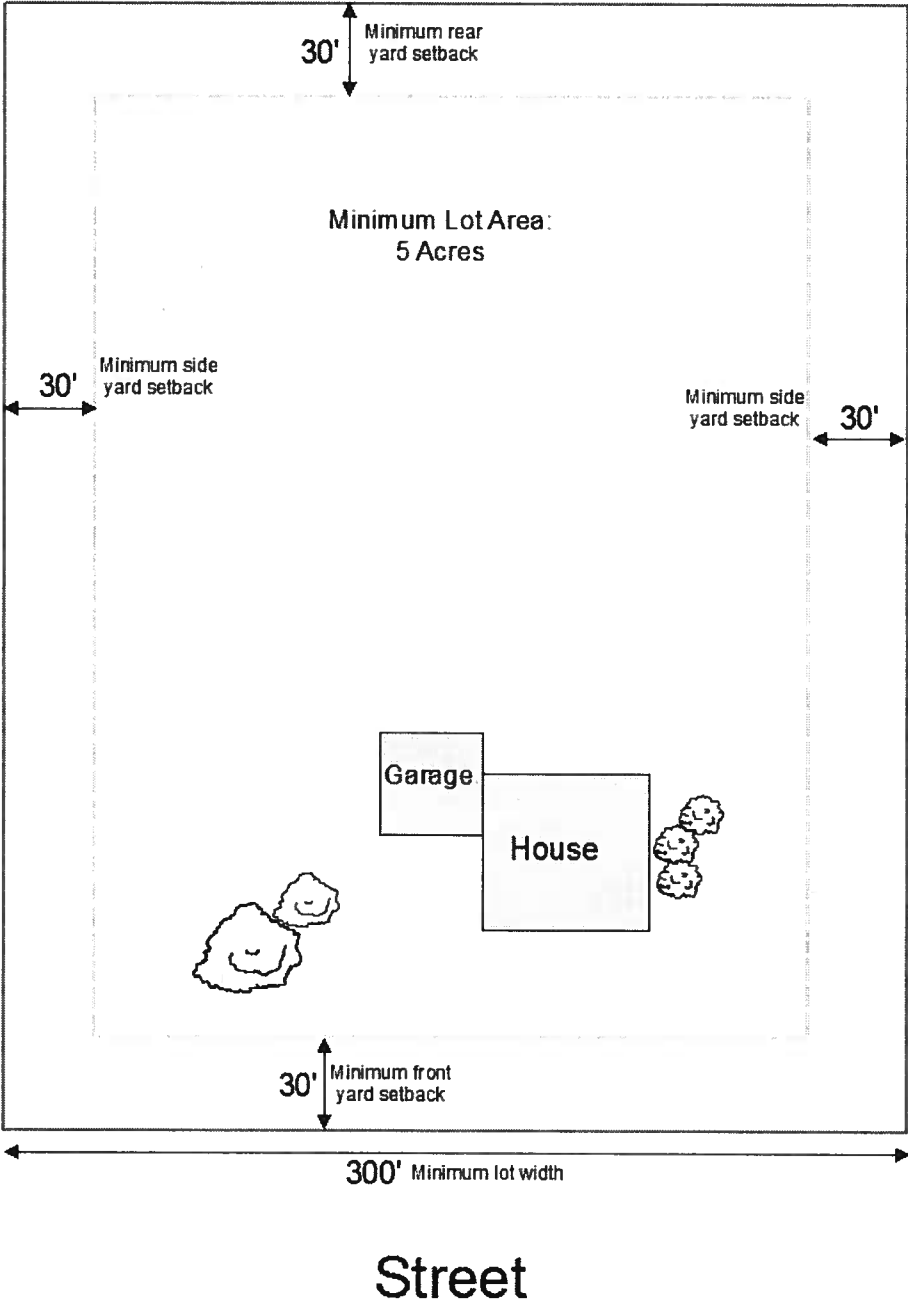
- Home occupation, major
- Mine, sand and gravel
- Golf course
- Place of public assembly
- Well, extraction
- Wireless communication antenna
- Wind energy system

C. ADDITIONAL STANDARDS

- Outdoor lighting, subject to Section 9.27.
- Signage, subject to Article XII
- Site Plan Review, subject to Article XIII.
- Parking and Loading, subject to Article XI

5.3. DIMENSIONAL STANDARDS			
Minimum Lot Area	5 acres	Minimum Lot Width	300 ft
<u>Minimum Setback Requirements</u>		Maximum Building Height	35 ft
Front	30 ft	Minimum Floor Area	600 sq ft
Side	30 ft		
Rear	30 ft		

RR Rural Residential



ARTICLE VI – UR URBAN RESIDENTIAL DISTRICT

6.1. INTENT. This district is intended to provide for low and moderate-density, one-family detached dwellings along with other residentially-related facilities that serve the residents in the this district.

6.2. DISTRICT PROVISIONS. Following is a list of uses permitted by right, special land uses, site and dimensional standards applicable to the UR District.

A. PERMITTED USES.

- Accessory Uses and Structures
- Day care, family
- Dwelling, single family
- Dwelling, two family
- Governmental office
- Home occupation, minor

B. SPECIAL LAND USES

- Adult foster care facility
- Bed and breakfast
- Day care, group
- Dwelling, multi-family
- Home occupation, major
- Manufactured housing community
- Place of public assembly
- Planned unit development

C. ADDITIONAL STANDARDS

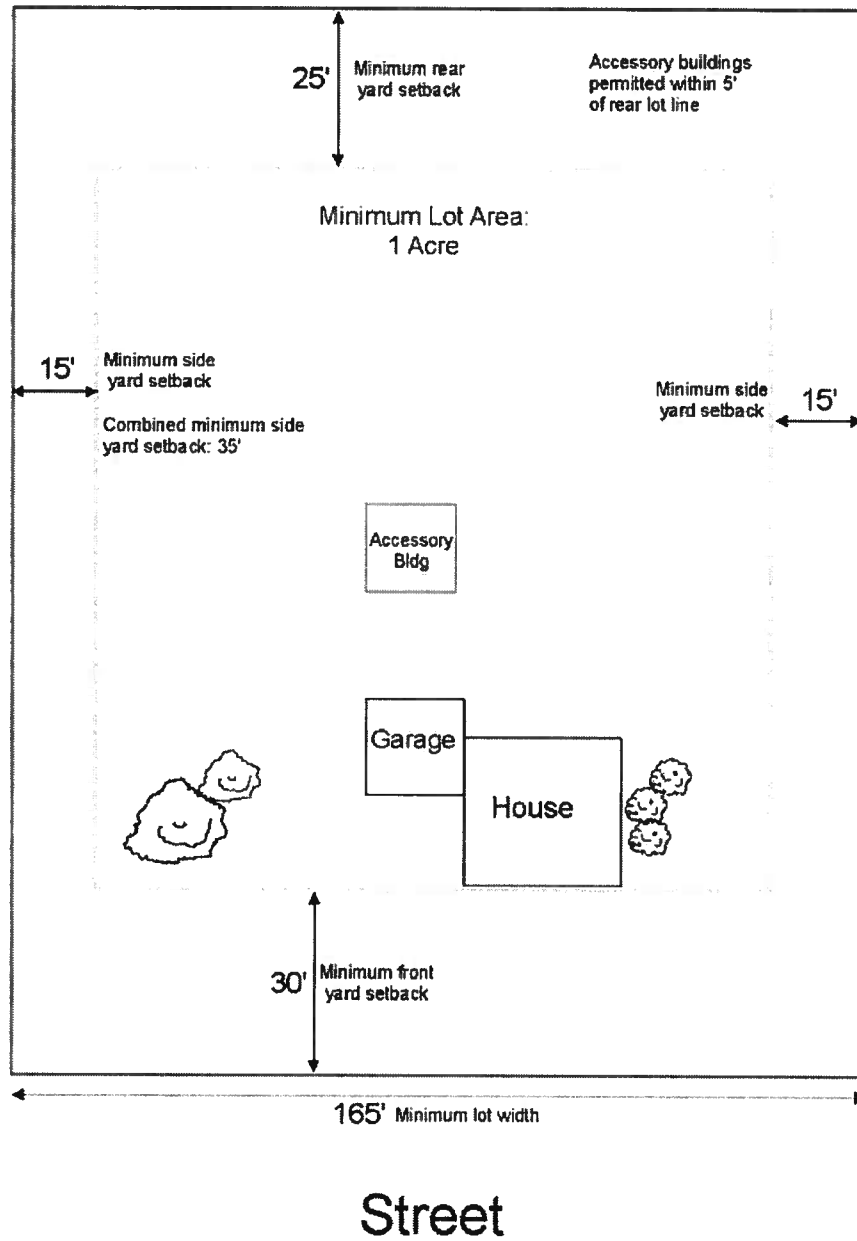
- Outdoor lighting, subject to Section 9.27.
- Signage, subject to Article XII.
- Site Plan Review, subject to Article XIII.
- Parking and Loading, subject to Article XI.

6.3. DIMENSIONAL STANDARDS

Minimum Lot Area 1 Acre	Minimum Lot Width	165 ft
	Maximum Building Height	35 ft
<u>Minimum Setback Requirements</u>	Minimum Floor Area	900 sq ft
Front	30 ft	
Side	15 ft / 35 ft total*	
Rear	25 ft	

*Each side yard setback must be a minimum of 15 feet, and the sum of the two side yards must be equal to or greater than 35 feet.

UR Urban Residential



ARTICLE VII - CB CENTRAL BUSINESS DISTRICT

7.1. INTENT. This district is intended to accommodate commercial development arranged in walkable patterns and is intended to serve needs of residents of the local area.

7.2. DISTRICT PROVISIONS. Following is a list of uses permitted by right, special land uses, site and dimensional standards applicable to the CB District.

A. PERMITTED USES.

- Accessory Uses and Structures
- Automobile repair facility
- Bed and Breakfast
- Car wash
- Convenience store
- Day care, commercial
- Eating and drinking establishment
- Financial institution
- Gasoline station with convenience store
- Governmental Office
- Professional office
- Professional service establishment
- Retail Business

B. SPECIAL LAND USES

- Adult foster care facility
- Adult Uses
- Drive-through business
- Mini/self storage facility
- Place of public assembly
- Warehouse

C. ADDITIONAL STANDARDS

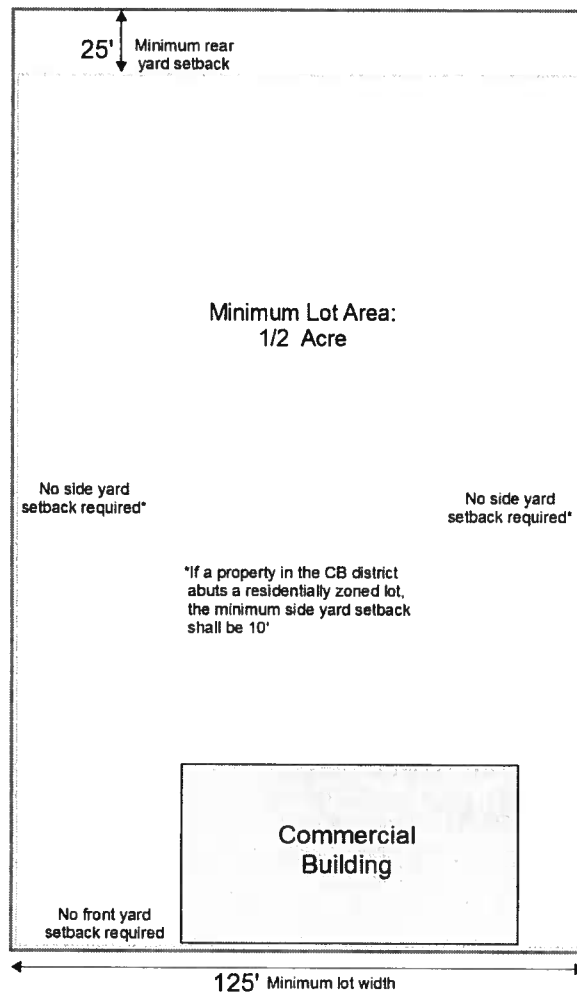
- Outdoor lighting, subject to Section 9.27.
- Signage, subject to Article XII.
- Site Plan Review, subject to Article XIII.
- Parking, subject to Article XI

7.3. DIMENSIONAL STANDARDS

Minimum Lot Area	1/2 acre	Minimum Lot Width	125 ft
		Maximum Building Height	35 ft
<u>Minimum Setback Requirements</u>		Minimum Floor Area	900 sq ft
Front	none required		
Side	none required*		
Rear	25 ft		

*If a property in the CB district abuts a residentially zoned property, the minimum side yard setback shall be 10'.

CB Central Business



Street

ARTICLE VIII – GREENBELT OVERLAY

8.1. INTENT. The intent of the Greenbelt Overlay is to preserve the water quality in rivers and streams of the Township and to prevent deterioration of these streams and the major Great Lakes tributaries into which they drain.

8.2. BOUNDARY. The Greenbelt Overlay includes land within three hundred (300) feet of the free-flowing streams illustrated on the zoning map.

8.3. PERMITTED USES:

- Dwelling, Single-family
- Farm and Farm Operation
- Parks

8.4. ADDITIONAL PROVISIONS. The following regulations apply to all lands within the Greenbelt Overlay:

1. No structure may be erected within fifty (50) feet of the water's edge.
2. A strip twenty-five (25) feet wide, bordering the river banks, shall be planted and maintained in trees and shrubs, or if undisturbed, it shall be left in its natural state. One opening five (5) or less in width is permitted on each lot to provide convenient access to the water.
3. Trees and shrubs may be pruned or trimmed for a distance not to exceed fifty (50) feet to obtain a view of the river or stream.
4. Plans for any construction, grading or any lot or subdivision preparation which involves removal of ground cover shall conform to the sedimentation control rules of the Newaygo County Soil Conservation District and no building permit shall be issued until such conformity is assured.
5. No septic tank drain fields may be closer than one hundred (100) feet to the water's edge and shall in placement and design conform to all regulations of the Newaygo County Health Department.

The following structures are exempt from the provisions of this Article:

1. Pump houses
2. Docks not extending more than five (5) feet into the water.

ARTICLE IX – GENERAL PROVISIONS

9.1. ZONING AFFECTS ALL STRUCTURES AND LAND AND THE USE THEREOF.

- A. It is the intent of this ordinance to specifically prohibit uses which are not listed in this ordinance as permitted uses or special land uses. Subject to the provisions of Article X, uses that are being conducted upon land within the respective districts set forth in Article III of this ordinance that are not listed as permitted uses or special approval uses within the district in which the land is located shall be deemed in violation of this ordinance. Uses that are contrary to or in violation of local, state, or federal law, ordinances, or other regulations are prohibited. The use of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within Barton Township shall conform to all applicable provisions of this ordinance unless a nonconforming situation is a matter of record on the effective date of this ordinance. The regulations set forth in this Article shall apply in all zoning districts to all permitted uses and special uses, unless otherwise specifically indicated. This Article provides detail on how the standards of this ordinance shall be applied.
- B. No building or land shall be used and no building shall be hereafter erected, structurally altered, or relocated except for one or more of the uses herein permitted within the district in which such building, structure, or land is located or for a use similar to and harmonious with such permitted uses, except as provided in Article X - Nonconforming Uses, Buildings and Lots and Article XVII – Zoning Board of Appeals, of this Ordinance.

9.2. ACCESSORY BUILDINGS. All accessory buildings shall meet the yard, setback and building height requirements of this Ordinance.

1. Except in the Agriculture Residential (AR) district, an accessory building shall not be constructed prior to the construction of the principal structure. Provided, however, that the Zoning Administrator shall be permitted to issue a temporary use permit for an accessory building to be used for up to one (1) year prior to the construction of the principal building.
2. If an accessory building is attached to a principal building by either a common foundation, common wall or common roof element, it shall be deemed to be a part of the Principal structure and the entire structure shall comply with the terms of this Ordinance.

9.3. RESTORING UNSAFE BUILDINGS: Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the building inspector.

9.4. **ZONING PERMIT:** No other structures shall hereafter be erected, enlarged or reconstructed until a building permit has been obtained from the Building Inspector or Zoning Administrator provided however, that construction shall be commenced within one (1) year after said date.

No zoning permit is required for:

1. An unattached building 10'X12' or smaller (120 sq. feet or less).
2. 6'X6' or smaller unenclosed porch.

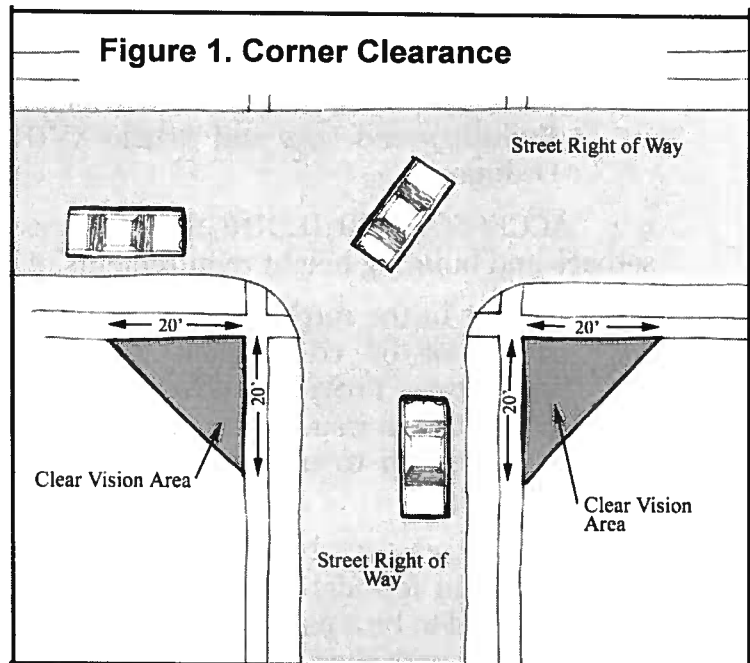
9.5. **MIXED OCCUPANCY.** Before issuing a zoning permit for any premises intended for use as a combination of dwelling and commercial occupancy or where an increased number of dwelling units would result from a proposed alteration, the Zoning Administrator shall request a report from the Newaygo County Health Officer pertaining to any hazards that exist or may be expected to exist from the proposed use, together with his or her recommendations for any additional provisions or alterations necessary in the interest of safety or health. Such recommendations shall be complied with before issuance of a permit.

9.6. **REQUIRED AREA OR SPACE.** No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced.

9.7. **TRAFFIC VISIBILITY AND CORNER CLEARANCE.** On any corner lot in any district other than the CB Central Business district where no yard space is required, no fence, structure or planting except deciduous trees which are over thirty (30) inches in height shall be erected or maintained within twenty (20) feet of the intersection of right-of-way lines in order to prevent traffic hazards arising from inadequate visibility.

9.8. **ESSENTIAL SERVICES.** Essential Services may be located in any zoning district subject to the review and approval of the Planning Commission and Township Board.

9.9 **YARDS.** Every lot must provide front, rear and side yards as required within its zoning district. All front yards must face upon a road. For local roads, required front yards must start at thirty-three (33) feet from the center of the road. For primary roads, the required front yard shall be measured from a line fifty (50) feet from the centerline of the street or highway. The following modification may be made:



1. On a lot facing upon a local road where lots adjoining it on both sides have been built upon with a setback less than required by this Ordinance, the front yard may conform to the established front yard setback provided, however, that no front yard may hereafter be less than one-half of the requirements of this Ordinance.

9.10. **PRINCIPAL USE.** No lot may contain more than one (1) principal building provided that groups of apartment buildings or retail business buildings under single ownership shall be deemed a principal use collectively. Adjoining lots in single ownership may be considered one lot.

9.11. **CORNER LOTS.** Where two intersecting streets bound a lot, the front yard requirements shall be met on one abutting street only if the minimum side lot requirements are met for that district.

9.12. **TEMPORARY PERMITS.** The following temporary uses are permitted by special temporary permit in districts as regulated herein; all such uses shall be terminated within thirty (30) days after expiration of said permit:

1. Trailers or mobile homes. An individual trailer or mobile home may be used as temporary living or working quarters for up to one (1) year while a dwelling is being constructed on the same premises. A reasonable extension may be granted prior to completion of the dwelling.

The use of an individual trailer or mobile home as a temporary dwelling may be approved in the RR District for a period of up to one (1) year for persons having short term or temporary employment. Such permit shall only be valid for one designated site and no trailer may be parked in a required front yard.

Temporary buildings for uses incidental to construction work shall be removed promptly upon completion or abandonment of work.

9.13. **BASEMENT DWELLING.** The use of basement more than four (4) feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside. Where one wall is entirely above grade level of the yard adjacent to said wall and access or egress to the out-of-doors is provided through said wall, the structure is not a basement dwelling.

9.14. **WALLS AND FENCES.** All retaining walls and fences hereinafter constructed shall conform to the following standards:

1. Fences and retaining walls shall not exceed four (4) feet in height in the front yard and six (6) feet in height located in the side or rear yard.
2. A well maintained wire protective fencing without height limitation is permitted in all yards in the AR District.

The following fences shall be exempt from this requirement:

1. Fences associated with a Farm Operation in the AR district.
2. Decorative fences.

9.15. HEIGHT LIMITATIONS. The height limitations of all districts may be exceeded by the following structures, provided that required yards for said structures shall be increased by one-half (1/2) foot for each foot said structure exceeds the height limitation: parapet walls, silos and farm barns, monuments, cupolas, spires or other ornamental projects, water towers and fire towers.

9.16. REFUSE. Any refuse or discarded material that creates a health hazard such as a breeding ground for rodents is prohibited.

9.17. EXCAVATION OF TOP SOIL. Top soil can be stripped, excavated and removed on any lot in the AG or RR district, provided that all County permits are obtained and provided to the Township Clerk.

9.18. SOLID WASTE. Before the application to the ground of solid waste brought in from a source other than directly from the applicant's farm, a permit must be obtained. All State and Federal compliance records and forms must be shown at the time the permit is requested. When a State regulated substance (sludge/fertilizer) is to be applied, a notification letter to Barton Township is required along with copies of all data collected by and for the State prior to application of the solid waste. The letter and information is to be kept on file in the Township Clerk's office.

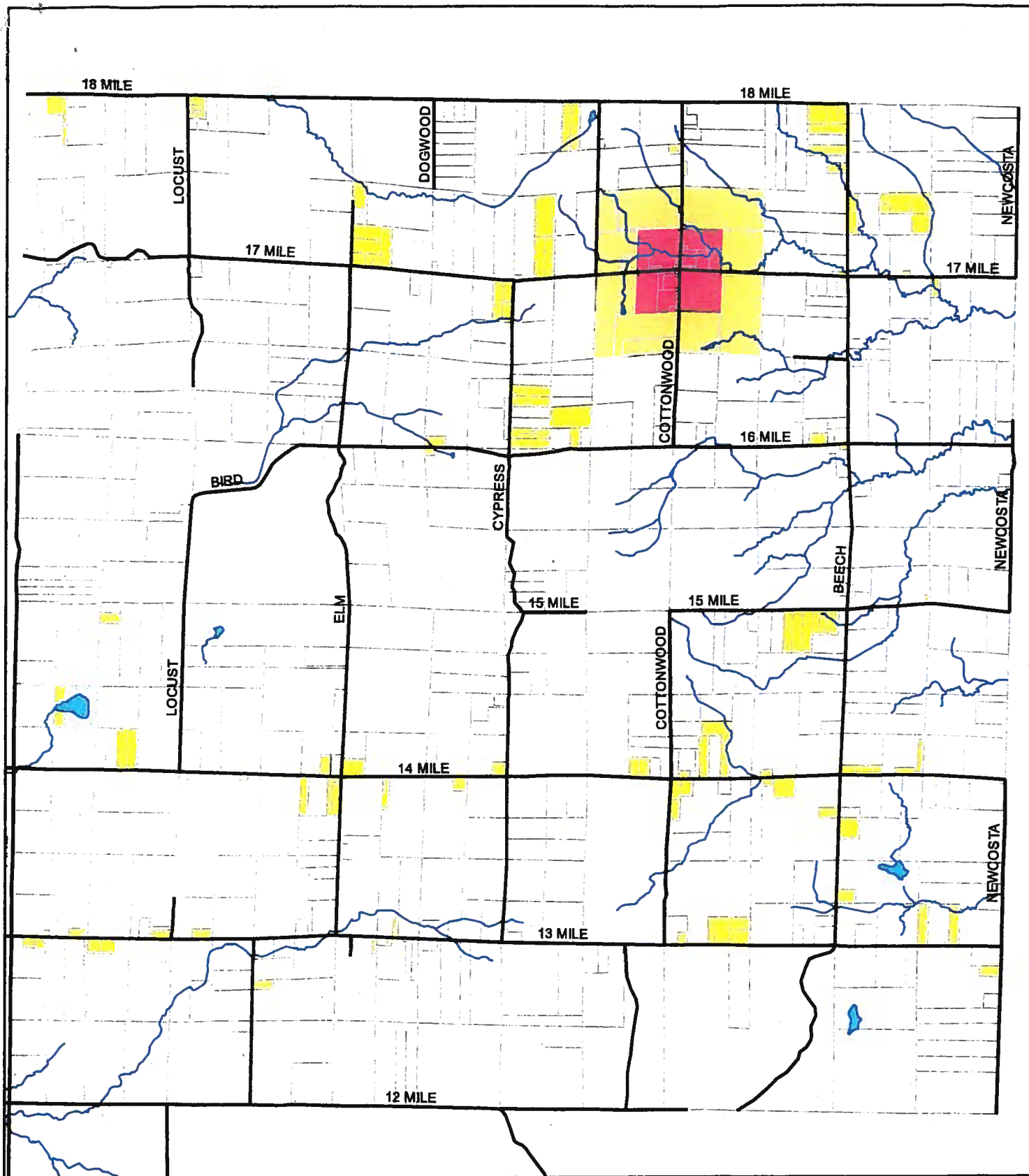
9.19. UNCLASSIFIED USES.

1. Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this ordinance in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves other features which are not expressly authorized, contemplated or specified in this ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not expressly authorized, contemplated or specified by this ordinance, or that it involves features which were not expressly authorized, contemplated or specified in this ordinance, as determined by the Zoning Administrator in the first instance, an amendment may be initiated pursuant to the provisions of Article XVIII.
2. Uses determined to be unclassified may not be permitted as Special Land Uses.

9.20. RIGHT-TO-FARM ACT. Nothing in this ordinance shall prevent a land owner from operating pursuant to and in accordance with the Right-to-Farm Act, being PA 93 of 1981, as amended, and Generally Accepted Agricultural Management Practices as promulgated by the Michigan Department of Agriculture.

9.21. STANDARDS PERTAINING TO RESIDENTIAL DISTRICTS.

1. In the AR, RR and UR districts, the following general regulations shall apply:
 - A. No accessory structure and no structure exceeding a height of thirty (30) inches shall be erected in any required front yard. Accessory



Barton Township

Newaygo County, Michigan

Zoning Map

Legend

- AR, Agricultural Residential
- RR, Rural Residential
- UR, Urban Residential
- CB, Central Business



Williams & Works

Data Source: Newaygo County GIS and the Michigan Center for Geographic Information

structures shall not exceed sixteen (16) feet in height, shall be at least ten (10) feet from any dwelling and at least five (5) feet from any other accessory structure on the lot.

- B. Accessory structures in the rear yard are permitted five (5) feet from lot lines.
 - C. Where a corner lot adjoins the side yard of any adjacent lot, no part of an accessory structure and no part of the principal structure within twenty-five (25) feet of such common lot line shall be closer to the street than the full front yard required on the adjacent lot and, in either case, the side yard requirements of the district shall be met along said common line.
 - D. Where a corner lot adjoins in the rear, the rear of another corner lot, a detached accessory structure may be erected five (5) feet from such common rear lot line provided the side street setback is maintained.
- 2. Where permitted, the conversion of an existing building to accommodate an increased number of dwelling units shall be limited to not more than two families regardless of the number of families permitted in new buildings.
 - 3. The following transitional uses are permitted on certain residentially zoned premises where the side yard adjoins a CB District:
 - A. The first residentially zoned lot or lots in a single ownership at the effective date of this Ordinance, or the first one hundred and fifty (150) feet thereof, whichever is the lesser, may be utilized in accordance with the next less restricted residential zone requirements.
 - B. The first one hundred and fifty (150) feet thereof may be utilized for off street parking, subject to the provisions of Article XI.
 - C. Any single principal structure located or built completely upon the first one hundred and fifty (150) feet thereof may be used for offices or business provided that yards meet the district requirements in which such lot is located.

9.22. PRIVATE SWIMMING POOLS. Private swimming pools are permitted in all districts provided the following regulations are complied with:

- 1. The pool shall be maintained in a clean and healthful condition in accordance with Newaygo County Health Department requirements.
- 2. No swimming pool shall be emptied in any manner that will cause water to flow upon another lot or be emptied on any adjacent land or road.
- 3. Every swimming pool shall be completely enclosed by a fence meeting the requirements of Section 9.14. No opening shall be designed or maintained as to permit access to the pool except under the supervision of the owner or by his/her permission.

9.23. OUTDOOR WOOD BURNING FURNACES.

1. REGULATIONS. An outdoor wood burning furnace shall not be permitted within the Township unless it complies with each of the following regulations:
 - A. Lot Size. An outdoor wood burning furnace may be installed and used only on a lot that is five (5) acres or more.
 - B. An outdoor wood burning furnace shall be operated in accordance with the manufacturer's recommendations to minimize adverse impacts on neighboring properties.
 - C. Fuel.
 - 1) Permitted Fuels. The following combustible materials may be burned in an outdoor wood burning furnace in accordance with the manufacturer's specifications.
 - a) Natural wood, untreated and with no additives.
 - b) Wood pallets, without additives.
 - c) Agricultural seeds in their natural form.
 - 2) Prohibited Fuels. All other combustible materials are prohibited from being burned in an outdoor wood burning furnace, including without limitation:
 - a) Treated or painted wood, including but not limited to plywood, composite wood products, or other wood products that are painted, varnished or treated with preservatives.
 - b) Waste petroleum products, paints, varnishes or other oily wastes.
 - c) Asphalt and products containing asphalt.
 - d) Any plastic, nylon, PVC, ABS, urethane foam and other synthetic materials.
 - e) Rubber products.
 - f) Any materials containing asbestos, lead mercury, heavy or toxic metals, or chemicals.

9.24. OPEN SPACE PRESERVATION OPTION. This section shall apply to residential properties zoned AR, RR and UR. The provisions in this section shall supplement the existing regulations applicable within the referenced zoning districts in the event a developer or owner of property elects to submit its proposed development under the open space option provided in this section.

1. Property meeting the eligibility requirements of this section may be developed, at the owner's option, with the same number of dwelling units on a portion of the land as specified herein that, as determined by the approving body, could have otherwise been developed on the same land under current ordinances, laws and rules, subject to and in accordance with the regulations of this Section.

2. The density of dwelling units shall not exceed the density customarily developable in the zoning district in which the proposed development is located, developed with a conventional layout and with all applicable laws and ordinances being observed.
 - A. A parallel plan shall be submitted to the approving body in order to establish the maximum permitted density. The parallel plan shall identify how a lot could be developed under the conventional standards of the specific zoning district in which the property is situated (without application of this Section), and the requirements of all other applicable State and Township regulations and standards. The parallel plan shall provide lots with building envelopes of sufficient size, taking into consideration sanitary sewage disposal capacity (only on property where there is a question of soil capacity will it be necessary to undertake actual soil analysis or County review), topography, easements or encumbrances, drainage retention/detention areas, along with all necessary roads and road-related improvements, without impacting natural areas and features required to be preserved under applicable law and ordinance. All unbuildable areas and areas with limitations to development must be accurately identified on the parallel plan, including, but not limited to, wetlands, watercourses, drains, steep slopes, woodlands and similar features. It is not the intent of this provision to generally require detailed engineering in the preparation of this plan; however, it must be a realistic plan of development, taking into consideration the actual assets and constraints of the property.
 - B. The approving body shall make the determination that a parallel plan is acceptable once it meets all applicable Township Ordinance requirements and, based on the parallel plan, determine the number of units permitted under the open space option provided in this Section.
3. The following design and application requirements shall apply to a proposed open space development under this Section. The design requirements shall be incorporated into a preliminary plat if the land is proposed to be developed as a subdivision under the Land Division Act, a site condo plan if the land is proposed to be developed as a site condo project, and otherwise incorporated into a site plan in accordance with the requirements of this Ordinance.
 - A. A minimum of 50% of the gross site area (not including existing road right-of-way) shall be preserved as permanent open space in an undeveloped state in the manner set forth in Section 9.24(4).
 - B. Permanent open space shall include the site's most significant natural, environmental, agricultural and/or cultural features including, but not limited to, the following; however, in an open space development under this Section, an "undeveloped state" shall not include a golf course:

- 1) Wetlands and natural watercourses;
 - 2) Woodlands;
 - 3) Recreational pathways and other permitted recreational facilities;
 - 4) Buffers from major thoroughfares and more intense land uses; and
 - 5) Similar feature acceptable to the approving body.
- C. The applicant for an open space development shall be entitled to an approval under this Section, provided the following aspects of the proposed development plan shall be reviewed following a public hearing for approval by the approving body:
- 1) The area and width of the resulting individual lots and building setback requirements under the open space option shall be reasonable and rationally related to the type of development proposed and shall comply with the standards, requirements and intent of the zoning district in which the proposed development is located to the maximum extent feasible. In no event shall a lot size be reduced more than fifty percent (50%) of the required lot size, and lot width and setback may be reduced no greater than thirty-three percent (33%) of the required lot width and setback in the district. Factors to be considered in determining the reasonableness of the area, width and setback requirements shall include the amount of open space, the density as determined by the approving body under the parallel plan, and the required setbacks, minimum lot width, and maximum lot coverage for the particular zoning district. Final area, width and setback requirements under the open space option plan shall be approved by the approving body in the manner set forth in Section 9.24, 5.
 - 2) Lot layout and configuration shall result in lots or units feasible for development and use of residences, and in the maintenance of a reasonable buffer between an open space development hereunder and adjacent public thoroughfares and other land which is developed, or may be developed, for non-cluster residential development. Each lot or unit shall be depicted on the plan with a proposed building envelope in which a proposed residence may be constructed and used, including all likely improvement, without the necessity of the grant of a variance by the Zoning Board of Appeals.
- D. Open space areas shall be accessible to all lots in the development, either directly from the internal road network or, if approved in the discretion of the approving body, directly from another manner of access providing perpetually existing and maintained pedestrian accessibility to all lots.
- E. Preserved open space shall be connected with adjacent open space, public land, and existing or planned bike paths, where feasible, as determined by the approving body.

F. Approval of an open space option development does not constitute a change in the zoning of the property, and except as specifically provided in this Section, all other regulations applicable within the zoning district of the property and development shall apply.

G. Restrictions.

- 1) Nothing in this Section shall allow the construction of multi-family residential units in a single-family residential district.
- 2) Nothing in this Section shall allow a development to result in the creation of a nuisance or a danger or hazard to the health, safety and welfare of any person or property.
- 3) Any development proposed utilizing the open space option provided in this Section shall comply with all applicable zoning regulations.

4. Open Space Maintenance and Preservation

A. All open space shall remain perpetually in an undeveloped state by means of a conservation easement to be recorded with the Newaygo County Register of Deeds. All such conservation easements shall clarify ownership, access/use rights, and perpetual maintenance, and shall be approved by the approving body prior to final approval of the development, and shall be received and approved as to substance and form by the Township attorney prior to acceptance by the approving body.

B. Nothing in this Section shall be construed to require the property owner to convey fee title ownership of the open space to the public.

5. Review Process

A. All proposed open space option developments shall be submitted and reviewed in accordance with the procedure applicable under this Ordinance to the type of development being proposed (i.e., subdivision, condominium, site condominiums, etc.) and in accordance with the development standards in this Section and other applicable ordinances. The “approving body,” as referenced in this Section, shall mean the body designated in this Ordinance as having the authority to grant final plan approval to the proposed development.

B. In addition to all other submittals and information required under this Ordinance, all open space option plans submitted to the Township shall include a resource inventory that contains the following:

- 1) All wetlands and bodies of water; and
- 2) An analysis of on-site soils and topography to identify limitations to development.

C. In addition to all other review considerations applicable under other Sections of this Ordinance to the type of development being proposed

(i.e., subdivision plat, condominium, site condominiums, etc.), as part of its review and decision to approve or deny approval of the plans or subdivision plat in which the developer seeks to utilize the open space option under this Section, the approving body shall determine that the plans and materials satisfy requirements of this section as part of the overall review process applicable to the particular development.

9.25. SURVEY FOR LAND DIVISION. A land survey is required for all land divisions and shall be completed by a professional surveyor registered in the State of Michigan, unless this requirement is waived by the Planning Commission or Zoning Administrator.

9.26. WETLANDS. A permit is required prior to any development in wetland areas regulated by Part 303 of the Natural Resources and Environmental Protection Act, 1994 PA 451.

9.27. OUTDOOR LIGHTING. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Ordinance.

1. General Provisions:

A. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:

- 1) Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal lights such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.
- 2) Lighting associated with single family housing.
- 3) Lighting associated with farms

B. Regulated Lighting. The following types of lighting shall be regulated by this section:

- 1) Parking lot lighting and site lighting for commercial, industrial and institutional developments.
- 2) Multiple Family Developments including Grouped Housing parking lot lighting and site lighting.
- 3) Building facade lighting.
- 4) Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
- 5) All forms of neon lighting

C. Standards: Lighting shall be designed and constructed in such as manner to:

- 1) Insure that direct or directly reflected light is confined to the development site.

- 2) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
- 3) The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) footcandle.
- 4) Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site.
- 5) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
- 6) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- 7) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

9.28. MANUFACTURED HOUSING

1. A manufactured home will be considered a dwelling unit in the AR and RR Districts if the floor area and lot area requirements of the district are met. All mobile home dwellings must have a HUD number, meet HUD requirements and have a HUD sticker.
2. LOCATION. Regulations that apply to dwelling units shall also apply to mobile homes, such as setback, lot requirements, distance from other buildings, etc.
3. TEMPORARY PERMITS.
 - A. The temporary location of an individual mobile home may be permitted by a temporary permit in the RR and AR Districts for a period of one (1) year for persons having employment on the property. The permit may be renewed each year as needed.
 - B. A mobile home may be permitted under a temporary permit for temporary living quarters while a dwelling is being constructed on the same premises for a period of one (1) year. The permit may be renewed each year until construction is completed.
 - C. The use of a mobile home as second living quarters on a farm for members of the owner's family or for an unrelated family having permanent employment on the farm is permitted. Such use shall only

be permitted through a yearly permit which shall be renewed after each twelve (12) month period.

- D. Arrangement for a safe water supply and sewage disposal must be made and must be in conformity with and approved by the County Health Department.
- 4. All Mobile Home Parks are regulated by the Mobile Home Parks Division, Michigan State Department of Commerce, and P.O. Box 3022, Lansing, Michigan 48909.

9.29. RECYCLING OR SALVAGE YARDS. All recycling or salvage yards shall meet the requirements of the Barton Township Junk Ordinance, as amended.

ARTICLE X – NON-CONFORMING USES

10.1. CONTINUANCE OF NON-CONFORMING USE OR STRUCTURE. The lawful use of any land or structure, exactly as such existed at the time of the enactment of this Ordinance, may be continued even though such use or structure does not conform to the provisions of this Ordinance. Structures, or uses non-conforming due to heights, yards and area or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, area or parking provisions occur.

10.2. UNLAWFUL USE NOT AUTHORIZED. Nothing in this Ordinance shall be interpreted as authorization or approval of the continuance of a nonconforming use of a structure.

10.3. CHANGE OF USE. The use of a non-conforming building may be changed to another non-conforming use if the Planning Commission finds that such new use would markedly decrease the degree of non-conformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a non-conforming use to a prior non-conforming use or to waive the provisions of this Article.

10.4. RESTORATION AND REPAIRS. Such repairs and maintenance work as are required to keep a non-conforming building or structure in sound condition may be made. If a non-conforming building or structure is damaged or destroyed to the extent of sixty (60) percent of its real value by fire, flood, wind or other calamity, its reconstruction shall be in accordance with this Ordinance. A non-conforming use damaged to a lesser extent may be restored to its size at the time prior to such damage and its use resumed. Any such restoration shall be started within a period of one (1) year of the time of such damage and diligently prosecuted to completion.

10.5. NON-CONFORMING DUE TO RECLASSIFICATION. The foregoing provisions of this Article shall also apply to building, land or uses which hereafter become non-conforming due to any reclassification of districts or any subsequent change in the regulations of this Ordinance.

10.6. NON-CONFORMING USE DISCONTINUED. No building or premises where non-conforming use has ceased for more than twelve (12) months shall be devoted to a non-conforming use.

10.7. NON-CONFORMING USES ELIMINATED. Non-conforming signs and billboards may be maintained until such time as the sign structure, frame or supports must be replaced, renovated, altered or moved. At such time, the sign shall comply with all provision of this Ordinance. This shall not be construed to prohibit the re-lettering or repainting of a sign or billboard.

10.8. EXISTING PLATTED LOTS. Any lot platted or created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its district may be used in the following manner:

1. A lot in single ownership at the effective date of this Ordinance which contains less than eighty (80) percent of the zoning district's width and area requirements and is not adjacent to lots owned by the same person, family, partnership or corporation may be sold and/or utilized for a single family dwelling.
2. Any lot which meets eighty (80) percent or more of the zoning district's width and area requirements may be sold and/or utilized as a separate lot whether in single ownership or not; provided, however, that the front yard must conform to the requirements of the district in which said lot is located.
3. Two (2) or more adjacent lots containing less than eighty (80) percent of the district requirements and owned by the same person, family, partnership or corporation, at the effective date of this Ordinance, shall be re-divided to meet at least eighty (80) percent of the district requirements; provided that the Planning Commission may permit the use or re-division of less than four (4) such lots in conformity with the established character of existing adjoining lots.

ARTICLE XI – PARKING AND LOADING SPACES

11.1. REQUIREMENTS. There shall be provided in all districts, at the time of erection or enlargement of any principal structure, automobile off-street parking space with adequate access to all spaces. The proper number of parking spaces for any given use as specified in this Article is based upon considerations of the maximum number of motor vehicles that can be expected on the premises at the same time during an average day.

1. Required off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve.
2. Joint use of off-street parking areas may be provided collectively by two or more buildings or uses, provided the total number of parking spaces shall not be less than the sum of the requirements of the space requirements computed separately. In the instance of dual function of off-street parking spaces where operating hours or parking needs of individual buildings or uses occur at distinctly different times, the Planning Commission may grant an exception.
3. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one half shall be disregarded and fractions over one-half shall require one parking space.
4. In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the Zoning Administrator considers is similar in type.
5. Off-street parking areas shall not be used for commercial repair work, storage of merchandise, or servicing or selling of trucks or motor vehicles.
6. Whenever an addition is made to an existing building, the parking area shall be increased sufficiently to meet the requirements of this Article.
7. The conversion of an existing residence to another use shall be deemed as a new use which must meet all provisions of this Article.

11.2. RESIDENTIAL OFF-STREET PARKING.

<u>Use</u>	<u>Number of Parking Spaces Per Unit of Measure</u>
1. One family, two family, multiple family, mobile home	One for each dwelling unit for one and two family and mobile home, 1½ per dwelling unit for multiple family
2. Housing for elderly	One for each two units, and one for each employee.
3. Mobile home park	One for each mobile home site and one for each employee.

11.3. NON-RESIDENTIAL OFF-STREET PARKING.

<u>Use</u>	<u>Number of Parking Spaces Per Unit of Measure</u>
1. Automobile Repair Facility	One for each service or repair stall, plus one for each worker on each shift.
2. Bed and Breakfast	One for each sleeping unit, plus one for each one employee, plus restaurant requirements, if applicable.
3. Convenience Store	One for each 300 square feet of floor area.
4. Drive-through Business	One for each 100 square feet of floor area.
5. Eating and Drinking Establishment	One for each 75 square feet of floor area.
6. Financial Institution	One for each 200 square feet of floor area.
7. Golf Course	Four for each one golf hole, plus one for each two employees.
8. Governmental Office	One for each 200 square feet of floor area.
9. Professional Office	One for each 200 square feet of floor area.
10. Professional Service Establishment	One for each 200 square feet of floor area.
11. Retail Business	One for each 300 square feet of floor area.

11.4. SITE DEVELOPMENT REQUIREMENTS

All off-street parking areas shall be designed, constructed, and maintained in accordance with the following standards and requirements:

1. No parking area shall be constructed until a Permit therefore is issued by the Zoning Administrator.
2. Before such permit is issued, plans and specifications shall be submitted to the Zoning Administrator showing the location, capacity, size, site design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, and any other detailed features essential to the design and construction of the proposed parking facility.
3. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

PARKING	MANEUVERING	PARKING	PARKING
	G	(width)	(length)
0 Degrees (parallel parking)	12 ft.	8 ft.	23 ft.
30 to 50 degrees	15 ft.	8 ft. - 6 in.	20 ft.
54 to 74 degrees	20 ft.	8 ft. - 6 in.	20 ft.
75 to 90 degrees	24 ft.	9 ft.	20 ft.

4. All parking spaces shall be provided access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
5. Adequate ingress and egress to the parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single family residential use shall not be across land zoned for single family residential use.
6. Each entrance and exit to and from any off street parking lot located in an area zoned for other than single family residential use shall be at least 25 feet from adjacent property located in any single family residential district.
7. All off-street parking areas abutting AR, RR or UR district shall be screened with an evergreen hedge or other natural landscaping. If owners of adjacent residential properties agree, the screening may be a solid uniformly painted fence or wall.
8. No part of any parking area or access drive shall be closer than five (5) feet to any non-residential property line unless connected to another adjoining parking area by driveways.
9. No part of any parking area or access drive shall be closer than twenty-five (25) feet to any residentially zoned lot or intersecting street right-of-way lines.

10. Except for single family and two family residential lots, all parking areas with a capacity of four or more vehicles shall provide adequate lighting throughout the hours when the parking area is in operation. All lighting shall conform to the provisions of Section 9.27.

11.5. UNITS OF MEASUREMENTS. For the purpose of this section "Floor Area" shall mean the gross floor area of all floors of a building or an addition to an existing building excluding basements and those areas used exclusively for storage of goods or supplies.

11.6. LOCATION OF OFF-STREET PARKING FACILITIES. Required off-street parking facilities shall be located on the same lot as a principal use in the AR, RR and UR districts. In the CB district, additional off-street parking is permitted as a principal use on a separate lot.

11.7. COMMUNITY PARKING. The provisions of this Article may be met by financial participation in a municipal or community-parking program designed to serve a larger area and approved by the Township Board.

11.8. REQUIRED OFF-STREET LOADING AND UNLOADING SPACE. There shall be provided and maintained, on the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated public streets.

1. Loading shall be provided in addition to the off-street parking space required in this Article and shall not be considered as supplying off-street parking space.
2. Each loading space shall be at least twelve (12) feet in width, twenty-two (22) feet in length and have a clearance of fourteen (14) feet above grade.

11.9. PARKING VARIATION. Where it can be demonstrated that the parking requirements of this Article would provide an excessive amount of parking area of the needs of a particular use, a site plan with lesser area may be approved and permitted, provided all the following conditions are present:

1. Said use does not provide services to the general public.
2. The maximum number of employees and visitors during any one eight-hour period can be demonstrated to be less than the parking space required by this Ordinance.
3. An agreement to provide additional parking if an increase in employees or visitors shall occur at a future time is made a part of the site plan.
4. Approval of lesser requirements shall be valid only for the stated use. An Occupancy Permit for a new use shall not be issued unless a new site plan is reviewed and parking arrangements are found to be in accordance with the requirements of this Ordinance.

ARTICLE XII – SIGNS

No sign in any district at any time may obstruct the vision of traffic, including ingress and egress causing a hazard or conceivably produce a hazard or adversely affect the surrounding property or by degrading the dignity or moral values of men, women or children of the township.

No sign shall be within fifty (50) feet of the center of the road. Any other non-conforming sign installation must obtain a permit from the Planning Commission or Zoning Administrator prior to installing the sign. Each non-conforming sign will be reviewed on a case by case basis.

The Zoning Administrator under the direction of the Township Board may remove any sign that does not conform to this Ordinance, at the owner's expense if applicable.

12.1. SIGNS IN THE RESIDENTIAL DISTRICTS. In the AR, RR, and UR Districts, the following signs shall be permitted:

1. One non-illuminated professional or nameplate sign not more than 4 X 4 feet in area.
2. One non-illuminated temporary sign pertaining to the lease or sale of the premises upon which it is placed, not to exceed eight (8) square feet in total area.
3. One subdivision sign in subdivision developments is permitted.
4. A sign or signs aggregating not more than twelve (12) square feet for parking uses permitted by Article XI, or which are deemed necessary to the public welfare by the Governing Body.
5. Customary farm and farm crop signs.
6. No signs permitted in the Residential Districts shall be erected nearer any street or road than 15 feet from the edge of the roadway.
7. Signboards and Billboards are not permitted in the AR District.

Any non-conforming signs or billboards may be maintained until such time as the structure, frame or supports must be repaired, replaced, altered or moved. At such time the sign or billboard shall comply with all provisions of this ordinance.

12.2. SIGNS IN THE BUSINESS DISTRICTS. In the CB District, no sign shall be permitted that does not pertain to the business conducted on the property. Such sign may only be erected providing all of the following requirements are met:

1. No sign shall be lighted by flashing or intermittent illumination. All light sources except for diffuse lighting within translucent signs used for the illumination of signs, business building or areas surrounding them shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business properties and adjoining properties.

2. No sign shall be nearer than fifty (50) feet from the center of the road, nor obstruct vision of traffic, including egress and ingress, causing a hazard.

12.3. PENNANTS AND BANNERS. Temporary pennants, flags or banners may be permitted in the CB district for a period of not more than thirty (30) days without a permit provided that they are kept in a state of good repair.

ARTICLE XIII – SITE PLAN REVIEW

The intent of this article is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the objectives of the applicant may be accomplished in the utilization of the land which is the subject of the site plan within regulations of this Ordinance and with minimum adverse effect on the use of adjacent streets and highways and existing and future uses and environment in the immediate area and vicinity.

13.1. SITE PLAN REQUIRED.

1. The Zoning Administrator shall not issue a Zoning Permit for any principal use until a site plan has been reviewed and approved by the Planning Commission under the following circumstances:
 - A. Uses in the CB District.
 - B. Special Land Uses in any district.
 - C. Expansions, alterations and additions Special Land Uses allowed by this Ordinance.
 - D. As otherwise might be required by this Ordinance.
2. All plans not reviewed by the Planning Commission shall be reviewed by the Zoning Administrator who shall ensure that the site plan is in conformance with this Ordinance.
3. Review of a site plan for a Planned Unit Development is also required in accordance with the procedures noted in this Ordinance.

13.2. APPLICATION PROCEDURES. Request for site plan review shall be made at least fifteen (15) days prior to the next Planning Commission and or Zoning Administrator meeting

1. An application for Site Plan Review, plus at least ten (10) copies of a Site Plan, consisting of the following:
 - A. A completed application form, as provided by the Township.
 - B. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board.
 - C. A legal description of the subject property.
 - D. Ten (10) copies of the Site Plan, which shall include and illustrate at a minimum the following information, unless waived by the Zoning Administrator as clearly inapplicable to the site under consideration:
 - 1) Small scale sketch of properties, streets and use of land within one-half (1/2) mile of the area.
 - 2) A Site Plan at a scale of not more than one (1) inch equals one hundred (100) feet showing any existing or proposed arrangement of:

- (a) Existing adjacent streets and proposed streets.
 - (b) Lots.
 - (c) Parking lots and access points.
 - (d) Proposed buffer strips or screening.
 - (e) Natural features including, but not limited to, open space, stands of trees, brooks, ponds, hills and similar natural assets both on the subject property and within one hundred (100) feet of the property lines.
 - (f) Location of any signs not attached to the building.
 - (g) Existing and proposed buildings.
 - (h) General topographical features including contour intervals no greater than two (2) feet.
- 3) A narrative describing:
- (a) The overall objectives of the proposed development.
 - (b) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives and open spaces.
 - (c) Dwelling unit densities by type, if applicable.
 - (d) Proposed method of providing sewer and water service as well as other public and private utilities.
 - (e) Proposed method of providing storm drainage.

13.3. ACTION ON APPLICATION AND SITE PLANS.

1. Upon receipt of the completed application and plans, the Zoning Administrator shall record the date of their receipt and transmit one copy to each Planning Commissioner; one (1) copy to the Fire Department when necessary, one (1) copy to other area review agencies when applicable and retain one (1) copy in the Township offices.
2. A meeting shall be scheduled by the Chairman of the Planning Commission for a review of the application, plans, and of the recommendation of the Township Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. The hearing shall be held within forty-five (45) days of the date of the receipt of the plans and completed application.
3. The applicant and adjoining property owners to the subject property shall be notified of the date, time and place of the hearing on the application not less than three (3) days prior to such date.
4. The Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in

this ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons and delivered to the applicant. Decisions by the Planning Commission and Zoning Administrator shall be made within one hundred (100) days of the receipt of the completed application.

13.4. SITE PLAN REVIEW STANDARDS. In the process of reviewing a site plan, the Planning Commission shall consider the following:

1. The uses proposed will not harm the public health, safety or welfare. All elements of the site plan shall be designed to take into account the site's topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. Safe, convenient, uncontested and well-defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.
3. The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets in the area.
4. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
5. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or nearby bodies of water. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.
6. All buildings or groups of buildings shall be arranged to permit necessary emergency vehicles access as required by the Fire Department and Sheriff's Department.
7. All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened from the view of the street and/or adjacent properties.
8. Exterior lighting shall be arranged so that is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted. All

lighting shall conform to Section 9.27 of this Ordinance.

9. Off-Street parking and loading areas where required with particular attention to noise, glare and odor effects of each use in the plan on adjoining properties and properties in the proposed development, pursuant to Article XI of this Ordinance.
10. The general purposes and spirit of this Ordinance and the Master Plan of the Township.

13.5. APPROVED SITE PLANS.

1. Upon approval of the Site Plan, the Chairman or Secretary of the Planning Commission shall sign and date three (3) copies thereof. One (1) signed copy shall be made a part of the Commission's files; one (1) copy shall be forwarded to the Zoning Administrator for issuance of a Zoning Permit; and one (1) copy shall be returned to the applicant.
2. Time limits on site plans:
 - A. Each development shall be substantially under construction within one (1) year after the date of approval of each Final Site Plan by the Planning Commission.
 - B. The Planning Commission may grant one six (6) month extension provided the applicant applies for such an extension prior to the date of expiration of the site plan.

13.6. AMENDMENT TO THE SITE PLAN: No changes shall be made to an approved Site Plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures;

1. Minor changes to an approved Site Plan involving changes in the location of buildings and structures, adjustment of utilities, walkways, trafficway, landscaping and building size up to ten (10) percent of the approved area, parking areas, and similar minor changes may be approved by the Zoning Administrator. The Zoning Administrator shall report all administratively approved changes of a site plan to the Planning Commission at their next regularly scheduled meeting.
2. Major changes or amendments to an approved Site Plan involving change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, relocation of more than 10% of a building, and increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed, and approved.

13.7. APPEALS: With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administration decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by

any officer, department, board, or bureau of the Township, County, or State. The Zoning Board of Appeals shall state the grounds of each determination.

13.8. PERFORMANCE GUARANTEES. A cash deposit, certified check, irrevocable bank letter or credit or surety bond may be required by the Township to insure the complete construction of structures and the development of the land are as proposed and approved and for which a Zoning Permit is required. Such performance guarantee may be up to an amount equal to the estimate cost of the site improvements and may be reduced in proportion to the amount of work accomplished and accepted by the Township.

ARTICLE XIV – SPECIAL LAND USES

14.1. PURPOSE AND INTENT. Special land uses are those of land which are not essentially incompatible with uses permitted in a district but possess characteristics or locational qualities which require individual review and discretion in order to ensure compatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The criteria for decision and requirements provided for under the provisions of the Article shall be in addition to those required elsewhere in this Ordinance which is applicable to the special land use under consideration.

14.2. APPLICATION

1. An application for permission to establish a special land use shall be submitted in accordance with the following procedures:
 - A. Applications for a special land use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit it to the Planning Commission. Applications not meeting the requirements shall be returned to the applicant for completion.
 - B. An application for a Special Land Use approval shall consist of the following:
 - 1) Ten (10) copies of a Site Plan meeting the requirements of Article XIII
 - 2) A completed application form as provided by the Township.
 - 3) Payment of a fee, in accordance with a fee schedule as determined by the Township Board.
 - 4) A legal description of the subject property.
 - 5) A statement with regard to compliance with the criteria required for approval in Section 14.4 and other criteria imposed by this Ordinance affecting the special land use under consideration.
 - 6) Other materials as may be required by the Planning Commission.
 - C. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this section if such materials are determined to be not applicable to the application.

14.3. REVIEW PROCEDURES.

1. A complete application for special land use approval shall be submitted not less than thirty (30) days prior to the date on which the Planning Commission shall first consider it. The Zoning Administrator shall

determine whether the application is complete and, if it is determined to be complete, shall schedule a public hearing.

2. After the public hearing and upon review of the merits of the special land use application, the Planning Commission may deny, approve, or approve with conditions the special land use application. The Planning Commission's decision shall be incorporated in a motion containing conclusions reached relative to the proposed special land use which specifies the basis for the decision and any conditions imposed.
3. In arriving at its decision, the Planning Commission shall refer to and be guided by those standards set forth in this Ordinance. If the facts regarding the special land use meet the standards and requirements set forth in this Ordinance, the Planning Commission shall approve the Special Land Use application.
4. The Planning Commission may require additional conditions deemed necessary for the protection of the general welfare, individual property rights, and to ensure that the purposes of this Ordinance are met.
5. A request for approval of a special land use application which is in compliance with all the standards of this Ordinance, other applicable ordinances, and state and federal statutes shall be approved.

14.4. BASIS OF DETERMINATION.

1. The Planning Commission shall review the application under consideration and shall only approve a special land use upon a finding of compliance with all of the following standards, as well as applicable standards established elsewhere in this Ordinance:
 - A. The Special Land Use shall be designed, constructed, operated and maintained in a manner harmonious with the character of the surrounding property and the surrounding area.
 - B. The Special Land Use shall not change the essential character of the surrounding area.
 - C. The Special Land Use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations or the excessive production of traffic, noise, smoke, fumes or glare.
 - D. The Special Land Use shall not place demands on public services and facilities in excess of current capacity.
2. The Planning Commission may impose conditions with the approval of a special land use which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special land use application and shall be enforced by the Zoning Administrator.

3. If, after establishment of the special land use, the approved use is found not to be in compliance with the approval granted by the Planning Commission, said use shall have sixty (60) days to correct any problems as determined by the Planning Commission. If infractions are not corrected within sixty (60) days, the provisions of Section 14.6 shall be initiated.

14.5. APPROVAL TERM AND EXPIRATION.

1. A Special Land Use approval shall be valid for one (1) year from the date of approval unless approval is revoked as provided in Section 14.6 or the special land use has been initiated or construction necessary for such use has been initiated and is proceeding meaningfully toward completion, in which case the approval shall remain valid.
2. If, by the end of this one (1) year period the special land use has not been initiated or construction necessary for such use has not been initiated or if construction has been initiated but is not proceeding meaningfully toward completion, then the special land use shall be deemed expired and no longer valid.
3. A special land use approval including conditions imposed is attached to and shall run with the land for which the approval is granted and shall be binding upon subsequent owners and all occupants of the subject land.
4. Reapplication for approval of an expired Special Land Use approval shall be considered in the same manner as the original application.

14.6. REVOCATION OF SPECIAL LAND USE APPROVAL. The Planning Commission may revoke any Special Land Use approval or take any other action allowed by law if the applicant fails to comply with any of the applicable requirements in this Article, any conditions placed on the approval by the Planning Commission or any other applicable provisions of this Ordinance. Prior to revoking a special land use approval, the Planning Commission shall conduct a Public Hearing and give notice of such hearing in accordance with Section 15.2.

14.7. EXISTING SPECIAL LAND USES. Special land uses approved by the Township prior to the adoption of this Zoning Ordinance may continue this status provided the rules; regulations; requirements and conditions of the special exception are met.

14.8. ADULT USES

1. The purpose and intent of this Section is to deal with the regulation of Adult Uses and to regulate the location and operation of, but not to exclude, Adult Uses within the Township, by preventing the concentration of such uses in close proximity to one another and to minimize the negative secondary effects associated with them by separating such uses from residential, educational and religious uses, as well as other areas of public and private congregation, all within the limits of the Township's authority.

This regulation is implemented with the understanding and recognition that there are some uses which, because of their very nature, have serious

objectionable operational characteristics which cause negative secondary effects such as urban blight, reduction in property values, increased crime, upon nearby residential, educational, religious and other similar public and private uses. This has been demonstrated in previous studies undertaken by communities in Michigan as well as other states.

The implementation of appropriate regulations is necessary to insure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be injurious to the health, safety and general welfare of Township residents. The provisions of this Ordinance are not intended to impose a limitation or restriction on the content of any communicative material, including sexually oriented materials, protected by the First Amendment to the United States Constitution. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials, but to regulate land uses associated with such distribution or dissemination in a manner designed, within the limits of the United States Constitution and judicial opinions interpreting its breadth and scope, to insure that the health, safety and general welfare of the citizens of Barton Township are appropriately protected from any negative secondary effects associated therewith.

If any section, subsection, subdivision, sentence, clause, phrase or word of the Amendments reflected herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. In such event, to the extent feasible, any such section, subsection, subdivision, sentence, clause, phrase or word held to be invalid or unconstitutional shall be disregarded, reduced and/or revised so as to be recognized to the fullest extent permitted by law. Through the enactment hereof, the Township Board declares that it would have passed and adopted this Section and all provisions thereof, irrespective of the fact that one or more provisions may be declared invalid or unconstitutional.

2. Adult Uses as defined herein will be allowed in the CB District as a listed special land use, subject to all the provisions of this Article.
3. In addition to the standard requirements of information requested of all uses under Special Land Uses and Site Plan Review, Adult Uses will be required to provide additional information as follows;
 - A. A statement of supporting evidence demonstrating compliance with the requirements of this Section on a paragraph by paragraph basis.
 - B. The site plan consistent with the requirements of Article XIII showing the location of all abutting streets, the location of all existing and

- proposed structures and their uses, the location and extent of all above ground development, both existing and proposed on the site, site lighting, proposed signage, and exterior elevations of the proposed Adult Use depicting it, to the extent feasible, in what will become its "as-built" condition, all in legible form.
- C. Final building floor plans and specifications of the proposed development.
 - D. A description of the proposed use, including references to definitions within this Section.
 - E. An area map, in a scale (no larger than 1" = 200'), depicting and describing all land uses situated within 500 feet of the boundaries of the property upon which the proposed Adult Use is to be located.
4. In reviewing an application for an Adult Uses, the Planning Commission shall determine whether the following specific requirements have been met:
- A. The proposed Adult Use will not be located within 500 feet of any residence, park, and school, child care establishment, place of worship or any other Adult Use. For purposes of this paragraph, the distance between a proposed Adult Use and any of the above listed uses, shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line upon which the proposed Adult Use is to be located to the above listed uses, regardless of the political jurisdiction.
 - B. The proposed Adult Use will not have a detrimental impact upon the property values of properties located within 500 feet of such proposed Adult Use.
 - C. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms to the requirements of Article XII. Proposed signage may contain only the name of the Adult Use and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
 - D. Entrances to the proposed Adult Use will be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than two inches in height that (a) "No one under the age of eighteen is 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.
 - E. No product or service for sale or gift, or any picture or other representation thereof, shall be displayed so as to be visible from the street or exterior of the building.
 - F. Hours of operation shall be limited to 8:00 a.m. to 12:00 a.m. (midnight).

- G. Persons operating an Adult Use shall not permit any person under the age of 18 years to be on the premises either as an employee or as a customer.
- I. Total nudity of service persons, wait-staff, performers, dancers, entertainers or others, whether employees of the adult use or contractors, shall be prohibited.
- J. All off-street parking areas shall be illuminated during all hours of operation in accordance with this Ordinance and shall otherwise be open to view from the adjacent roadway.
- K. The proposed Adult Use owner/operator shall have provided an exterior maintenance program to the Zoning Administrator, together with its special land use application, which program shall provide for routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once per week. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this Section.
- L. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Enclosed viewing booths shall not be permitted. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- M. The premises shall meet all barrier free requirements and building code requirements applicable in the Township.
- N. The number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of floor area, exclusive of restrooms, dance floor, administrative areas, hallways and other non-customer areas.
- O. The applicant shall provide an overall management plan for the facility including explicit rules to prohibit total nudity and to prevent any physical contact between performers, dancers or entertainers and the establishment patrons. Other rules shall include, but not be limited to, hours of operation which shall not be greater than 8:00 a.m. to 12:00 a.m, prohibition of alcoholic beverages, unless specifically licensed therefore by appropriate authority, and other rules that may be imposed by the Planning Commission. Failure to abide by any such approved rules of operation shall be grounds for revocation of special land use approval.

- P. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from Adult Uses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.

14.9. DAY CARE, GROUP (7-12 CHILDREN)

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. Building and lot shall conform to the yard, setback and height standards of the zoning district in which it is located.
 - B. All required state and local licensing shall be maintained at all times.
 - C. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home; consisting of a minimum 6-foot high privacy fence along the area adjoining another residence, and a minimum 4-foot high fence in the remaining area.
 - D. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
 - E. Such facilities shall be located at least 1,500 feet from any one of the following:
 - 1) A licensed or pre-existing operating group day-care home.
 - 2) An adult care small group home (1-12 adults).
 - 3) An adult foster care large group home (13-20 adults).
 - 4) A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - 5) A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
 - F. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 - G. Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening

operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.

14.10. DRIVE THROUGH BUSINESS

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. All automobile queuing for a drive-through window shall be separated from other on-site traffic patterns.
 - B. Pedestrian areas shall be clearly marked.
 - C. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a recreation-vehicle trailer.
 - D. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
 - E. Any commercial establishment with a drive-through facility which adjoins a property zoned or used for residential purposes shall be effectively screened from view from such property.

14.11. DWELLING, MULTIPLE FAMILY

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. Parking areas intended for the use of residents of Multiple Unit Dwellings shall be located within two hundred (200) feet of the building.
 - B. Dwelling units shall not be located on the street level or basement except in those locations where resident privacy can be provided by building design, courtyards, topography or similar design; such as daylight or walkout dwelling units along the riverfront or into a secured and private side or rear yard.
 - C. No multiple unit structure shall be located closer than twenty (20) feet from any other multiple unit structure located on the same lot.
 - D. Groups of Multiple Unit Dwellings located on one lot shall have common ownership. For the purposes of this paragraph, a condominium unit shall be considered a single lot.
 - E. Safe pedestrian and vehicular circulation patterns shall be established in group building developments, as determined by the Planning Commission.

14.12. FARM PRODUCT PROCESSING FACILITY

1. The following requirements together with any other applicable

requirements of this Ordinance shall be complied with:

- A. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
- B. The applicant shall demonstrate that the proposed use does not significantly affect traffic circulation and transportation safety in the area in which it is proposed.
 - 1) Such processing facilities which are regulated at the state or national level shall provide verification that such use and facilities conform to all applicable laws and regulations.
 - 2) The Township shall be provided copies of all required permits from any local, state, or federal agency. It shall be the applicant's responsibility to ensure that permits do not expire without renewal.
 - 3) Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels shall be carried onto adjoining property zoned for, or occupied by, residential uses.
 - 4) Such facilities shall be located and designed to minimize potential odor or fumes that may be carried onto adjacent properties.

14.13. GOLF COURSE

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. The design and layout of a golf course shall be configured to prevent stray golf shots from traveling off 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.
 - B. All off-street parking shall be in compliance with Article XI of this Ordinance, to provide for adequate parking for banquets, weddings, golf tournaments, conferences, etc.
 - C. Any accessory uses and buildings associated with the Golf Course, and any buildings on the site shall conform to setback and dimensional requirements of the RR District.
 - D. A new golf course development shall include stormwater management facilities satisfactory to the Newaygo County Drain Commissioner, Township Engineer and the Michigan Department of Environmental Quality intended to prevent the runoff of stormwater carrying excess concentrations of fertilizer or nutrients from entering natural streams.

14.14. MANUFACTURED HOUSING COMMUNITY

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. The area of the proposed site shall be at least ten (10) acres.

- B. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
- C. The site shall be located with direct access to a paved primary county road.

14.15. MINE, SAND AND GRAVEL

- 1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:

- A. Site Plan Requirements: In addition to the regular application for a Special Land Use Permit and payment of fees, the application shall be accompanied by a Site Plan. In addition to the requirements of Article XIII, the site plan shall include the following information:

- 1) Name and address of owner(s) of land which removal will take place.
- 2) Name, address and telephone number of person, firm, or corporation who will be conducting the actual removal operation.
- 3) A plan for extraction and reclamation for the total project which shall include:
 - (a) Surface overburden and topsoil stripping and stockpiling plans.
 - (b) Provisions for grading, re-vegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
- 4) Surface water drainage provisions and outlets.

- B. Rehabilitation: All extraction areas shall be rehabilitated progressively as they are worked out. Rehabilitated sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of five (5) feet shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration.

- C. Site Development Requirements:

- 1) Setbacks are required as follows:
 - (a) Excavation below the existing grade of adjacent roads or property lines shall not take place within twenty-five (25) feet from any adjacent property line or road right-of-way.
 - (b) No machinery will be erected or maintained within one-hundred (100) feet of any property or road right-of-way line.
- 2) If fencing is deemed a necessary requirement of the special land use permit, the Planning Commission shall specify the type and location of the required fencing.

- 3) Interior access roads, parking lots, haul road, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind blown dust.

- 4) No hours of operation on Sundays or the following holidays:
 - (a) New Year's Day - January 1st
 - (b) Memorial Day – Last Monday of May
 - (c) Independence Day – July 4th
 - (d) Labor Day – First Monday in September
 - (e) Thanksgiving Day – Fourth Thursday in November
 - (f) Christmas Day – December 25th

- D. Failure to maintain all required State or Federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the special use permit may result in the immediate revocation of said permit and any and all other sanctions and/or penalties available to the Township.

- E. Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.

- F. Financial Guarantees: A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the Township Treasurer. The performance guarantee shall be in the form of an irrevocable bank letter of credit, a certified check or cash. The amount of a financial guarantee filed with the Township may be one-half (1/2) the total amount required, if approved by the Planning Commission. The financial guarantee shall be returned when all conditions stipulated in the Special Land Use Permit shall have been complied with and the Special Land Use Permit revoked prior to its release. There shall be no partial release of the financial guarantee.

- G. Issuance of a Special Land Use Permit: Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment,

termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the special land use permit may be transferred.

- H. Permit Expiration: If approval for a special land use permit is granted by the Planning Commission it shall be for a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.
- I. Modification of the Site Plan: This Site Plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. The Planning Commission may require the modification of the Site Plan when:
 - 1) Modification of the plan is necessary so that it will conform to the existing laws.
 - 2) It is found that the previously approved plan is clearly impractical to implement and maintain.
 - 3) The approved plan is obviously not accomplishing the intent of the Ordinance.

14.16. MINI / SELF-STORAGE FACILITY

- 2. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - D. The area of the proposed site shall be at least one (1) acre.
 - E. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
 - F. All storage shall be inside an enclosed building. No outdoor storage is allowed.
 - G. The cumulative area of the storage building(s) areas shall not exceed 50% of the area of the lot on which it is located.
 - H. Parking shall be provided as needed for the office uses as provided in Article XI
 - I. All aisles shall be forty at least (40) feet in width.

14.17. PLACE OF PUBLIC ASSEMBLY

- 1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:

- A. A place of public assembly shall be located so as to have its primary access directly onto a primary road, as defined in this ordinance.
- B. A place of public assembly shall be located on a lot of land with a minimum area of five (5) acres. Provided, however, that such facility shall meet the maximum lot coverage requirements of this ordinance.

14.18. PLANNED UNIT DEVELOPMENT

1. It is the purpose of this section to permit in the Township flexibility in the regulation of land development, and to encourage innovation and variety in land use and design of projects of sufficient size to be considered self-contained, to the extent the projects are physically and visually separated from other land uses in the immediate vicinity, are not an integral part of other already developed or committed land uses, and will not have any adverse economic, social, or environmental impact on surrounding land uses. Planned Unit Developments may be located anywhere in the Township upon the issuance of special land use approval by the Planning Commission.

Planned Unit Developments are also subject to Site Plan Review provisions of Article XIII of this Ordinance.

2. OBJECTIVES: Planned unit developments in accordance with this section are intended:
 - A. To permit flexibility in the regulation of land development.
 - B. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
 - C. To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities.
 - D. To encourage useful open space; to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the residents of the State and Township.
 - E. To encourage the innovative use, re-use, and improvement of existing sites and buildings.
3. Planned unit developments shall meet the following general standards:
 - A. The use will be compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is consistent with the public health, safety and welfare of Barton Township residents and the benefits of the development are not achievable under any single zoning classification.
 - B. The use shall be consistent with the Barton Township Master Map as set forth in this section.
 - C. The use and development is warranted by the design and additional amenities made possible with and incorporated by the development proposal.

- D. The development consolidates and maximizes usable open space.
 - E. Landscaping is provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.
 - F. Vehicular and pedestrian circulation, allowing, safe convenient, non-congested and well-defined circulation within and access to the development shall be provided.
 - G. Existing important natural, historical and architectural features within the development shall be preserved.
4. DIMENSIONAL & USE RESTRICTIONS: In acting upon the application, the Planning Commission may alter lot size limits, required facilities, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are consistent with the intent, objectives, and standards set forth in this Section.

The Planning Commission may also authorize principal and other uses not permitted in the district where the land is located, provided that such are consistent with the intent of this section, the standards set forth herein. Dimensional and parking use restrictions of the underlying zoning shall not apply to the area within an approved PUD unless expressly retained in the permit.

5. PUD APPLICATION: A planned unit development application shall be submitted to the Township Planning Commission for review, analysis, and hearing process. An application fee as established by the Township Board is required and shall be non-refundable. All land for which application is made must be owned by the applicant and the parcel must be capable of being planned and developed as one integral land use unit. The application must be signed by all applicants and must contain the materials described in this Section.
- A. Developer's intent and objectives (physical, social and environmental)
 - B. A certified boundary survey and legal description of the property.
 - C. A statement of present ownership of all land contained in the PUD.
 - D. A population profile for the development.
 - E. Proposed financing.
 - F. Development staging.
 - G. Soil types and ability of soils to accommodate the proposed development.
 - H. Estimated impact of the proposed development on roads, schools, and utilities, including water and sewer, fire protection and emergency

services.

- I. Estimated impact of the proposed development on the environment which includes;
 - 1) A written assessment and analysis of the proposed development regarding the water, air and natural features.
 - 2) Any adverse environmental effects which cannot be avoided if the proposal is implemented.
 - 3) Mitigation measures proposed to minimize the impact.
 - 4) Any irreversible environmental changes which would be involved in the proposed action should it be implemented.
- J. Waste emissions and methods of handling smoke, dust, noise, odors, liquids, solids and vibrations, if applicable.
- K. Market and economic feasibility.
- L. Such other information pertinent to the development or use.
- M. Ten copies of a Preliminary Site Plan, that includes;
 - 1) A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, a certified boundary survey and legal description of the property.
 - 2) Property parcel number (from the Assessment Roll of the Township).
 - 3) Topography of the site at two (2) foot contour intervals, its relationship to adjoining land, and proposed changes in topography.
 - 4) Itemization of existing man-made features, existing land use and zoning for the entire site and surrounding area within one hundred (100) feet.
 - 5) Show all water features; springs, streams and creeks, lakes and ponds, wetlands, flood plains.
 - 6) Proposed setbacks from property lines and building separations distances.
 - 7) Locations, heights and sizes of structures and other important features.
 - 8) A rendering of the exterior elevation of the buildings and structures.
 - 9) A land use tabulation summary shall be provided in the margin of the plan indicating types of uses, acreage for each land use, number of units, densities and land use intensities.
 - 10) Also include percentage of land covered by buildings, parking and landscape open space, or reserved for open space.

- 11) Dwelling unit density where pertinent.
- 12) Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
- 13) Curb-cuts, driving lanes, parking and loading areas.
- 14) Location and type of drainage, sanitary sewers, storm sewers and other facilities.
- 15) Location and nature of fences, landscaping and screening. Also show proposed landscape massing, open spaces and their intended use and active and passive recreation facilities.
- 16) Proposed earth changes.
- 17) Signs and on-site illumination.
- 18) The location of all existing trees having five (5) inches or greater diameter breast height, identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. Cluster of trees standing in closed proximity (3-5 feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number and average size shall be indicated.
- 19) Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Planning Commission.

6. PROCEDURE:

- A. A public hearing by the Township Planning Commission shall be held on each planned unit development request properly filed under the terms of this ordinance. Notice of the public hearing shall be given as required by Section 15.2 of this Ordinance.
- B. The notice of the public hearing shall contain the following:
 - 1) Description of the nature of the planned unit development request.
 - 2) Description of the property which is the subject of the planned unit development.
 - 3) Time and place of consideration of and public hearing on the planned unit development request.
 - 4) When and where written comments will be received concerning the request.

7. DECISIONS: If the Planning Commission determines that the PUD application is consistent with the intent of the ordinance as expressed above and with the other standards and requirements herein contained, it shall recommend its findings to the Township, which shall, following a

public hearing with notice given as required by Section 15.2 of this Ordinance, then make a final decision to enter an order authorizing development and use in accordance with the application and material submitted, modified as the Planning Commission may consider necessary to carry out the intent and standards of this ordinance and containing any lawful conditions or restrictions which the Planning Commission may consider necessary to carry out the purposes of this ordinance and to protect the public health, safety and welfare. The decision of the Planning Commission shall be a discretionary decision. The order shall recite the findings of fact and the reasons upon which it is based. Said order, findings, conditions of approval and other requirements of the Planning Commission, may be set forth in a Development Agreement prepared by the Township Attorney and the completion and execution of said Development Agreement shall be accomplished prior to the issuance of a land use permit.

8. **EFFECT:** After approval of a planned unit development, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the planned unit development or only as authorized by the provisions of this Ordinance which would apply if the planned unit development order had not been issued.
9. **PHASED PUDS:** Each phase of a PUD shall be planned, developed and approved to exist as a complete development able to stand on its own in the event subsequent phases are not implemented.
10. **AMENDMENTS:** An order approving a planned unit development may be amended as follows:
 - A. **Minor amendments.** Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Zoning Administrator provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the PUD, reduce usable open space, or encroach on natural features proposed by the plan to be protected.
 - B. **Major amendments.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Township Board of Trustees according to the procedures authorized by this section for approval of a planned unit development.
11. **TERMINATION:** The PUD order shall expire two years from date of final approval if the applicant has not commenced substantial construction and is diligently proceeding to completion. Upon written request stating the reasons therefore, and with a positive recommendation from the Planning Commission, the Township Board may extend an order. An order may be

canceled by written agreement executed by the owner of the land to which it pertains and the Zoning Administrator at any time when the development and use of the land is in conformance with all provisions of this ordinance which would apply if such order had not been issued. The order may be rescinded at any time by the Planning Commission notice to the current owners and occupiers of the PUD area and after a hearing on the violation. Upon termination of an order the zoning requirements shall revert to the current requirements for the zoning district designated for the property prior to the order.

12. ORDINANCE AMENDMENT: A planned unit development approval shall not be considered an amendment to this Ordinance.

14.19. SAWMILL

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. Planning Commission may require that outside storage area shall be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent.
 - B. The applicant shall comply with the requirements of the Fire Department to incorporate provision to minimize fire risks on the site.
 - C. The Planning Commission may stipulate hours of operation.
 - D. Appropriate measures shall be incorporated in the proposed site plan to mitigate fugitive saw dust.
 - E. The Planning Commission may establish shipping and transport routes for trucks serving the facility to limit truck traffic on surrounding roads to those best suited, in the judgment of the Planning Commission and the Newaygo County Road Commission, to accommodate such traffic.
 - F. All parking areas and truck maneuvering areas shall be treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
 - G. Activities shall not generate noise exceeding 60 decibels for more than 4 hours in a 24 hour period at any property line.

14.20. WAREHOUSE

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. All local, county, state and federal laws, rules and regulations pertaining to the emission of odor, dust, smoke, gas, noise, vibration and the like, shall be met at all times during operation of any Public Warehouse.
 - B. All exterior lighting shall be in accordance with Section 9.27 hereof.

- C. The applicant shall disclose the nature of any perishable, flammable, toxic, or hazardous substances to be stored on the facility and the nature of all appropriate and proposed protection procedures and devices.
- D. No processing or manufacturing shall take place within a warehouse.
- E. All parking areas and truck maneuvering areas shall be treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
- F. No material shall be stored outdoors except within areas effectively screened from view from adjoining properties and rights-of-way.
- G. No trucks, trailers or other equipment shall be stored in the front yard or closer than ten (10) feet to any side or rear lot line.

14.21. WELL, EXTRACTION

1. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
 - A. All extraction wells shall be established, operated and maintained in conformity with all state and federal statutes and regulations pertaining thereto.
 - B. No new extraction well shall be located nearer than three hundred (300) feet from an adjoining property line, unless such adjoining property shall contain an existing extraction well.
 - C. A new extraction well shall be considered a principal use, regardless of other activities carried out on the site.
 - D. An existing extraction well may be reworked, deepened or otherwise operated as an existing use without reference to this section, whether it is currently working or not; provided all State and Federal statutes and regulations are fully met.
 - E. A new extraction well site shall be completely fenced to prohibit unauthorized entry at all times.
 - F. A new extraction well shall include measures or controls satisfactory to the Planning Commission to minimize any objectionable dust, fumes, or odors at any property line.
 - G. Height limitations for the zoning district in which the extraction well is located shall apply to drilling equipment, unless specifically waived by the Planning Commission. In considering a request for such a waiver, the Planning Commission may require site improvements, screening, increased setbacks or other measures to mitigate the imposing nature of tall structures.
 - H. A new extraction well shall include measures or controls satisfactory to the Newaygo County Engineer and Newaygo County Drain Commissioner to prevent excessive runoff or discharge to any natural

or man-made stream or lake. There shall be no off-site discharge of storm water except to an approved drainage system in accord with the Township's engineering requirements.

- I. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.

14.22. WIND ENERGY SYSTEM

1. A Wind Energy System shall be located on a parcel at least two and one-half (2-1/2) acres in size.
2. In addition to the special use application, the applicant shall submit an evaluation of the likely impacts of the proposed facility in the following areas:
 - A. Noise and vibration at any property line,
 - B. Potential impacts on wildlife, including native and migrating birds,
 - C. Shadow and glare impacts on adjacent properties, and
 - D. Aesthetic impacts of the Wind Energy System on adjoining properties.
3. The applicant shall also submit an appropriately scaled site plan, illustrating the following:
 - A. Property lines, dimensions, acreage, and contours with appropriate intervals for site evaluation,
 - B. Location and elevation of the proposed Wind Energy System,
 - C. Location and dimensions of all existing structures and uses on the lot within 300 feet of the system,
 - D. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed Wind Energy System,
 - E. Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the Wind Energy System location,
 - F. Standard drawings of the structural components of the Wind Energy System, including structures, tower, base, and footings. A registered engineer shall certify drawings and any necessary calculations that the system complies with all applicable local, state, and federal building, structural and electrical codes,
 - G. Evidence from a qualified individual that the site is feasible for a Wind Energy System,
 - H. Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site,

- I. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five (85) miles per hour, and
 - J. Registered Engineer's certification that if the Wind Energy System were to fall, no building or structure – existing or potential – would be damaged.
4. Setbacks.
 - A. Wind Energy Systems shall maintain a minimum setback of two (2) times the total height of the Wind Energy System from any property line.
 - B. Wind Energy Systems shall maintain a minimum setback of at least two (2) times the Wind Energy System height from the right-of-way line of any public road or highway.
 - C. In all cases the Wind Energy Systems shall maintain a minimum distance of at least 1.25 times the Wind Energy Systems height from any dwelling.
 5. Dimensions.
 - A. Wind Energy Systems shall not exceed a total height of one hundred fifty (150) feet unless the parcel on which the Wind Energy Systems is to be located is ten (10) acres or larger, in which case the maximum total height may be two hundred (200) feet. Such total height shall include both support structure and the highest elevation of the windmill rotor.
 - B. In all cases the minimum height of the lowest position of the Wind Energy System's blade shall be at least thirty (30) feet above the ground.
 6. Siting and Design Standards.
 - A. Wind Energy Systems shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
 - B. Colors and surface treatment of the Wind Energy Systems and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
 - C. Wind Energy Systems shall be equipped with air traffic warning lights, which adequately warn oncoming air traffic without being unreasonably obtrusive to neighboring properties.
 7. Safety Measures.
 - A. Each Wind Energy System shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

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- B. The Planning Commission shall determine the height, color, and type of fencing for Wind Energy System installation.
 - C. Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs, pursuant to paragraph 10 below.
 - D. Each Wind Energy System shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electrical Code.
8. Any Wind Energy System shall be equipped with anti-climbing devices. Tower climbing apparatus for authorized personnel shall not be located within twelve (12) feet of the ground. A locked, protective fence at least six (6) feet high shall enclose a tower capable of being climbed.
 9. The Wind Energy System operator shall maintain a current insurance policy which will cover installation and operation of the Wind Energy System. The amount of said policy shall be established as a condition of approval. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the Windmill can be successfully operated in the climatic conditions found in the Township. The Wind Energy System shall be warranted against any system failures reasonably expected in severe weather operation conditions, as a condition of approval.
 10. Wind Energy Systems shall include no sign or advertising of any kind, except for one sign, not to exceed two (2) square feet posted at the base of the tower, and said sign shall contain the following information:
 - A. "Warning: high voltage."
 - B. Manufacturer's name.
 - C. Operator's name.
 - D. Emergency phone number.
 - E. Emergency shutdown procedures.
 11. Wind Energy Systems shall be designed and constructed so as not to cause radio and television interference.
 12. If any Wind Energy System remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove said system at their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property. If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Zoning Administrator, the Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder.

14.23. WIRELESS COMMUNICATION ANTENNA

The following standards shall apply to all Wireless Communication Antenna:

1. The Telecommunications Act of 1996 as amended on February 6, 1996 sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of Communication Towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Communication Towers are hereby specifically determined neither to be essential services nor to be public utilities as such terms are used in this Ordinance. The intent of these provisions is to encourage users of towers to:
 - A. Protect land uses from potential adverse impacts of towers.
 - B. Place the location of new towers in non-residential-zoned areas.
 - C. Minimize the total number of towers throughout the community.
 - D. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - E. Locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - F. Configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 - G. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 - H. Consider the public health and safety of personal wireless service facilities.
 - I. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
 - J. In furtherance of these goals, the Township shall give due consideration to natural features, the Township Master Plan, zoning map, existing land uses, and other characteristics and policies of the Township in approving sites for the location of towers and antennas.
 - K. It is not the intent to regulate ham radio antennae under this section.
2. The following uses may be approved by the Zoning Administrator after conducting an administrative review:

- A. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new communication tower may be approved by the Zoning Administrator as a co-location or as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure, provided:
 - 1) The antenna does not extend more than ten (10) feet above the highest point of the structure;
 - 2) The antenna complies with all applicable FCC and FAA regulations;
 - 3) The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet, and
 - 4) The antenna complies with all applicable building codes.
 - B. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
3. Antenna Placement on Publicly-Owned Facilities. Communication Towers may be installed on publicly-owned facilities, and their accessory equipment and shelters may be installed on publicly-owned property, in any zoning district, with a lease approved by the Township Board, and subject to the requirements of the Site Plan Review provisions of Article XIII.
 4. Additional Information Required for Review. In addition to the requirements of Article XIII, Communication Tower applications shall include:
 - A. Name and address of the proposed operator of the site.
 - B. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
 - C. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
 - D. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 85 miles per hour. Such certification shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.
 - E. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

- F. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
 - G. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Barton Township, or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure. The Zoning Administrator may share such information with other applicants applying for approvals under this ordinance or other organizations seeking to locate antennas within the Township, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 - H. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
6. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.
7. General Provisions. Construction of Communication Towers including their accessory equipment is subject to the following provisions:
- A. A Communication Tower shall be considered a principal use and shall be placed on lots (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district.
 - B. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone and in no case less than 200 feet from any residence or 200 feet from a zoning district which does not permit Communication Towers as a Special Use.
 - C. All proposed towers of more than thirty-five (35) feet in height shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to Township approval. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this

ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- D. The tower and/or antenna shall be painted or screened so as to blend into the background.
 - E. The service building shall be aesthetically and architecturally compatible with buildings within three hundred feet of the property on which it is located.
 - F. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
 - G. Monopole tower design is preferred. If the applicant proposes to use a guyed or lattice tower, the applicant shall demonstrate why a monopole design cannot be used.
 - H. The Planning Commission may require landscape screening of the service building and fencing.
 - I. Signs; No signs shall be allowed on an antenna or tower, except for one sign of not more than two (2) square feet, listing the name, address and contact telephone number of the operator and not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing."
 - J. Towers shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device.
 - K. Applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.
 - L. Notwithstanding the provisions of this section, the maximum height for a Wireless Communication Tower shall be two hundred (200) feet.
 - M. Separation distances between proposed and pre-existing towers are as follows: monopole over 35 feet in height - 1,500 feet; lattice and guyed towers - 5,000 feet.
8. Removal of Abandoned Antennas and Towers. A Wireless Communication Tower that is unused for a period of twelve (12) months shall be removed at the owner's expense. The applicant or owner is

responsible for the removal of an unused tower. Failure to remove the wireless communication tower following reasonable notice shall be sufficient cause for the Township to remove the structure.

9. Bonds. The owner of a Wireless Communications Tower; including equipment/accessory buildings, shall post a bond with the Barton Township in an amount to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower in the event that the Wireless Communication Tower is abandoned, and the owner fails to dismantle and/or remove the same within 180 days. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the Planning Commission, and may be adjusted from time to time to reflect changing costs and expenses of dismantling and removing the facility.
10. Nonconforming Uses.
 - A. Pre-existing towers that do not meet the requirements of this section shall be allowed to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this Section.
 - B. Rebuilding Damaged or Destroyed Nonconforming Towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this Section.

ARTICLE XV – ADMINISTRATION AND ENFORCEMENT

15.1. ZONING ADMINISTRATION. For purposes of administering and enforcing this ordinance, the Zoning Administrator shall be the Chief Administrative Officer of the Township. The Zoning Administrator may appoint one or more individuals as his designee or designees to perform all or some of his duties under, and enforce the terms of, this ordinance. Such designee or designees shall have the same powers and authority as the Zoning Administrator to the extent necessary to carry out the designated duties and enforcement.

1. If the Zoning Administrator or his designees finds that any of the provisions of this ordinance are being violated, they shall notify in the person responsible for such violations, in person and/or in writing, indicating the nature of the violation and ordering the action necessary to correct it.
2. The Zoning Administrator shall order discontinuance of an illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; and discontinuance of any illegal work being done. The Zoning Administrator shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
3. The Zoning Administrator and his designees are authorized to issue civil infraction tickets for violations of this ordinance and to commence such other legal proceedings as may be necessary to enforce this ordinance.
4. The Zoning Administrator shall have the authority to grant certificates of zoning compliance, and to make inspections of buildings, structures or premises necessary to carry out their duties and the enforcement of this ordinance.
5. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits until such plans have been inspected in detail and found to be in compliance with this ordinance. To this end, the Zoning Administrator may require that every application for a permit for construction, moving, alteration, or change of use of any structure or building shall be accompanied by a written statement and plans or plats drawn to scale showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed work is in conformance with this ordinance and all other applicable ordinances, codes and laws.
 - A. The actual shape, location and dimensions of the lot. If the lot is not recorded with the County Registrar of Deeds, a recorded survey and legal description may be required to be provided, and a parcel identification number must be obtained.

- B. The shape, size, and location of all buildings and other structures to be erected, altered, or moved, and of any other buildings or other structures already on the lot.
 - C. The existing and intended use of the lot and of all structures and buildings upon it.
 - D. Such other information concerning the lot or adjoining lots or other matters as may be essential for determining whether the provisions of this ordinance are being observed.
 - E. Any other information required by other Sections of this ordinance or by otherwise applicable ordinances, codes or laws, if the applicant is seeking a building permit from the Zoning Administrator.
6. If the proposed construction, moving, alteration, or change of use set forth in the application is in conformity with the provisions of this ordinance, the Zoning Administrator shall issue a zoning compliance permit. If an application for such zoning compliance permit is not approved, the Zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.
 7. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents in situations where a basic clarification is desired prior to proceeding with further technical work; and the Zoning Administrator may on such preliminary submittal take the formal action of tentative denial or tentative approval.
 8. Issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this ordinance.
 9. The Zoning Administrator is under no circumstance permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to construct, move, alter, or use either buildings, structures, or land. The Zoning Administrator is under no circumstances permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out his duties.
 10. The Zoning Administrator shall not refuse to issue a zoning compliance permit when the applicant complies with conditions imposed by this ordinance. Violations of contracts between private parties such as covenants or private agreements, which may result upon the granting of said zoning compliance permit, are not cause for refusal to issue a zoning compliance permit.
 11. Where the Zoning Administrator has designated the Building Official as his designee under this section, for purposes of buildings and structures that are otherwise required under this ordinance or other ordinances or statutes to obtain a building permit, the building permit is deemed to include and serve for all purposes as a zoning compliance permit for such structure or building, and no additional application or review fee shall be

required beyond the fees charged for the building permit. For all other buildings and structures regulated under this ordinance, including, without limitation, accessory structures, all of the following shall be submitted to and reviewed by the Zoning Administrator in the manner set forth in this section for purposes of obtaining the required zoning compliance permit:

- A. An application for issuance of a zoning compliance permit on a form provided by the Zoning Administrator;
- B. The materials required under Section 15.1(5); and
- C. The payment of application and review fees in amounts to be determined by resolution of the Township Board of Trustees.

15.2. NOTICE OF PUBLIC HEARING. Except as stated otherwise in this ordinance, whenever a public hearing on a zoning application is required by this ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.

- 1. The notice shall be published once, at least 15 days before the date of public hearing, in a newspaper of general circulation in the Township.
- 2. For applications involving the rezoning of ten or fewer adjacent properties, for applications to the Zoning Board of Appeals involving a specific parcel of land, for all planned unit development and special land use applications, and for other applications as to which a public hearing is required under this ordinance or the Zoning Enabling Act, Act 110 of 2006, as amended, a notice of public hearing shall be given in the manner set forth in Section 103 (MCL 125.3103) of the Michigan Zoning Enabling Act, as amended.
 - A. The applicant and the owner of the subject property, if different from the applicant;
 - B. All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application regardless of whether the property or structure is in the Township;
 - C. One occupant of each dwelling unit or spatial area in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property regardless of whether the property or structure is in the Township; and
 - D. The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notices at the primary entrance of the building, but failure of such posting, shall not constitute a lack of notice to the owners or occupants of such dwelling units.
 - E. If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the

Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.

3. The notice of public hearing shall include the following information:
 - A. A description of the application or request.
 - B. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
 - C. The date and time when the application or request will be considered; the location of the public hearing.
 - D. The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.
 - E. Any other information required under the Zoning Enabling Act, Act 110 of 2006, as amended.

ARTICLE XVI – PLANNING COMMISSION

16.1. **PLANNING COMMISSION.** Barton Township has created a Planning Commission in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended.

16.2. MEMBERSHIP

1. The Planning Commission shall consist of five members. Members of the Commission shall be appointed by the Township Supervisor subject to approval by majority vote of the members of the Township Board elected and serving.
2. The term of each member shall be three years, and until a successor is appointed and qualified, except that any Township Board member appointed as a member of the Planning Commission shall have a term corresponding with that person's term as a member of the Township Board. The duration of the terms of members first appointed to the Commission shall vary, though no exceeding three years, so that terms will expire in different years. Vacancies in office shall be filled for the remainder of the unexpired term.
3. 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 local unit of government, in accordance with the major interests, as they exist in the local unit of government, 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 local unit of government to the extent practicable.
4. Members of the Planning Commission shall be qualified electors of the local unit of government, except that one Planning Commission member may be an individual who is not a qualified elector of the local unit of government.
5. 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. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the Township Board, by ordinance, defines conflict of interest for the purposes of this subsection, the Planning Commission shall do so in its bylaws.

16.3 OFFICERS

1. The Planning Commission shall elect a chairperson and secretary from its members and create and fill other offices, as it considers advisable. The Township Board member of the Planning Commission is not eligible to serve as chairperson. The term of each officer shall be 1 year, with opportunity for reelection as specified in bylaws adopted under Section 16.4.
2. The Planning Commission may appoint advisory committees whose members are not members of the Planning Commission.

16.4 PROCEDURES

1. The Planning Commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.
2. The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development.

16.5. MEETINGS

1. The Planning Commission shall hold not less than four regular meetings each year. At its first meeting of each calendar year, the Planning Commission shall adopt and provide public notice of its regular meetings for the ensuing year in accordance with the Open Meetings Act, as amended; provided, however, that a meeting need not be held if pending matters do not warrant a meeting. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to Planning Commission members not less than 48 hours before the meeting.
2. The business that the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act, 1976 PA 267, as amended. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
3. The Township Board, by resolution, has transferred all powers and duties of a Zoning Board to the Planning Commission, as outlined in the Zoning Enabling Act, Act 110 of 2006, as amended, and as permitted in the Planning Enabling Act, Act 33 of 2008, as amended.

16.6 DUTIES AND RESPONSIBILITIES. The members of the Planning Commission shall have the following principal duties and responsibilities, among others:

1. To consider and recommend the adoption of this ordinance and amendments to this ordinance.
2. To prepare, consider and approve the Township Master Plan, in accordance with the Michigan Planning Enabling Act, as amended.

3. In accordance with the Zoning Enabling Act, Act 110 of 2006, as amended, to consider, no less frequently than every five years, whether a revision of the Master Plan or updated amendments in the Master Plan are needed and to prepare, consider and approve any such revisions or amendments.
4. To consider, recommend and/or approve zoning applications and requests assigned to the Commission under the terms of this ordinance, including special land uses and other types of land use approval.
5. To make an annual written report to the Township Board concerning its zoning and planning activities during the previous year and including, if desired, recommendations on zoning and planning changes and amendments.
6. To promote understanding of and interest in the Master Plan and this ordinance.
7. To review and make recommendations on proposed public improvement projects, and to review and approve a capital improvement plan, in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended.
8. To review and make recommendations on proposed platted subdivisions, condominiums and site condominiums.
9. To carry out other duties and responsibilities provided by law.

ARTICLE XVII – ZONING BOARD OF APPEALS

17.1. ESTABLISHMENT. The zoning board of appeals (the “Board of Appeals”) is established and shall have the authority and responsibilities conferred by law and this ordinance.

17.2. MEMBERSHIP. The Board of Appeals shall consist of five members. The members shall be appointed by affirmative majority vote of the total number of members of the Township Board.

1. One member of the Board of Appeals shall be a member of the Township Planning Commission
2. One member of the Board of Appeals may be a member of the Township Board
3. The members of the Board of Appeals other than those stated in A and B shall be electors of the Township residing within its zoning jurisdiction.
4. There may be not more than two alternate members of the Board of Appeals, appointed in the same manner as regular members of the Board of Appeals. They shall be electors of the Township residing within its zoning jurisdiction.

17.3. TERMS OF OFFICE. A member of the Board of Appeals shall have a term of office of three years and until the member’s successor is appointed and qualifies; provided however, that the terms of the members first appointed shall be for varying numbers of years, none of them exceeding three years, so as to provide for differing expiration dates of members’ terms.

1. The terms of the Board of Appeals members who are a Township Board member and a Planning Commission member shall coincide with their respective terms as members of the Township Board and the Planning Commission.
2. A member of the Board of Appeals may be reappointed.
3. A vacancy in the office of a member of the Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment is made.

17.4. JURISDICTION

1. The Board of Appeals shall act upon all questions arising in the administration of this ordinance, including interpretation of the Zoning Map and the text of this ordinance.
2. The Board of Appeals shall hear and decide all appeals from any order, requirement, decision, or determination made by the Zoning Administrator, other administrative official or body authorized to enforce the provisions of this ordinance.

3. The Board of Appeals shall hear and decide all petitions for dimensional variances under Section 17.5.
4. The Board of Appeals shall hear and decide all matters assigned to it for decisions under the terms of this ordinance.
5. The Board of Appeals shall have no jurisdiction or authority over or with regard to the following:
 - A. Any aspect or part of an application for approval of a special land use, planned unit development or hardship planned unit development.
 - B. An appeal from any aspect or part of a determination or decision made with regard to a special land use, planned unit development, or hardship planned unit development.
6. An appeal to the Board of Appeals stays all proceedings in furtherance of the action appealed from; provided, however, that if the body or officer from whom the appeal is taken certifies to the Board of Appeals, after the notices of appeal is filed, that by reason of facts stated in such certification, a stay, in the opinion of the body or officer, will cause imminent peril to life or property, then such proceedings may be stayed only by a restraining order issued by the Board of Appeals or the circuit court.

17.5. VARIANCES. If an applicant seeks a nonuse variance relating to the construction, structural changes, or alteration of buildings or structures relating to dimensional requirements of this ordinance or to any other nonuse related standard in this ordinance, the ZBA may grant a variance from such requirements and standards if it finds that the spirit of the ordinance is observed, public safety is secured, and substantial justice is done by doing so, and only if the applicant demonstrates and the ZBA finds that practical difficulties, as set forth below, are in the way of carrying out the strict letter of this ordinance:

1. Strict compliance with the restrictions governing area, setbacks, frontage, height, bulk, density and other similar items unreasonably prevents the owner from using the property for a permitted purpose or would render conformity with said restrictions unnecessarily burdensome;
2. The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the restrictions would not give substantial relief to the proponent and be more consistent with justice to others;
3. The plight of the property owner is due to unique circumstances of the property in that special conditions exist which are peculiar to the land, structures, or buildings involved and which are not applicable to other lands, structures, or buildings in the same zoning district; and
4. The applicant's problem is not self created.

The ZBA may impose conditions upon the granting of a variance to insure that public services and facilities affected by the granting of the variance will be capable of accommodating increased service and facility loads caused by the

granting of the variance, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent and nearby uses of land, to promote the use of the land in a socially and economically desirable manner, to ensure that the spirit of this Ordinance are observed, public safety is secured and substantial justice done. The conditions shall be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land on which the variance is granted, residents and landowners immediately adjacent to said land, and the community as a whole, and shall be related to the valid exercise of the police power and matters which are affected by the variance.

17.6. TIME LIMITATIONS ON VARIANCES. Within twelve months after the granting of a variance, the applicant shall obtain all required permits and begin the construction or other work authorized by the variance, and shall proceed diligently towards the completion thereof. The construction or other work authorized by a variance shall be completed not later than one year after commencing the construction or other work. The Board of Appeals may grant an extension of up to one additional year, upon request by the applicant and if the Board finds that the Township Ordinances and conditions of property and surrounding area supporting the variance have not changed, extenuating circumstances have prevented the completion of the authorized work, and if the Board determines that an extension is otherwise justified. Any request for such an extension shall be considered at a public meeting of the Board of Appeals, but a public hearing shall not be required. If not, the variance becomes null and void.

17.7. APPEALS AND OTHER APPLICATIONS FOR RELIEF

1. An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or Barton Township. In addition, a variance in this ordinance may be applied for and granted under Section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under the Michigan Zoning Enabling Act, as amended. The Zoning Board of Appeals shall state the grounds of any determination made by the board.
2. An appeal under this section shall be taken within such time as prescribed by the Zoning Board of Appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal specifying the grounds for ht appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
3. An application or appeal shall be filed not later than 30 days after the order, decision, or determination as to which the application or appeal is taken.
4. An application seeking relief within the jurisdiction of the Board of Appeals shall apply for such relief by means of application form provided by the Township and shall pay the required application fee and deposit any

required sum into a Township escrow account for the purpose of any required reimbursement of Township expenses incurred in the consideration of the application.

17.8. DECISIONS OF THE BOARD OF APPEALS

1. The Board of Appeals shall decide all applications and appeals within a reasonable time.
2. The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be determined to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.
3. In cases requesting a variance, the Board of Appeals shall, if it determines that relief is warranted, grant only such relief as is necessary to relive the practical difficulties that the Board of Appeals finds to exist. Such decision shall be binding upon the Zoning Administrator, or other Township officials having authority in the circumstances. The Township building official shall incorporate the terms and conditions of the Board of Appeals' decision in any permit issued to the applicant pursuant to the decision.
4. A decision of the Board of Appeals shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court, within the time, to the extent and in the manner permitted by law.
5. A member of the Board of Appeals who is also a member of the Township Board or the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Township Board or the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

17.9. OFFICERS

1. The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary.
2. A Board of Appeals member who is a Township Board member shall not serve as chairperson of the Board of Appeals.
3. An officer of the Board of Appeals shall have a term of one year and until the officer's successor is elected and qualifies. An officer may be reelected.
4. An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board of Appeals.

17.10. MEETINGS AND PROCEDURES

1. The Board of Appeals shall adopt bylaws and rules of procedure for the conduct of its meetings and related purposes.

2. The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate members serving in the absence of a regular member in accordance with Section 17.2 Three members shall constitute a quorum.
3. At the first meeting of each calendar year, the Board of Appeals shall adopt and provide public notice of a schedule of its regular meetings in accordance with the Open Meeting Act, as amended provided however, that a meeting need not be held if pending matters do not warrant a meeting.
4. The Board of Appeals may convene special meetings at such times as it shall determine, subject to compliance with the Open Meetings Act, as amended.
5. The Board of Appeals shall conduct a public hearing on appeals of administrative orders, decisions, and determinations, petitions for variance relief, and applications for interpretation of this ordinance or the Zoning Map. Notice of the public hearing shall be given pursuant to Section 15.2.
6. All meetings of the Zoning Board of Appeals shall be conducted in compliance with the Open Meetings Act, as amended.

17.11. ALTERNATE MEMBERS

1. The Township Board may appoint not more than two alternate members of the Board of Appeals, in the same manner as regular members are appointed.
2. An alternate member may serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings
3. An alternate member may also serve as a member of the Board of Appeals for the purpose of reaching a decision in a case in which a regular member has abstained because of a conflict of interest.
4. An alternate member who is called to serve in a matter before the Board of Appeals shall serve in that matter until a decision is made, whether at one or more meetings.
5. An alternate member of the Board of Appeals has the same voting rights as a regular member of the Board of Appeals.

17.12. REMOVAL OF MEMBERS; CONFLICTS OF INTEREST

1. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.

2. A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

17.13. APPEALS FROM DECISIONS OF THE BOARD OF APPEALS

1. Any party aggrieved by a decision of the Board of Appeals may appeal to the circuit court. As provided by law, the circuit court shall review the record in the case and the decision of the Board of Appeals for the purpose of ensuring that the decision complies with all of the following requirements;
 - A. That it complies with the Constitution and laws of the state.
 - B. That it is based upon proper procedures.
 - C. That it is supported by competent material and substantial evidence on the record of the Board of Appeals.
 - D. That it represents the reasonable exercise of discretion as granted by law to the Board of Appeals.
2. If, as provided by law, the circuit court finds the record inadequate to accomplish the required review, or if the court determines that additional material evidence exists that with good reason was not presented, the circuit court is authorized by law to order further Township proceedings, in which event the Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm its original decision. The supplementary record and decision in such further proceedings shall be filed with the circuit court. As provided by law, the court may affirm, reverse, or modify the decision of the Board of Appeals.

An appeal from a decision of the Board of Appeals shall be filed within 30 days after the Board of Appeals issues its decision in writing signed by the chairperson if there is then a chairperson, or signed by another member of the Board of Appeals, if there is then no chairperson, or within 21 days after the Board of Appeals approves the minutes of the meeting at which its decision was taken.

ARTICLE XVIII – AMENDMENTS AND DISTRICT CHANGES

18.1. INITIATION OF AMENDMENTS. This Ordinance may be amended or supplemented from time to time in accordance with Act 110 2006, the Zoning Enabling Act, as amended. Amendments to this Ordinance may be initiated by the Township Board, the Planning Commission, or by any interested person or persons by petition to the Planning Commission.

18.2. AMENDMENT PETITION. All petitions for amendment to this Ordinance shall be in writing, signed and filed with the Township Clerk for presentation to the Planning Commission. The submission shall be made as set by the resolution adopted by the Township Board for establishing submission deadlines. Such petitions shall include the following:

1. The petitioner's name, addresses, and interest in the petition and, if applicable, the name, address, and interest of each person having a legal or equitable interest in any land which is to be rezoned.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing the land would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.
4. The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
6. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

18.3. PROCEDURE. The procedure for making amendments shall be as follows:

1. The Planning Commission shall authorize the preparation of the proposed amendment to be considered.
2. The Planning Commission shall set a time and place for a public hearing on the proposed amendment and shall arrange for notice of such public hearing to be given in accordance with PA 110 of 2006, the Zoning Enabling Act, as amended.
3. At said hearing, the Planning Commission shall establish that the applicant has paid to the Township the fee established by the Township Board and that proper notices have been made.

4. The Planning Commission shall hold said public hearing, noting all comments and reports requested, or noting the absence of such.
5. The Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct technical errors. The changed text shall be forwarded as above without further hearing. If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
6. The Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
7. If the Township Board determines that the proposed amendment should be modified or rejected, it may refer the proposed amendment back to the Planning Commission for consideration and for comments within a time specified by the Township Board. After receiving the report of the Planning Commission, the Township Board shall grant a hearing on the proposed amendment to a property owner who requests a hearing by certified mail, addressed to the Clerk. Additionally, the Township Board may hold a public hearing on the proposed amendment if considers it necessary.
8. The Township Board shall adopt the Ordinance in the prescribed manner and shall publish the Ordinance amendment or a summary of the regulatory effect of the Ordinance amendment within fifteen (15) days.
9. The Township Board shall then file the Ordinance in the official ordinance book of the Township within seven (7) days after adoption and publication with a certification by the Supervisor and Clerk authenticating the record.
10. An amendment to this Ordinance or the entire Ordinance may be the object of a referendum in accordance with PA 110 of 2006 Michigan Zoning Enabling Act, as amended.

ARTICLE XIX – SEPARABILITY, REPEALS AND EFFECTIVE DATE

19.1. **SEPARABILITY.** In case any Article, Section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other Article, Section or provision of this Ordinance, except so far as the Article, Section or provision so declared invalid shall be inseparable from the remainder of any part thereof.

19.2. **REPEALING CONFLICTING ORDINANCES.** Any and all ordinances or parts thereof in conflict with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent provided that the adoption of this Ordinance shall not prevent or bar the continuance or institution of any proceedings for offenses heretofore committed in violation of any existing Ordinance.

19.3. **EFFECTIVE DATE.** The Township Board hereby declares the provisions of this Ordinance effective eight (8) days from the date of publication, unless a notice of intent to file a petition requesting submission of this ordinance to a vote of the Township electors is filed within seven (7) days of publication. If the notice of intent is filed within seven (7) days of publication, this ordinance shall take effect thirty-one (31) days from the date of publication, unless a petition determined to be adequate by the Township Clerk is filed within thirty (30) days of publication. If such a petition has been timely filed, this ordinance shall take effect immediately upon the final determination by the Township Clerk that a majority of the registered electors in the Township have voted to approve it. A petition requesting submission of this ordinance to a vote of the electors must be signed by a number of registered Township electors equal to not less than fifteen (15) percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected.