

BIRCH RUN TOWNSHIP

ZONING ORDINANCE

**Ordinance No. 2004-02
Adopted December 14, 2004**

**As Amended Through
Ordinance 2020-04
September 8, 2020**

**Birch Run Township
Saginaw County, Michigan**

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(follows title page)*

Summary Table of Amendments

(This Table is Not an Official Part of the Zoning Ordinance)

Ordinance No. and Adoption Date	Affected Section(s)	Summary
2007-01 Sept. 11, 2007	Preamble	Coordination with Michigan Zoning Enabling Act (MZEA).
	1.02	Coordination of ordinance purpose with MZEA.
	3.02	Coordination of ordinance administration with MZEA.
	3.08	Coordination of public hearing notices with MZEA.
	5.02(B)(2) and (3)	Coordination of SLU hearings & statement of findings with MZEA.
	6.02(A),(B) and (C)	Coordination of ZBA alternate members & removal from office with MZEA.
	6.04	Coordination of ZBA jurisdiction with MZEA.
	6.08(B)	Coordination of ZBA hearing requirements with MZEA.
	6.09	Coordination of ZBA appeals to circuit court with MZEA.
	7.03(C) and (D)	Coordination of amendment hearings and procedures with MZEA.
	9.06, Table 9-4	Insertion of Footnote 11 addressing residential open space requirements for A-1, R-1, R-2 and R-3 Districts.
	20.20(D)	Limitations on residential lot area occupied by accessory buildings and structures.
	Article 21	Revised definition for "lot coverage".
<i>Sections amended by Ord. 2007-1 are referenced at the end of each affected Article.</i>		
2013-04 Feb 12, 2013	9.05, Table 9-2	Authorization of Commercial Wind Energy Conversion Facilities in A-1 District as special land use.
	9.05, Table 9-3	Revisions to authorization of restaurants in C-1 and C-2 Districts.
	9.05, Table 9-3	Addition of Footnote 3 regarding outdoor restaurants.
	Article 14	Title changed to "Standards and Regulations for Specific Land Uses".
	14.19	Insertion of provisions addressing outdoor restaurants.
	14.20	Insertion of provisions addressing Wind Energy Conversion Facilities.
	Article 21	Additions, deletions and revisions to terms associated with restaurants and wind energy conversion facilities.
	<i>Sections amended by Ord. 2013-04 are referenced at the end of each affected Article.</i>	
2014-03 June 10, 2014	9.05, Table 9-3	"Sexually oriented businesses" inserted in place of "adult entertainment facilities".
	14.13	Insertion of provisions addressing sexually oriented businesses, deletion of adult entertainment facility provisions.
	20.23	Insertion of provisions for display of sexually oriented material.
	Article 21	Deletion of "adult entertainment facilities" definition.
<i>Sections amended by Ord. 2014-03 are referenced at the end of each affected Article.</i>		
2014-04 Aug. 12, 2014	9.05, Table 9-4	Revisions to Footnote 11.
	20.20(D)	Revisions to accessory building/structure lot coverage provisions.
<i>Sections amended by Ord. 2014-04 are referenced at the end of each affected Article.</i>		
2015-01 Aug. 11, 2015	14.19	Addition of Section 14.19 Outdoor Restaurants.
<i>Sections amended by Ord. 2015-01 are referenced at the end of each affected Article.</i>		
2016-04 Dec. 13, 2016	21.02	Insertion of Outdoor Entertainment and Events to definitions.
	14.21	Insertion of Standards and Regulations for Outdoor Entertainment and Events.

	Table 9-3	Insertion of Outdoor Entertainment and Events to Uses of a Primarily Commercial Character
<i>Sections amended by Ord. 2016-04 are referenced at the end of each affected Article.</i>		
2017-02 Jun. 13, 2017	Table 9-3	C-1 of Mini-storage facilities changed to use by Special Land Use under Uses of a Primarily Commercial Character
<i>Sections amended by Ord. 2017-02 are referenced at the end of each affected Article.</i>		
2017-03 Jun. 13, 2017	Table 9-3	Addition of sale of new or used cars, farm machinery, etc. as a use by Special Land Use in I-1 Zoning District
<i>Sections amended by Ord. 2017-03 are referenced at the end of each affected Article.</i>		
2018-01 Jul. 10, 2018	Table 9-3	Addition of several Uses Permitted by Right or Special Land Use to I-1 District that are allowed in other districts but not I-1.
<i>Sections amended by Ord. 2018-02 are referenced at the end of each affected Article.</i>		
2018-02 Jul. 10, 2018	13.03	Revision to 13.03.A.1 and insertion of 13.03.A.7, modifying treatment of certain nonconforming uses
<i>Sections amended by Ord. 2018-02 are referenced at the end of each affected Article.</i>		
2019-04 May 14, 2019	Table 9-4	Revisions to Footnote 11.b and 11.c to add the R-2 and R-3 Zoning Districts to the exceptions listed in those subsections.
<i>Sections amended by Ord. 2019-04 are referenced at the end of each affected Article.</i>		
2019-05 May 14, 2019	Table 9-2	Insertion of Solar Panels and Solar Farms under Other Uses Not Listed Above.
	Table 9-3	Insertion of Solar Panels and Solar Farms under Other Uses Not Listed Above.
	14.22	Insertion of Solar panels
	14.23	Insertion of Solar farms
	21.02	Insertion of definitions for Solar panels, Solar farms, and Solar panel height (with figure)
<i>Sections amended by Ord. 2019-05 are referenced at the end of each affected Article.</i>		

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Birch Run Township Zoning Ordinance

PREAMBLE

An Ordinance enacted by Birch Run Township under Public Act 184 of 1943, as amended, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by Ordinance, and within which district provisions are adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, to provide for administration and amendments of said Ordinance; to provide for appeals and for the organization and procedures to be followed by the Zoning Board of Appeals; and to provide for penalties for the violation of said Ordinance. The continued administration of this Ordinance, amendments to this Ordinance and all other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended, the Michigan Zoning Enabling Act.

(Amended 9-11-07, Ord. 2007-01)

**Article 1
TITLE and PURPOSE**

Section 1.01 Title

This Ordinance shall be known and cited as the Birch Run Township Zoning Ordinance.

Section 1.02 Purpose

It is the purpose of this Zoning Ordinance to promote the public health, safety, and general welfare of the inhabitants of Birch Run Township by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air and preserving community character; to prevent fire and facilitate the fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to lessen congestion on the public streets and highways; to facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, education, recreation and other public services and facilities; to assure adequate provision of the state's citizens for food, fiber, energy and other natural resources; to ensure appropriate locations and relationships for uses of land; and to facilitate the expenditure of funds for adequate public facilities and services to conform with the most advantageous uses of land, resources, and property; and any other purpose permitted by the Michigan Zoning Enabling Act.

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Birch Run Township Zoning Ordinance

End of Article 1

(9-11-07, Ord 2007-01, amended Sec. 1.02)

Birch Run Township Zoning Ordinance

Article 2
INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, and EFFECTIVE DATE

Section 2.01 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 2.02 Severance Clause

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot use building or structure not specifically included in said ruling.

Section 2.03 Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare except as provided in Article 14, Nonconforming Uses, Lots and Structures.

Section 2.04 Repeal

The Birch Run Township Zoning Ordinance adopted on August 14, 1984 and amendments thereto, and all ordinances and parts of ordinances inconsistent with the provisions of this Ordinance, are hereby repealed as of the effective date of this Ordinance. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

Section 2.05 Effective Date

This Ordinance shall take effect thirty (30) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Township Zoning Act, PA 184 of 1943, as amended. Made and passed by the Township Board of the Township of Birch Run, Saginaw County, Michigan on this 14th day of December, 2004.

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Birch Run Township Zoning Ordinance

End of Article 2

Birch Run Township Zoning Ordinance

Article 3

ADMINISTRATION, ZONING PERMITS, ENFORCEMENT, and PENALTIES

Section 3.01 Purpose

It is the intent and purpose of this Article to provide for the administration of this Ordinance and the creation of a review and permit process. The primary permit process shall require the issuance of one permit which shall be the zoning permit. Issuance of such a zoning permit, pursuant to this Article, shall indicate that the uses and plans for which the zoning permit is requested comply with this Ordinance. Upon the issuance of a zoning permit, the applicant may erect or alter a building or structure for which the zoning permit has been issued only after receiving a Building Permit from the Building Official, except where exempted by law.

Section 3.02 Responsibility for Administration

The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, the Planning Commission, and such personnel as designated by the Township Board in accordance with P.A. 110 of 2006, as amended, "Michigan Zoning Enabling Act," and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance.

Section 3.03 Duties of the Zoning Administrator

A. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so shall perform, at a minimum, the following duties:

1. **Issue Permits:** The Zoning Administrator shall be responsible for issuing zoning permits, variances, and other approvals provided by this Ordinance when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.
2. **File of Applications:** The Zoning Administrator shall maintain files of all zoning permit applications, and shall keep a record of all permits issued; these shall be filed in the office of the Township Clerk and shall be available for public inspection.
3. **Inspections:** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. No person shall molest the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek a search warrant through the Township Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
4. **Record of Complaints:** The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint. Such records shall be available for public inspection.
5. **Reports:** The Zoning Administrator shall report to the Planning Commission and Township Board periodically, as requested by such bodies, on activities pertaining to the issuance of zoning permits and complaints of violation and actions taken on such complaints.
6. **Performance Guarantees:** A record of authorized performance guarantees shall be maintained by the Zoning Administrator.
7. **Plot Plan Approval:** The Zoning Administrator shall review all applications for plot plan approval pursuant to Article 4.

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Birch Run Township Zoning Ordinance

Section 3.04 General Zoning Permit Procedures and Regulations

A. Zoning Permit Required for Construction/Application: No excavation shall be initiated, no building shall be erected, altered, moved or structural alterations initiated, including but not limited to porches, decks, patios or terraces, until a zoning permit has been issued by the Zoning Administrator and, where required by law, a Building Permit has been issued by the Building Official. No zoning permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance, except upon written order of the Zoning Board of Appeals according to Article 6. An application for a zoning permit shall be available from the Township Clerk. Upon approval of the application, which is to include a plot plan or site plan, a zoning permit shall be issued.

1. **Plot Plan / Site Plan:** An application for a zoning permit shall include the submittal of a plot plan or site plan. The preparation and review of such submittal shall comply with the provisions of Article 4. Upon approval of the plot plan or site plan, a zoning permit shall be issued except as may be provided otherwise in this Ordinance.
2. **Variances:** Where the approval of a variance by the Zoning Board of Appeals pursuant to Article 6 is necessary for the approval of a proposed plot plan or site plan, no plot plan or site plan shall be approved nor shall such project be issued a zoning permit until action on such variance request has been taken by the Zoning Board of Appeals.
3. **Special Land Uses:** In addition to meeting the site plan requirements of Article 4, a zoning permit application for a use classified as a “special land use” within the subject zoning district (See Article 9) shall be processed according to the provisions of Article 5.
4. **Scheduling an Agenda Item:** The Planning Commission may defer reviewing an application for a zoning permit, site plan, amendment, or similar approval requiring Planning Commission action until a subsequent meeting if the materials to be reviewed and/or acted upon are submitted to the Township Clerk less than thirty (30) days prior to such next meeting of the Planning Commission when such matter is to be considered.

B. Occupancy Permit: No structure or use shall be occupied without first receiving a certificate of occupancy permit from the Zoning Administrator after consultation with the Building Official.

C. Application Fees: Fees for review of development proposals, rezoning requests, appeals, inspections and the issuance of permits or certificates required under this Ordinance shall be deposited with the Township Clerk in advance of processing any application. No application for approval for which a fee is required will be processed until the fee is deposited with the Township Clerk. The amount of such fees shall be established by the Township Board by resolution and shall cover the cost of administration and inspection resulting from the enforcement of this Ordinance. Such fees may include but are not limited to all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, Planning Commission and/or Zoning Board of Appeals time, mileage, and any costs associated with reviews by qualified professionals including professional planners and/or engineers.

1. **Professional Review and Fee:** For any application for a zoning permit, variance, amendment, or other approval under this Ordinance, a reviewing or approving body may require the payment of a professional review fee when professional input is desired before a decision is made, due to the complexity of the proposal or concern over the potential impacts of the proposal. The applicant is entitled to a refund of any unused professional review fee at the time a zoning permit is either issued or denied in response to the applicant's request. If actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to receipt of any zoning permit issued by the Township in response to the applicant's request.
 - a. **Professional Review Report:** A professional review shall result in a report to the Township indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant shall receive a copy of any professional review contracted for by the Township and a copy of the statement of expenses for the professional services rendered.

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Birch Run Township Zoning Ordinance

D. Permit Issuance, Withholding, Expiration, and Revocation.

1. **Issuance:** Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue the appropriate zoning permit after being directed to do so by the designated approving body or official. A performance guarantee may be required as a condition to the issuance of any zoning permit in order to ensure conformance with the requirements of this Ordinance (*see Section 3.06*). In any case where a permit is refused, the reasons shall be stated in writing to the applicant.
2. **Withholding Permit:** The Zoning Administrator may withhold any zoning permit pending verification that an applicant has received required county, state or federal permits including but not limited to septic and water well permits; soil erosion and sedimentation control permits; wetlands permits; flood plain and culvert permits; driveway permits; or building permits. Likewise, wherever this Ordinance authorizes zoning permit approval, the approving body may condition final approval of the requested development activity upon the receipt of any of the above mentioned county, state or federal approvals and/or direct the Zoning Administrator not to issue a zoning permit until said permits from other agencies have been obtained.
3. **Expiration of Permit:** A zoning permit shall become null and void after one (1) year from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection by the Building Official. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least thirty (30) days before such voidance is effective, provided however, that the body which approved such permit may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction. Upon expiration, the permit shall be renewable only upon reapplication and upon payment of necessary fees, subject to the provisions of all ordinances in effect at the time of renewal.
4. **Revocation:** The Zoning Administrator may revoke or cancel any zoning permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application, when authorized to do so by the body that authorized the issuance of the zoning permit. Prior to the revocation of a zoning permit, the body that approved the issuance of the zoning permit shall hold a public hearing on such revocation. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.
 - a. At the hearing, the approving body shall state the basis for the revocation and the zoning permit holder shall be given the opportunity to present evidence and testimony against such revocation. Procedures for the notification of such hearing shall comply with the notification procedures of subsection 5.02(B)(2)(b). Following the hearing, the body holding the hearing may revoke the zoning permit, delay such revocation for a specified time period to permit the zoning permit holder time to correct specified violations, or find there is no basis for such revocation.
 - b. Upon revocation of the zoning permit, or in the case where revocation is delayed to correct violations, all further construction activities and usage shall cease upon the site other than for the purpose of correcting violations. Failure to terminate the use for which the zoning permit was revoked, other than for the purpose of correcting the violation where authorized to do so, is declared to be a nuisance per se and a violation of this Ordinance. The owner or his agent shall be notified of a revocation in writing.

Section 3.05 Violations

A. Nuisances Per Se: Violations of any provisions of this Ordinance are declared to be nuisances per se.

B. Notice of Violation: The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies all circumstances found to be in violation. Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, addressed to such owner or party in interest at the address shown on the tax records. A Notice of Violation posted by the Zoning Administrator on a structure shall not be removed without written authorization from the Zoning Administrator.

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C. Violation Correction Period: All violations shall be corrected within the time period specified on the Notice of Violation, as deemed appropriate in the reasonable discretion of the Zoning Administrator, but not less than 5 days nor more than 6 months.

D. Legal Action: If the owner or party in interest fails to correct the violation within the time period specified, the Township Board shall direct the Township Attorney to take appropriate legal action. The Township Attorney may then initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township Board may initiate injunctive action in Circuit Court or any such other remedy provided by Law.

E. Penalties: The owner of record or tenant of any premises, building, structure, premises, or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, assists in, or maintains a violation of this Ordinance may each be found guilty of a separate offense and suffer the penalties herein provided. Such person or bodies found to be in violation of this Ordinance shall be responsible for a municipal civil infraction and shall be subject to the payment of civil fines and other penalties in accordance with the Birch Run Township "Municipal Civil Infraction Ordinance." Each and every day of violation shall be a separate offense. In addition, the Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance.

Section 3.06 Performance Guarantee for Compliance

A. Purpose: In authorizing any zoning permit, the body or official which approves the zoning permit application, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to: (1) ensure compliance with the requirements, specifications and conditions imposed with the grant of such zoning permit; and (2) provide sufficient resources for the Township to complete required improvements or conditions in the event the zoning permit holder does not.

B. Requirements of Guarantee: The performance guarantee shall meet the following requirements:

1. **Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect the natural resources or the health, safety and welfare of residents of the Township and future uses or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening and drainage.
2. **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, or surety bond, acceptable to the Township Clerk, which names the property owner as the obligor and the Township as the obligee. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in a non-interest bearing account in a financial institution with which the Township regularly conducts business.
3. **Amount and Time Required:** The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of improvements for which the performance guarantee or bond is to cover, according to a detailed cost estimate submitted by the applicant and approved by the Planning Commission. After approval of the detailed cost estimate by the Planning Commission, the performance guarantee or bond shall be submitted at the time of issuance of the zoning permit authorizing the activity of the project.

C. Return of Performance Guarantee or Bond: The following procedure shall be followed in the return of performance guarantees or bonds:

1. **Request for Payment:** As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Township Clerk of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit a recommendation to the Planning Commission indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejection. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
2. **Approval of Payment:** The Planning Commission shall either approve, partially approve or reject the request for return of the performance guarantee for the improvements or conditions, after consideration of the recommendation of the Zoning Administrator's written statement, and shall notify the obligor in writing of the action of the Planning Commission within forty-five (45) days after receipt of the notice

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from the obligor of the completion of improvements. Where approval or partial approval is granted, the Planning Commission shall notify the Township Clerk of such approval and the Township Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.

- a. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
3. **Lack of Full Completion**: Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer or contractor, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining shall be returned to the applicant.

D. Record of Performance Guarantees: A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

Section 3.07 Timely Action on Applications

A. All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all standards have been met and the public health, safety and welfare is preserved. The following time provisions shall apply unless specifically provided otherwise by this Ordinance:

1. If an application has not been received by the Township Clerk at least thirty (30) days prior to the next regularly scheduled meeting when the designated body would normally begin deliberation on such application, the designated body may delay initiating deliberations until the next regularly scheduled or special meeting called for the purpose of deliberating said application.
2. A recommendation or decision by the designated recommending or approving body on an application shall be made within ninety (90) days of receipt of the application by the Township Clerk unless, in the opinion of the designated recommending or approving body, an extension of time is necessary to adequately collect and review information pertinent to a decision.
3. Where action on an application requires a recommending body to report to an approving body, as in the case of the Planning Commission recommending action on a rezoning request to the Township Board, the approving body shall take action on the application within ninety (90) days of such recommendation unless, in the opinion of the designated approving body, an extension of time is necessary to adequately collect and review information pertinent to a decision.
4. Where action on an application requires a public hearing, such hearing shall be scheduled within ninety (90) days of receipt of the application by the Township Clerk except where the meeting agenda prohibits such hearing due to work load.

Section 3.08 Public Hearing Notices

A. Hearing Notice Content: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.

B. Recipients and Means of Notice: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the

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information specified in (A) above.

1. General public, by publication of the hearing notice in a newspaper of general circulation in the Township.
2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Birch Run Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
 - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.
4. To each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing, by mail, in the case of a text amendment or zoning map amendment.

C. Timing of Notice: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered for approval, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations.

D. Confirmation of Notices Made by Mail or Personal Delivery: Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed and postage paid. The Township Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

End of Article 3

(9-11-07, Ord. 2007-01, amended Sec. 3.02)

(9-11-07, Ord. 2007-01, inserted Sec. 3.08)

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**Article 4
PLOT PLAN and SITE PLAN REVIEW**

Section 4.01 Purpose

It is the purpose of this Article to specify standards, application and data requirements, and the review process which shall be followed in the preparation of site plans and plot plans as required by this Ordinance. These procedures are incorporated into the zoning permit application process to ensure that Birch Run Township is afforded an opportunity to review and evaluate proposed uses and development of sites with regard to such considerations as vehicular access, parking and vehicular circulation, drainage, screening, setbacks, signage, open spaces and conformance with all applicable provisions and standards of this Ordinance.

Section 4.02 Approval of Site Plan or Plot Plan Required

A. Planning Commission Approval of Site Plans: Site plan approval is required by the Planning Commission, prior to the issuance of a zoning permit, for the following land uses:

1. All uses permitted by right within any Business and Industrial District.
2. All special land uses, as specified in each District.
3. All uses for which this Ordinance requires five (5) or more off-street parking spaces, including multiple family dwellings.
4. All platted subdivisions subject to the platting requirements of P.A. 591 of 1996, the Land Division Act, as amended.
5. All condominium subdivisions subject to P.A. 59 of 1978, the Condominium Act, as amended.
6. All other uses as required elsewhere in this Ordinance.

B. Zoning Administrator Approval of Plot Plans: Plot Plan approval is required by the Zoning Administrator, prior to the issuance of a zoning permit, for all other uses not listed in Section 4.02 (A) above including single and two family dwellings.

Section 4.03 Plot Plan Review Procedures

A. Plot Plans: In addition to the necessary fee, five (5) copies of an accurate, readable, scale drawing showing the following shall be submitted with applications for zoning permits for uses requiring plot plan review, including single and two family dwellings:

1. Name, address and telephone number of the applicant (and owner if different).
2. A survey showing property dimensions, angles, lot area, and an arrow pointing north, accompanied by a legal description.
3. The location, dimensions and height of the existing and proposed structures to be erected, altered, or moved on the lot.
4. Dimensions of yards, parking lots and space dimensions, and the number of spaces.
5. A description of proposed use(s) of the building(s), land and structures.
6. The proposed number of sleeping rooms, dwelling units, and employees, as applicable.
7. Configuration of the driveway and parking areas.
8. Existing public and private right-of-ways and easements.
9. Any other information deemed necessary by the Zoning Administrator to determine zoning ordinance compliance and provide for the enforcement of this Ordinance.

B. Review: Upon receipt of completed and adequate application materials, the Zoning Administrator shall review the application materials and determine their conformity with the applicable provisions of this Ordinance.

C. Action: After conducting a review, the Zoning Administrator shall reject, approve, or conditionally approve the plot plan as it pertains to requirements and standards of Section 4.05(A). Any conditions required by the Zoning Administrator shall be stated in writing and shown on the plot plan, together with the reasons, and delivered to the applicant. The decision by the Zoning Administrator shall be made within thirty (30) days of the receipt of complete and adequate application materials. A plot plan shall be approved if it contains the information required by law, and is in compliance with this Ordinance. See Section 20.01 regarding conditional approvals.

D. Approved Plot Plans: At least three (3) copies of an approved plot plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be

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returned to the applicant. For identification of the approved plans, each copy shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the plot plan and delivered to the applicant for information and direction.

Section 4.04 Site Plan Review Procedures

A. Preliminary Site Plan Application Required: Prior to preparing a detailed final site plan and seeking approval of such site plan, the applicant shall seek approval of a preliminary site plan for the purpose of receiving approval of the general design and layout of the project. A preliminary site plan shall be submitted as part of a zoning permit application for all uses listed in Section 4.02(A).

B. Preliminary Site Plan Submittal, Distribution and Data: Applications for preliminary site plan approval shall be submitted to the Township Clerk on a form for that purpose. Upon receipt of the plans and zoning permit application forms, the Township Clerk shall record the date of their receipt and transmit copies to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, local fire department, Saginaw County Drain Commissioner, and Saginaw County Road Commission. The preliminary site plan application shall include the following except where, upon request by the applicant, the Planning Commission determines that certain specific data is not necessary in rendering a sound and educated decision on the specific site plan before it:

1. Twenty (20) copies of a completed application form supplied by the Zoning Administrator.
2. Twenty (20) copies of the preliminary site plan containing the same information required for a final site plan as identified in Section 4.04(D) below, except that detailed construction drawings to address specific site improvements are not necessary. However, such preliminary construction drawings shall adequately portray the character and feasibility of critical components of the project such as, but not limited to, storm water management and grading including preliminary road grades, extent of grading and clearing, storm sewer sizes and locations, directional flows and invert elevations; vehicular circulation including dimensions of driveways, parking aisles, and parking spaces; road configurations and cross sections; arrangement of lots; general dimensions, heights and materials for signage; and conceptual planting areas including approximate location, size, number, and type of plant material. In addition, for uses that are expected to generate 100 or more vehicle trips per day, a traffic impact study shall be required and shall address, at a minimum, the anticipated vehicle trips to be generated daily by the development; the impact of the development on road infrastructure, congestion levels, and turning patterns along the abutting and other nearby roads, and proposed mitigation measures to minimize any conflict issues, and conceptual building elevations.

C. Planning Commission Review and Action on Preliminary Site Plan: The Planning Commission shall review the preliminary site plan and shall approve, approve with conditions, or deny the plan, based on compliance with the standards of Section 4.05. The Planning Commission shall cite reasons for its action. See Section 20.01 regarding conditional approvals.

1. Approval of the preliminary site plan is valid for a period of one (1) year. If a complete final site plan for the development, or any phase of the development, has not been submitted during that period, the approval of the preliminary site plan shall be null and void. This time limit may be extended by the Planning Commission upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the layout and/or design of the development. Preliminary site plans whose approval has expired shall be required to resubmit and be processed for approval according to this Section.

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D. Final Site Plan Submittal, Distribution and Data: Applications for final site plan approval shall be submitted to the Township Clerk on a form for that purpose. Upon receipt of the plans and zoning permit application forms, the Township Clerk shall record the date of their receipt and transmit copies to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, Saginaw County Drain Commissioner, and Saginaw County Road Commission. The final site plan application shall include the following, except where upon request by the applicant, the Planning Commission determines that certain specific data is not necessary in rendering a sound

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and educated decision on the specific site plan before it:

1. Twenty (20) copies of a completed application form supplied by the Township Clerk.
2. Twenty (20) copies of the final site plan at a scale of not less than one (1) inch equals one-hundred (100) feet. The final site plan shall be provided on a professional quality drawing and all information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and the seal of such designer shall be affixed. The plan shall provide the following minimum information:
 - a. Name, address and telephone number of the applicant (and owner if different) and project designer.
 - b. A survey showing property dimensions and legal description, including angles, lot area and dimensions, and an arrow pointing north.
 - c. Existing natural features such as woodlands, streams, flood plains, county drains, lakes or ponds, and topography (at two-foot intervals on-site and within one hundred fifty (150) feet of the site).
 - d. Existing public right-of-way, private easements of record, and deed restrictions, and existing improvements on the site including but not limited to roads, driveways, structures, and buildings.
 - e. Project description, including the location, dimensions, and height of existing and proposed structures to be erected, altered, or moved on the property; the total number of dwelling units and offices; the square feet associated with each building and use including total and usable floor area; carports and garages; configuration of proposed roads, parking areas, and lots; employees by shift; amount of recreational and open space and the type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Ordinance.
 - f. Proposed location and dimensions of accessory structures, including trash receptacles.
 - g. Proposed location of free standing and wall signs, and dimensions and construction details of such signs.
 - h. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing, and lighting in compliance with the requirements of Article 17, Landscaping and Screening. Also, proposed locations of common open spaces, if applicable.
 - i. Final construction plans that ensure proper construction of roads and alleys including plan/profiles, cross-sections, acceleration, deceleration or right turn lanes, driveways, parking spaces, sidewalks, with indication of direction of travel, and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, and dimensions of a typical individual parking space and associated aisles shall be identified. Proposed traffic control measures (including signs) and proposed street or road names shall also be indicated.
 - j. Final construction plans that ensure proper construction of facilities designed to manage storm water including location of any retention and/or detention areas and points of discharge for all drains, and engineering specifications including dimensions and elevations of all pipes and drains. The point of discharge for all drains and pipes shall be specified on the site plan.
 - k. Final construction plans that ensure proper construction of facilities designed to provide, collect, store, dispose of, and/or transport potable water, waste water and sewage, including but not necessarily limited to the locations, specifications and elevations of pipes, drains, sumps, holding tanks, and easements that exist or are proposed to be established for installation, repair and maintenance of such utilities.
 - l. Final construction plans that ensure proper location of other utilities not otherwise addressed in (j) and (k) above, and any easements that exist or are proposed to be established for installation, repair and maintenance of utilities.
 - m. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
 - n. A statement from the applicant identifying all federal, state, county, and local permits required, if any.
 - o. Elevation drawings of all buildings and structures
 - p. A vicinity sketch showing the location of the site in relation to the surrounding street system, extending a minimum one (1) mile from the site, and the identification of surrounding land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any roads.
 - q. Such other information as may be necessary to enable the Planning Commission to determine

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whether the proposed site plan will conform to the provisions of this Ordinance.

E. Final Site Plan Action: The Planning Commission shall review the application and plans and determine their conformity with the applicable provisions of this Ordinance and the provisions of Section 4.05. After conducting a review, the Planning Commission shall deny, approve, or conditionally approve the final site plan as it pertains to requirements and standards contained in the Zoning Ordinance, including the standards of Section 4.05. A final site plan shall be approved by the Planning Commission if it substantially conforms to the approved preliminary site plan and contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. Any conditions required by the Planning Commission for approval shall be stated in writing, together with the reasons, and delivered to the applicant.

F. Approved Site Plans: Five (5) copies of the approved site plan, with any conditions contained within shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the Township Supervisor, for identification of the approved plans. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for information and direction.

G. As-Built Drawings: The applicant shall submit three (3) copies of as-built drawings upon completion of construction activities, but no later than sixty (60) days from the issuance of a Certificate of Occupancy by the Building Official. Such drawings shall identify all improvements made upon the site including utility services.

Section 4.05 Plot Plan and Site Plan Approval Standards

A. Plot Plan: Each plot plan shall conform with all applicable provisions of this Ordinance including requirements pertaining to lot area, setbacks, lot width, and permitted uses, and the applicable provisions of:

1. Article 16, Off-Street Parking and Loading
2. Article 17, Landscaping and Screening
3. Article 18, Environmental Protection
4. Article 19, Access Provisions
5. Article 20, General Provisions

B. Site Plan: Each site plan shall conform with the applicable provisions of this Ordinance including requirements pertaining to lot area, setbacks, lot width, and permitted uses, and the applicable provisions of:

1. Applicable provisions of:
 - a. Article 14, Standards and Regulations for Specific Land Uses
 - b. Article 16, Off-Street Parking and Loading
 - c. Article 17, Landscaping and Screening
 - d. Article 18, Environmental Protection
 - e. Article 19, Access Provisions
 - f. Article 20, General Provisions
2. All elements of the Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
3. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications which are in keeping with the general appearance of adjacent and surrounding uses and development.
4. The removal of storm waters shall not increase off-site sedimentation or otherwise adversely affect neighboring properties due to flooding.
5. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
6. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
7. The arrangement of public or common ways for vehicular and pedestrian circulation shall ensure the public health, safety and welfare including coordination with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area, compatibility with adjacent land uses, and design capacities. Roads and drives which are part of an existing or planned road pattern which serve adjacent

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- development shall be of a width appropriate to the traffic volume they will carry.
8. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative impacts of such parking areas.
 9. Development shall not include unnecessary curb cuts and shall use shared drives and/or service drives unless precluded by substantial practical difficulties.
 10. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
 11. Site plans shall conform to all applicable requirements of state and federal statutes.
 12. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
 - a. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan ground water discharge permit.
 - b. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

Section 4.06 Conformity To Approved Site Plan and Plot Plan

Property which is the subject of plot plan or site plan approval shall be developed in strict compliance with the approved plan and any approved changes thereto.

Section 4.07 Appeals

A person aggrieved by a decision on a site plan may appeal such decision to the Zoning Board of Appeals pursuant to Article 6.

Section 4.08 Changes to Approved Site Plan and Plot Plan

A. Site Plan Changes: No changes shall be made to an approved site plan prior to, during, or after construction except according to the following procedures;

1. **Major Changes:** Major changes to an approved site plan shall include changes in excess of five-hundred (500) square feet in gross floor area or in excess of ten percent (10%) of the gross floor area; changes in excess of ten (10) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls; changes in the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces or an increase of more than five (5) parking spaces; an increase in the heights of buildings or number of dwelling units; a reduction in open space; the addition or alteration of signage, and similar changes. Major changes shall require approval in the same manner as the original site plan application was submitted, reviewed, and approved and subject to the finding of all of the following:
 - a. Such changes will not adversely affect the initial basis for granting approval;
 - b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and
 - c. Such changes shall not result in the reduction of open space area as required herein.
2. **Minor Changes:** Minor changes to an approved site plan shall include changes not otherwise included as a major change in (A)(1) above and may be approved by the Zoning Administrator. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action to the Planning Commission.

B. Plot Plan Changes: The Zoning Administrator shall review proposed changes to an approved Plot Plan in the same manner as the original plot plan application was submitted, reviewed, and approved.

Section 4.09 Pre-Existing Site Plans and Plot Plans Under Review

A. Plot Plan: Any plot plan application filed prior to the effective date of this Ordinance or amendment thereto,

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thereto, which has not been subject to action at the time this Ordinance or amendment has taken effect, shall be returned to the applicant for re-submittal under the provisions of this Ordinance or amendment thereto.

B. Site Plan: All development subject to site plan approval shall comply with the regulations and standards of this Ordinance except in the case where a development plan has received preliminary site plan approval by the site plan approving body prior to the effective date of this Ordinance or amendment thereto, in which case the final site plan shall be reviewed using the procedures and substantive standards under the ordinance in effect at the time of the preliminary plan approval, provided the final site plan is filed with the Zoning Administrator within one year of the approval of the preliminary plan and contains all information required and accompanied by all required fees.

End of Article 4

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**Article 5
SPECIAL LAND USES**

Section 5.01 Purpose

It is the purpose of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this Zoning Ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide control and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land uses and structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a zoning permit for a Special Land Use.

Section 5.02 Procedures

An application for a zoning permit for any special land use or structure identified as such in a particular zoning district shall be submitted and processed under the following procedures:

A. Submission and Distribution of Preliminary Application: Any person or representatives thereof, owning or having an ownership interest in the subject property, may file a preliminary application for one or more zoning permits for a special land use as provided for in this Ordinance. The application form shall be supplied by the Zoning Administrator and the following minimum information shall be provided:

1. Name and address of applicant and, if different from the landowner, the landowner's name and address.
2. A legal description of the property and a description of the proposed project.
3. A description of the proposed use.
4. A statement or statements addressing the extent to which the application complies with the approval standards of Section 5.06 of this Ordinance.

At least twenty (20) copies of a preliminary special land use application shall be submitted to the Township Clerk and each application shall be accompanied by a preliminary site plan prepared pursuant to Section 4.04(B), along with the necessary fee. The Township Clerk shall record the date of their receipt. Upon receipt of completed forms and plans, the Township Clerk shall forward the materials to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, Saginaw County Drain Commissioner, and Saginaw County Road Commission. The Township Clerk shall request such reviewing agencies and/or bodies to respond within twenty (20) days of receipt of the materials although the Planning Commission need not delay action on the application if such response has not been received within such time period.

B. Planning Commission Action:

1. **Review:** The Planning Commission shall review the application and plans and any comments received by reviewing parties, and determine their conformity with the applicable provisions of this Ordinance including Sections 4.05 and 5.06.
 - a. In the case where the proposed development described in the application and preliminary site plan is, in the discretion of the Planning Commission, of such character, scale, and/or complexity so as to suggest the proposed project may have significant local and/or regional impacts upon unique environmental conditions, road infrastructure including traffic flow and vehicular and pedestrian safety, and/or other public infrastructure and services, the Planning Commission may require that the review of the application include the preparation of a community impact analysis report as described in Section 5.07. The report shall be prepared by one or more qualified consultants selected by the Township and fees for such reports shall be established by Township Board resolution, as provided in Section 3.04(C). The Planning Commission may delay holding the public hearing specified in subsection (2) below until the receipt of such report.
 - b. The Planning Commission may require a community impact analysis report for any project that it deems is warranted. Guidelines that the Planning Commission shall use in determining the normal application of the report requirement shall be as follows:
 - 1) projects of approximately one hundred thousand (100,000) or more square feet in retail sales

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- area.
- 2) projects of approximately five (5) acres or more of impervious surfaces including buildings, parking spaces and aisles, and driveways.
 - 3) projects anticipated to generate approximately three thousand (3,000) or more vehicle trips per day.
2. **Public Hearing:** Upon certification that the application materials are complete, the Planning Commission shall hold a public hearing on the special land use application. Notice of the hearing shall comply with Section 3.08.
 3. **Planning Commission Action/Preliminary Site Plan:** Upon review of the preliminary special land use application including the preliminary site plan, all supporting materials such as staff and professional review reports including the community impact analysis report if so prepared, and the public hearing comments, the Planning Commission shall deny, approve, or approve with conditions the preliminary application for special land use approval including the preliminary site plan. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed. In arriving at its decision, the Planning Commission shall refer to and be guided by the site plan standards set forth in Section 4.05, the general special land use standards set forth in Section 5.06, and the specific special land use standards set forth elsewhere in this Article. A request for approval of a land use or activity which is in compliance with those standards, other applicable ordinances, and state and federal statutes shall be approved. See Section 20.01 regarding conditional approvals.
 4. **Final Site Plan Approval Required:** No construction activities shall be initiated nor shall any zoning permit be issued for a special land use for which preliminary approval has been granted under (3) above until a final site plan for such special land use has been approved pursuant to Section 4.04 . Approval of such site plan may include conditions to ensure the intent of spirit of the approval granted under (3) above is maintained. See Section 20.01 regarding conditional approvals.

Section 5.03 Appeals

A person aggrieved in association with a special land use decision may appeal the special land use application decision to a court of law only. A special land use decision is not subject to review by the Zoning Board of Appeals.

Section 5.04 Reapplication

No application for a zoning permit for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year from the date of such denial, except on grounds of newly-discovered evidence or proof of changed conditions, found upon inspection by the Planning Commission to be valid and to have bearing on the original action of the Planning Commission. A reapplication shall follow all provisions of Section 5.02.

Section 5.05 Changes

A. Site Plan: The site plan, as approved, shall become part of the record of approval, and subsequent actions shall be consistent with the approved site plan. Changes to the approved site plan shall comply with the application and review procedures of Section 4.08.

B. Use or Activity: A change in the character of the use or activity from what the originally approved zoning permit for special land use authorized shall not occur until such change is applied for and approved according to the application and review procedures of Section 5.02. Changes requiring a new application and review procedure include, but shall not be limited to:

1. the addition of land to the legal description of the original zoning permit for the special land use;
2. the establishment of another special land use or uses;
3. the addition of more sales or service area, or the addition of dwelling units; and
4. an expansion or increase in intensity of use.

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Birch Run Township Zoning Ordinance

Section 5.06 Approval Standards

A. General Standards: Each application for a special land use shall be reviewed for the purpose of determining that the land use or activity which may be authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety, and welfare of the Township. No special land use application shall be approved except where the proposed use and site plan comply with the following standards:

1. Be harmonious with and in accordance with the Master Plan of the Township.
2. Be harmonious with and in accordance with the general objectives, intent and purposes of this Ordinance.
3. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed. In determining whether this requirement has been met, consideration shall be given to:
 - a. The bulk, placement, and materials of construction of proposed structures.
 - b. Pedestrian and vehicular circulation.
 - c. The location of vehicular use or parking areas.
4. Not be hazardous or disturbing to existing or future uses in the same general vicinity.
5. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools, and minimize the impact of traffic generated by the proposed development on adjacent properties
6. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
7. Not create excessive additional requirements at public cost for public facilities and services.

B. Specific Development Requirements: Each application for a special land use shall be reviewed for the purpose of determining that the land use or activity conforms to the specific site development requirements identified in Article 14.

Section 5.07 Community Impact Analysis Report

A. Where the Planning Commission requires the preparation of a Community Impact Analysis report pursuant to Section 5.02(B)(1), such report shall address the following except where the Planning Commission finds one or more parts or components are not applicable or otherwise unnecessary.

1. Transportation and Traffic Impact Analysis: Unless otherwise specified by the Planning Commission, the Community Impact Analysis shall include a Transportation and Traffic Impact Analysis. Such analysis shall be performed on the basis that the proposed parking facilities shall be one hundred percent (100%) full for level of service analysis. The impact analysis shall address, but not necessarily be limited to, the following:
 - a. Existing Traffic Conditions: Average daily and peak hour volumes; site distances; road capacity; level of service; physical characteristics of the roads; number and location of driveways and intersections; average and peak speeds; accident data; pedestrian movement; and public transportation and traffic controls for roads and intersections adjacent to the project and for other roads and intersections that will experience a ten percent (10%) or greater increase in peak hour traffic as a result of the project or that will experience a reduction in the level of service as a result of the project, and for roads and intersections reflecting existing low service levels.
 - b. Projected Traffic Conditions: Average daily and peak hour traffic volume projections and directional distribution of site generated traffic, site distances at proposed driveway intersections and roads, on site traffic circulation and parking layout, pedestrian movement and background traffic conditions for the design year including any planned roadway/traffic improvements and other proposed projects in the vicinity of the site.
 - c. Projected Traffic Impact: Description and evaluation of how the proposed project will affect traffic conditions and roads and intersections adjacent to and those likely to be affected by the proposed project including level of service, traffic flow, turning movements, sight distances, traffic controls, pedestrian movement, and public transportation, and proposed mitigation measures to address the projected impacts identified in the analysis.
2. Public Services and Infrastructure Analysis: Unless otherwise specified by the Planning Commission,

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the Community Impact Analysis shall include a Public Services and Infrastructure Analysis addressing, but not necessarily limited to, the following:

- a. Existing Conditions: Description of the existing character of public services and infrastructure serving the general area of the site and the Township and nearby municipalities as a whole, not otherwise addressed in (1) above, including but not necessarily limited to police protection, fire protection, education facilities, recreation facilities, sewage disposal, and potable water.
 - b. Potential Impacts: Description and evaluation of the potential impacts of the project on the public services and infrastructure identified in (a) above, and proposed mitigation measures to address the potential impacts identified in the analysis.
3. Environmental Impact Analysis: Unless otherwise specified by the Planning Commission, the Community Impact Analysis shall include a Environmental Impact Analysis addressing, but not necessarily limited to, the following:
- a. Existing Conditions: Description of the existing physical and ecological characteristics of the site and in relation to surrounding land including topography, slope, soils, wetlands, surface water, vernal pools, flood plains, depth to groundwater, drainage patterns, type and coverage of vegetation, wildlife and wildlife habitat, identification of any rare or endangered plant or animal species, relationships to public or private water supply wells and recharge areas for public water supply reservoirs.
 - b. Potential Impacts: Description and evaluation of the potential impacts of the project on air, water, and land resources including surface water, groundwater, wetlands, plant and wildlife species, temperature, wind, and noise levels, on-site and off site, that will be affected by the project, and the proposed mitigation measures to address the potential impacts identified in the analysis. The description and evaluation of potential impacts shall specifically address the following:
 - 1) Evaluation of the impact of storm water, runoff, flooding, erosion, sedimentation, grading changes, increased impervious surface, discharges to groundwater, pumping of groundwater, wetlands disruption, and changes to vegetation cover. The analysis shall specify the location and results of any test pits, soil borings, and percolation tests performed on the site.
 - 2) Description of the types, quantities, use and storage methods for hazardous materials and wastes to be used or generated by the project, and what measures will be incorporated into the project to prevent a release into the environment.

Section 5.08 Expiration of Special Land Use Approval

A. Special Land use Permit shall expire if the following occur:

1. **Following Approval**: If a SLUP is granted and no action is taken within 12 months of the date of the Planning Commission approval, the SLUP approval shall expire unless a 12-month extension is granted by the Planning Commission. If the SLUP was for the use of an existing building or site that did not require new construction or remodeling, lack of action would consist of failure to begin the use approved. If the SLUP required new construction or remodeling of an existing building, then lack of action would consist of failure to apply for required building, electrical, mechanical, or similar permit. Lack of action would also occur if required permits were applied for, but that work was not completed and approved before the expiration of the permit, including any permitted renewals.
2. **Cease Operation**: If a use authorized by SLUP ceases operation for 12 consecutive months, the owner of the property, and operator of the SLUP if not the owner, shall be notified, and a hearing conducted by the Planning Commission to determine if the use has been abandoned. If the owner of the property or operator of the SLUP fails to respond to the notice or attend the hearing or if the Planning Commission determines that there were actions taken to abandon the use, the Planning Commission may take action to terminate the SLUP. This decision by the Planning Commission is administrative and appealable to the ZBA per Section 6.05 of this ordinance.

End of Article 5

(9-11-07, Ord. 2007-01, amended Sec. 5.02(B))

(9-8-20, Ord. 2020-02, amended Sec. 508(A))

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**Article 6
ZONING BOARD of APPEALS (ZBA)**

Section 6.01 Purpose

The purpose of this Article is, through the establishment of a Zoning Board of Appeals (ZBA), to ensure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured, and substantial justice done.

Section 6.02 Creation and Membership

A. Establishment and Appointment of Members: The ZBA first established by the Birch Run Township Zoning Ordinance adopted on August 14, 1984 is hereby retained in accordance with Public Act 110 of 2006, as amended, and shall consist of five members: a member of the Planning Commission; and the remaining members appointed by the Township Board from the electors residing in the Township outside of incorporated cities and villages. A member of the Township Board may serve on the ZBA but not serve as the chairperson. The Zoning Administrator or other employee or contractor of the Township Board may not serve on the ZBA.

1. **Alternate Members:** The Township Board may appoint not more than two (2) alternate members for the same term as regular members of the ZBA. No alternate member may be either a member of the Township Board or the Planning Commission. The alternate members may be called as needed, on a rotating basis, to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

B. Terms of Office: Members shall be appointed for three (3) year terms except in the case of the Planning Commission and Township Board members, whose terms shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has been expired. Vacancies for unexpired terms shall be filled for the remainder of the term. Members may be reappointed.

C. Removal from Office / Conflict of Interest: A member of the Zoning Board of Appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

Section 6.03 Organization

A. Rules of Procedure and Officers: The ZBA shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board shall annually elect a chairperson, a vice-chairperson, and a secretary.

B. Meetings and Quorum: Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify. A majority of the total membership of the Board shall comprise a quorum. The Board shall not conduct official business unless it has a quorum. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.

C. Oaths and Witnesses: The chairperson or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.

D. Records: The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record except where exempt from disclosure under the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

E. Legal Counsel: An attorney for the Township shall act as legal counsel for the ZBA pursuant to procedures established by the Township Board.

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Section 6.04 Jurisdiction

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The Board shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters so specified in this Ordinance including appeals regarding an administrative review, interpretations, and variances.

Section 6.05 Appeals for Administrative Reviews

A. Authority: The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator, Planning Commission, or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the body from whom the appeal is taken. The ZBA shall have all the powers of the officer or body from whom the appeal is taken.

B. Standards: The ZBA shall reverse or otherwise modify the decision of such body or official only if it finds that the action or decision appealed:

1. was arbitrary or capricious, or
2. was based upon an erroneous finding of a material fact, or
3. constituted an abuse of discretion, or
4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
5. did not follow required procedures.

C. Record of Facts: In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official, board, or commission from whom the appeal is taken.

Section 6.06 Interpretations

A. Authority: The ZBA shall hear and decide upon requests to:

1. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
2. Determine the precise location of the boundary lines between zoning districts (see Section 9.04).
3. Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or prohibited use, the ZBA shall so declare, the effect being that use is not permitted in the Township until or unless the text of the Ordinance is amended to permit it.
4. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in Article 21, Off Street Parking and Loading, by an analysis of the specific needs. If no comparable use is found, the ZBA shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of the Ordinance.

B. Consultation: Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.

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Birch Run Township Zoning Ordinance

Section 6.07 Variances

A. Authority: The ZBA shall have the power to authorize specific variances from site development requirements such as standards pertaining to lot area and width, building height, setbacks, off-street parking and loading space, and signage. The ZBA is not authorized to grant a variance that permits the establishment of any use which is not a principal permitted use within the subject zoning district.

B. Standards: The ZBA shall have the power to authorize specific variances from site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

1. That there are practical difficulties which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. That a genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that does not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.
3. That the practical difficulty or special conditions or circumstances do not result from actions of the applicant.
4. That the variance will relate only to property described in the variance application.
5. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district.
6. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.

C. Evidence: In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings.

Section 6.08 Procedures

A. Application

1. Ordinance Interpretations and Variances: Requests for Ordinance interpretations and requests for variances may be made to the ZBA by completing and filing a written application with the Township Clerk on forms established for that purpose and accompanied by such information as is necessary to decide such request, along with the necessary fee.
 - a. Variance Application Contents: Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; the extent to which such variance request complies with the standards of Section 6.07(B); and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested and surrounding conditions.
 - b. Interpretation Application Contents: Application for an interpretation of the Ordinance shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation.
2. Administrative Appeals: Where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by a body or official in administering or enforcing the provisions of this Ordinance, a written application for an appeal for administrative review shall be completed and filed with the Township Clerk on forms established for that purpose, along with the necessary fee, within twenty-one (21) days after the date of the decision being appealed.
 - a. Appeal Application Contents: Application for an administrative appeal shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal.
 - b. Transmission of Record: Upon receipt of an application, the officer or body from whom the appeal

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is taken shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken.

- c. **Stay:** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the ZBA after notice of appeal has been filed with he or she, that by reason of facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the ZBA, or, on application, by court of record.

B. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.08. Upon the hearing, any party may appear in person or by agent or attorney.

C. Decision: The decision of the ZBA shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance, to make an interpretation of the Ordinance, to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant on any matter upon which they are required to pass under or to effect any variation in this Ordinance. The ZBA shall state the grounds for each decision and such grounds shall be placed in the record.

1. **Conditions:** In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See Section 20.01 regarding conditional approvals.
2. **Variance Authorization Period:** Each variance granted under the provisions of this Ordinance shall become null and void unless the construction or other actions authorized by such variance have commenced within one hundred eighty (180) days of the granting of such variance, and unless the structure or building for which the variance applies has been constructed to an extent in excess of fifty percent (50) of its replacement value.

D. Reapplication: No application for a variance or appeal of an administrative review, which has been denied wholly or in part by the ZBA, shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the ZBA to be valid and having bearing upon the original action of the ZBA.

Section 6.09 Review By Circuit Court

A. Circuit Court Review: The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:

1. Complies with the constitution and laws of the State.
2. Is based upon proper procedure.
3. Is supported by competent, material, and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by the Board of Appeals.

End of Article 6

(9-11-07, Ord. 2007-01, amended Sec. 6.02., 6.04, 6.08(B), and 6.09)

Birch Run Township Zoning Ordinance

**Article 7
PROCEDURES FOR AMENDMENTS**

Section 7.01 Purpose

The purpose of this Article is to establish the procedures for amending this Ordinance, including application requirements and the review of such applications. The purpose of this Ordinance is for establishing and maintaining sound, stable and desirable development within the territorial limits of the Township. It is not intended that this Ordinance be amended except to correct an error in the Ordinance, to address changed or changing conditions in a particular area in the Township, to conform with the planned future land use pattern for the Township and changes to other ordinances of the Township, to meet public need for new or additional land uses in areas so contemplated by the Township, or to further protect the environment, neighborhoods, public infrastructure or other public investment in the Township.

Section 7.02 Initiation Of Amendments

Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

Section 7.03 Procedures

A. Application: In addition to the necessary fee, a petitioner shall submit twenty (20) copies of a completed application for ordinance amendment to the Township Clerk on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name and address of the applicant and the desired change(s) and reason(s) for such change(s).

1. **Zoning Map:** When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
 - a. A legal description of the property.
 - b. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
 - c. The applicant's name and address and interest in the property, and if the applicant is not the owner, the name and address of the owner.
 - d. The desired change and reasons for such change.
 - e. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

B. Distribution to the Planning Commission: The Township Clerk shall forward the application materials to the Planning Commission.

C. Planning Commission Action

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactory and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. The Township Clerk shall give notice of the public hearing according to Section 3.08.
2. **Planning Commission Review:** In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application. Findings of fact shall be gathered and shall be made a part of the public records of the meetings of the Planning Commission.
 - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
 - 1) What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?
 - 2) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

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- 3) What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
 - 4) Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property?
 - 5) Is the site's physical, geological, hydrological and other environmental features compatible with the host of uses permitted in the proposed district?
 - 6) Is the subject property able to be put to a reasonable economic use in the District in which it is presently located?
 - 7) Does the petitioned district change generally comply with the Birch Run Township Master Plan and other planning goals and policies of the Township?
 - 8) Is the proposed rezoning consistent with the zoning classification of surrounding land?
 - 9) Can all requirements in the proposed zoning classification be complied with on the subject parcel?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
- 1) Is the proposed amendment supported by documentation, such as from the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
 - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively deal with certain zoning issues?
 - 3) Is the proposed amendment supported by significant case law?
- c. In determining the above mentioned findings of fact, the Planning Commission may solicit information and testimony from officials of, but not limited to, the County Health Department, County Road Commission, County Drain Commission, County Sheriff Department, and any school district affected.
3. Planning Commission Recommendation: The Planning Commission shall transmit its findings of fact, recommendations for disposition of the application, and a summary of comments received at the public hearing to the Township Board. The Planning Commission shall simultaneously transmit its recommendations for disposition of the application to the Saginaw County Metropolitan Planning Commission (SCMPC) pursuant to the Michigan Zoning Enabling Act. If the Planning Commission has not received comments from the SCMPC within thirty (30) days after receipt of the Planning Commission's findings of fact and recommendations for disposition of the application, it shall be conclusively presumed that the SCMPC has waived its right for review and recommendation of the amendment.

D. Township Board Action

1. After receiving and reviewing the findings and recommendations of the Township Planning Commission, and the recommendations of the SCMPC, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
 - a. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any property owner who has filed a written request to be heard. This written request shall take the form of a certified mail letter from the property owner to the Township Clerk. All hearings subject to this subsection (D) shall comply with the notice requirements of Section 3.08.
2. The Township Board may refer any proposed amendments back to the Planning Commission for further consideration and comment within a time specified by the Township Board. Such referral shall identify the concerns or suggestions of the Township Board regarding the amendments.

E. Publication Of Notice Of Ordinance Amendments: Following adoption of subsequent amendments to this Ordinance by the Township Board, one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. The notice shall include the following information:

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1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
2. The effective date of the amended Ordinance.
3. The place and time where a copy of the amended Ordinance may be purchased or inspected.

Section 7.04 Resubmittal

No application for an amendment to the Zoning Map which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions, found upon inspection by the Planning Commission to be valid and to have bearing on the original action of the Township Board.

Section 7.05 Comprehensive Review Of Zoning Ordinance

The Planning Commission shall, from time to time, examine the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the Township Board recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

End of Article 7

(9-11-07, Ord. 2007-01, amended Sec. 7.03(C) and (D))

Birch Run Township Zoning Ordinance

**Article 8
RESERVED for FUTURE USE**

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End of Article 8

Birch Run Township Zoning Ordinance

**Article 9
ZONING DISTRICTS, REGULATIONS, and MAP**

Section 9.01 Establishment of Districts

A. For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names, and shall have boundaries as delineated on the Official Zoning Map.

1. Conservation Districts
 - A-1 General Agricultural District
2. Residential District
 - R-1 Low Density Residential District
 - R-2 Medium Density Residential District
 - R-3 High Density Residential District
 - R-MF Multiple Family Residential District
 - R-MHC Manufactured Housing Community District
3. Commercial Districts
 - C-1 General Commercial District
 - C-2 Highway Commercial District
4. Industrial Districts
 - I-1 Light Industrial District
5. Other Districts
 - OSC Open Space Communities Overlay District (See Article 10)
 - PUD Planned Unit Development District (See Article 11)

Section 9.02 Purposes of Zoning Districts

See Table 9-1.

Section 9.03 Zoning District Map

A. The boundaries of the respective Districts enumerated in Section 9.01 are defined and established as depicted on the Official Zoning Map titled BIRCH RUN TOWNSHIP ZONING MAP which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

B. This Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following: This is to certify that this is the Official Zoning Map of the Birch Run Township Zoning Ordinance adopted on the 14th day of December, 2004. If, in accordance with the provisions of this Ordinance, changes are made in District boundaries or other matter portrayed on the Map, such changes shall be made on the Map.

C. The Official Zoning Map shall be held by the Township Clerk and shall be the final authority with regard to the current zoning status of all land in the Township, along with supporting minutes of Township Board meetings regarding zoning district changes, regardless of the existence of copies of the Map which may be made and published from time to time.

D. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may, by Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the following words: This is to certify that this is the Official Zoning Map of the Birch Run Township Zoning Ordinance adopted on the ___th day of _____, 2____, and replaces and supersedes the Official Zoning Map which was adopted on the ___th day of _____, 2____, and any amendments made thereon. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

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Section 9.04 Interpretation Of District Boundaries

A. A. Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, to the Zoning Board of Appeals. The Zoning Board of Appeals, in arriving at a decision on such matters, shall apply the following standards:

1. Boundaries indicated as approximately following roads or highways shall be construed as following the right-of-way center lines of said roads or highways.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following Township boundary lines shall be construed as following such boundary lines.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
6. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.
7. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) Districts, the District that presents the more restrictive provisions shall govern. "More restrictive provisions" shall be generally defined as provisions that place comparatively greater restrictions on the intensity and/or density of authorized uses and development.

Section 9.05 Permitted Uses in Zoning Districts

A. Compliance with Zoning Regulations: Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance, which are applicable in the District in which such use, building, or structure shall be located. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent.

B. Uses Permitted in Each Zoning District: Tables 9-2 and 9-3 identify the principal land uses permitted in each of the Districts enumerated in Section 9.01. No land use shall be established on a lot or parcel except in conformance with such Tables. In order to insure all possible benefits and protection for the Districts in this Ordinance, the Tables delineate whether a land use permitted in a particular Zoning District is a "Use Permitted by Right" or a "Special Land Use".

1. Uses Permitted by Right: Uses permitted by right are the primary uses and structures specified for which the District has been established.
2. Special Land Uses: Special land uses are uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the District, but could present potential injurious effects upon the primary uses and structures within the District and surrounding areas, or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses shall be subject to a public hearing. See Article 5.

C. Accessory Uses: Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to, and customarily associated with the principal use of the property, are permitted in all Districts and shall conform to all applicable standards of this Ordinance, including Section 20.13 (Home Occupations), Section 20.19 (Keeping of Animals), and Section 20.20 (Accessory Uses, Buildings, and Structures).

D. Prohibited Uses: Any use of land not specifically permitted is prohibited. The Zoning Board of Appeals shall

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have the power to classify a use which is not specifically identified, according to a comparable permitted or prohibited use, for the purpose of clarifying the use regulations in any District, if so petitioned and in accord with Article 6. If the Zoning Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission may be petitioned to initiate an amendment to the text of the Ordinance to establish the appropriate district(s) and/or type of use (use permitted by right or special land use), and criteria that will apply for that use. If the Ordinance is amended to include the new regulations, then an application can be processed to establish that use.

Section 9.06 Site Development Requirements of Zoning Districts

A. All land uses shall comply with the site development requirements in Table 9-4, unless otherwise specified in this Ordinance. In addition, all uses shall comply with all other applicable site development provisions of this Ordinance, including, but not limited to, the following Articles:

1. Article 16: Off-Street Parking and Loading
2. Article 17: Landscaping and Screening
3. Article 18: Environmental Standards
4. Article 19: Access Controls and Private Roads
5. Article 20: General Provisions

B. Variances from required site development standards may be granted by the Zoning Board of Appeals according to Article 6. Owners of nonconforming lots of record, structures, or uses should refer to Article 13.

C. No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

D. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including lot size and lot width.

E. No portion of one lot shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform with all of the requirements established herein.

F. Wherever any provision of the Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

Section 9.07 Special District Provisions

The following provisions shall apply to the respective Districts as identified below in addition to all other applicable provisions of this Ordinance:

A. A-1: General Agricultural District

1. The minimum lot area in the A-1 District shall be 1 acre. However, the number of development sites less than 40 acres in area, created from a parcel existing on March 31, 1997, shall not exceed 4 development sites for the first 10 acres or fraction thereof contained in such parcel, and for each whole 10 acres in excess of the first 10 acres in such parcel, 1 additional development site, for up to a maximum of 11 additional development sites, and for each whole 40 acres in excess of the first 120 acres in such parcel, 1 additional development site is authorized. This formula shall apply irrespective of whether such lots are created as land divisions as defined by the Land Division Act, or are created as part of a platted or condominium subdivision. For a parcel of not less than 20 acres, the number of authorized development sites according to the formula above may be increased by 2 if one or both of the following conditions are met: a) Because of the establishment of 1 or more roads, no new driveway accesses to an existing public road for any of the resulting development sites are created or required; or b) One of the resulting development sites created according to the above formula comprises not less than 60% of the area of such parcel being divided. See Table 9-4 for other site development requirements applicable to the A-1 District. See Article 10 (Open Space Community Overlay District) for development options exempt from the above formula.

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- a. For the purposes of subsection (1) above, the following phrases shall have the following meanings:
 - 1) “development site”: Property used for purposes other than agriculture, as defined in this Ordinance.
 - 2) “a parcel existing on March 31, 1997”: A parcel identified as a separate tax parcel through the issuance of a tax parcel number by the Township Assessor, as of March 31, 1997, and provided said parcel was lawfully created in accordance with applicable statutes and ordinances.

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B. R-MF: Multiple Family District

1. Minimum lot size shall be one (1) acre for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit. In the case where public sewer is available, the minimum lot size shall be twenty thousand (20,000) sq. ft. for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit.
2. All buildings shall be set back from all lot lines a minimum of forty (40) feet.
3. Maximum building heights shall not exceed forty (40) feet, except that maximum building heights shall not exceed two (2) stories or thirty (30) feet where such buildings exceed two-hundred (200) feet in length or are within one hundred fifty (150) feet of an R-1 District.
4. The distance between any two (2) residential structures which occupy the same lot shall be not less than thirty (30) feet if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations.
5. There shall be provided easily accessible and usable open space in the development in an amount of ten percent (10%) or more of the site area or five hundred (500) square feet per four dwelling units, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided.
6. All access drives shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets.
7. Accessory buildings, structures, and uses that are clearly customary and incidental to the functioning of the development are permitted, including an office for conducting the business of the development, utility areas for laundry facilities and auxiliary storage for tenants, recreation areas such as community buildings, playgrounds, and open space for tenants, and administrative offices.
8. All developments shall provide for underground installation of all utilities where feasible.
9. The minimum floor area for multiple family dwelling units shall be as follows:
 - a. Efficiencies: 400 sq. ft. of heated living area.
 - b. One bedroom units: 750 sq. ft. of heated living area.
 - c. Two bedroom units: 850 sq. ft. of heated living area.
 - d. Three bedroom units: 950 sq. ft. of heated living area.
 - e. Four or more bedroom units: 1,050 sq. ft. of heated living area, plus 100 sq. ft. of heated living area for each additional bedroom in excess of the fourth bedroom.

C. R-MHC: Manufactured Housing Community District

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, a preliminary plan shall be submitted to the Township for review by the Township Board. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and Township Board shall generally follow the procedures and requirements in Article 4 of this Ordinance, where applicable, except where said procedures and requirements are superseded by the requirements in P.A. 96 of 1987, as amended, or the Mobile Home Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Township Board shall take action of the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission pursuant to the authority vested in the Mobile Home Commission by such Act. The construction of a mobile home park shall not be initiated, nor shall a mobile home park be inhabited or operated until all necessary permits have been acquired from state agencies and all other agencies pursuant to the Mobile Home Commission Act.
3. In addition to complying with the provisions of P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission, the following standards and provisions shall apply:
 - a. Minimum Parcel Size: The minimum parcel size for a manufactured housing community shall be ten (10) acres.
 - b. Minimum Site Size: The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square foot standard for any one site may be reduced by twenty (20) percent provided that the individual site shall be equal to at least 4,400 square feet. For

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each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941, Rules 941 and 944 of the Michigan Mobile Home Commission General Rules.

**Table 9-1
PURPOSES of ZONING DISTRICTS**

DISTRICTS	PURPOSE
<u>ALL DISTRICTS</u>	
All Districts	It is the purpose of all Districts to protect sensitive environmental resources which may be present on a development site, and that the District uses be adequately served by facilities and services including sewage disposal, potable water, fire protection, and roads. Additional purposes of each District are delineated below.
<u>CONSERVATION DISTRICTS</u>	
A-1 District	It is the purpose of the A-1 (Agricultural) District to encourage and provide opportunities for agriculture and retention of land areas in Birch Run Township which are well suited for production of food and fiber due to soil, topographic and other conditions, while also providing opportunities for comparatively low density rural residential lifestyles and development patterns that encourage the preservation of open spaces, natural resources, and the Township's rural character. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses. Persons considering residing within this District should be aware that the traditional smells, noises, pesticide applications, and other generally recognized agricultural activities may continue on a long term basis. This District also includes certain land areas that have been divided so as to preclude farm operations, but support opportunities for rural residential development and lifestyles.
<u>RESIDENTIAL DISTRICTS</u>	
R-1 District	It is the purpose of the R-1 (Low Density Residential) District to encourage and provide opportunities for single family residential development patterns and lifestyles of a more suburban character than permitted in Agricultural Districts, and which ensure a stable and sound residential environment with suitable open spaces. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses. The lot area requirements contained herein are minimum requirements, and larger lot areas may be required where natural site conditions dictate and/or public sewer or water is not available.
R-2 District	It is the purpose of the R-2 (Medium Density Residential) District to provide opportunities for residential development and lifestyles associated with more urban development patterns than permitted in the R-1 District, and which ensure a stable and sound residential environment with suitable open spaces. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
R-3 District	It is the purpose of the R-3 (High Density Residential) District to provide opportunities for residential development and lifestyles associated with more urban development patterns than permitted in the R-2 District, and which ensure a stable and sound residential environment with suitable open spaces. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
R-MF District	It is the purpose of the R-MF (Multiple Family Residential) District to provide alternative high-density housing opportunities than those of the R-3 District in the form of multiple family development. In light of the development densities associated with multiple family developments authorized by this District, this District is to be established only where public sewer is or likely to become available.

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R-MHC District	It is the purpose of the R-MHC (Manufactured Housing Community) District to provide opportunities for residential development and lifestyles associated with manufactured housing communities while similarly limiting excessive public costs and demands placed on public facilities and services which may be associated with such housing developments. It is the intent of this District that, in light of the comparative speed at which a manufactured housing community can be constructed and the resulting rapid increased demands on public infrastructure and community services, this District be established only where development of such acreage will not outpace the Township's ability to effectively manage and accommodate demands upon public infrastructure and community services and maintain the quality of life and local character and identity of the Township. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
COMMERCIAL DISTRICTS	
All Commercial Districts	It is the purpose of all Commercial Districts that development minimize negative impacts on abutting properties and complement the community's rural character through appropriate architectural design and building scale, building materials, signage, landscaping, buffering, open spaces and lighting. Commercial Districts are intended to accommodate development in a manner that ensures safe and efficient vehicular travel and access, and minimizes congestion, turning conflicts, and pedestrian hazards. Additional purposes of each District are delineated below.
C-1 District	The C-1 (General Commercial) District is intended to provide opportunities for commercial establishments that address retail and service needs of both local and regional populations, including light wholesale commercial activities. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
C-2 District	The C-2 (Highway Commercial) District is intended to provide opportunities for commercial establishments that require or uniquely benefit from the close proximity and/or the heightened access afforded by the I-75 interchange, including uses that cater to the highway traveler's needs. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
INDUSTRIAL DISTRICTS	
All Industrial Districts	It is the purpose of all Industrial Districts that industrial development minimize negative impacts on abutting properties and that development complement the community's rural character through appropriate architectural design and building scale, building materials, signage, landscaping, buffering, open spaces and lighting. Additional purposes of each District are delineated below.
I-1 District	It is the purpose of the I-1 (Light Industrial) District to provide for a variety of manufacturing and other industrial uses that can be generally characterized as being of low intensity, including comparatively small building sizes, the absence of objectionable external affects such as noise and fumes, and limited demands for public services. Other land uses may be permitted where considered compatible with and/or supportive of the primary purpose of the District, including certain special land uses.
OTHER DISTRICTS	
OSC	See Section 10.01, Open Space Communities (OSC) Overlay District
PUD	See Section 11.01, Planned Unit Development (PUD) District.

End of Table 9-1

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Conformance to Table: No principal land use shall be established on a lot or parcel in a Conservation or Residential District except in conformance with this Table, unless where expressly authorized elsewhere in this Ordinance, and provided all other applicable provisions of this Ordinance are met. Irrespective of the particular labeling of a cell in this Table, the following uses are classified as a Special Land Use and subject to the provisions of Article 5, Special Land Uses:

1. Any use in a Commercial or Industrial District that exceeds 10,000 sq. ft. in gross floor area (excluding any dwelling area).
2. Any use that has a principal function or operation involving the storage and/or sale of toxic or explosive material including, but not limited to, the storage and/or sale of fuels, pesticides, fertilizers, and fireworks.

**Table 9-2
PERMITTED PRINCIPAL USES
in CONSERVATION and RESIDENTIAL DISTRICTS¹**

	PRINCIPAL USES	ZONING DISTRICTS & PERMITTED PRINCIPAL USES ¹					
		“BR” = Use Permitted by Right “S” = Special Land Use “--” = Prohibited Use					
		A-1	R-1	R-2	R-3	R-MF	R-MHC
	Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character¹						
1	Agriculture, except concentrated livestock operations.	BR	--	--	--	--	--
2	Concentrated livestock operations.	S	--	--	--	--	--
3	Agricultural service establishments.	S	--	--	--	--	--
4	Wholesale and retail sales of ornamental trees, shrubs, and other greenhouse and nursery stock that is grown on the premise.	S	--	--	--	--	--
5	Public or private conservation areas; areas set aside for the protection of wildlife and natural resources; wildlife management areas; nature preserves; and game refuges.	BR	S	S	S	--	--
6	Outdoor recreation including but not limited to golf courses, driving ranges and country clubs; outdoor shooting ranges; campgrounds; commercial stables; and zoos; but excluding race tracks and drive-in theaters.	S	--	--	--	--	--
7	Retreat Centers.	S	--	--	--	--	--
8	Extraction Operations	S	--	--	--	--	--
	Uses of a Primarily Residential Character						
1	Single family dwellings.	BR	BR	BR	--		
2	Two family dwellings.	--	--	BR	BR	--	--
3	Day care, family home.	BR	BR	BR	BR	BR	BR
4	Day care, group home.	S	S	S	S	S	S
5	Foster care facility, family home.	BR	BR	BR	BR	BR	BR
6	Foster care facility, group home.	S	S	S	S	S	S
7	Nursing homes.	S	S	S	S	S	--
8	Multiple family dwellings.	--	--	--	--	BR	--
9	Manufactured housing communities.	--	--	--	--	--	BR

¹ See “Conformance to Table” at the beginning of Table 9-2 regarding exceptions to cell labeling.

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	PRINCIPAL USES	ZONING DISTRICTS & PERMITTED PRINCIPAL USES ¹					
		“BR” = Use Permitted by Right “S” = Special Land Use “--” = Prohibited Use					
		A-1	R-1	R-2	R-3	R-MF	R-MHC
	Uses of a Primarily Commercial or Business Character¹						
1	Funeral homes and mortuaries.	S	--	S	S	S	--
2	Day care centers.	--	--	S	S	S	--
3	Hospitals and medical clinics.	--	--	S	S	S	--
4	Kennels.	S	--	--	--	--	--
5	Veterinarian clinics.	S	--	--	--	--	--
6	Commercial stables.	S	--	--	--	--	--
7	Bed and breakfast establishments.	S	S	S	S	S	S
8	Communication towers, Class 2.	BR	BR	BR	BR	BR	BR
9	Communication towers, Class 1	S	--	--	--	--	--
	Other Uses not Listed Above						
1	Public assembly facilities such as, but not limited to, cemeteries, parks, schools, libraries, religious facilities, and museums.	S	S	S	S	S	--
2	Public facilities not otherwise included in (1) above such as, but not limited to, fire stations, police stations, substations, jails, and public parking lots.	S	S	S	S	S	S
3	Clubs, lodges, and similar social centered organizations.	S	S	S	S	--	--
4	Commercial wind energy conversion facilities (Commercial WECFs)	S	--	--	--	--	--
5	Solar Panels	A/S	A/S	A/S	A/S	A/S	A/S
6	Solar Farms	S	--	--	--	--	--

¹ See “Conformance to Table” at the beginning of Table 9-2 regarding exceptions to cell labeling.

End of Table 9-2

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Conformance to Table: No principal land use shall be established on a lot or parcel in a Commercial or Industrial District except in conformance with this Table, unless where expressly authorized elsewhere in this Ordinance, and provided all other applicable provisions of this Ordinance are met. Irrespective of the particular labeling of a cell in this Table, the following uses are classified as a Special Land Use and subject to the provisions of Article 5, Special Land Uses:

1. Any use in a Commercial or Industrial District that exceeds 10,000 sq. ft. in gross floor area (excluding any dwelling area).
2. Any use that has a principal function or operational characteristic of the storage and/or sale of toxic or explosive material including, but not limited to, the storage and/or sale of fuels, pesticides, fertilizers, and fireworks.

**Table 9-3
PERMITTED PRINCIPAL USES
in COMMERCIAL and INDUSTRIAL DISTRICTS**

	PRINCIPAL USES	ZONING DISTRICTS & PERMITTED PRINCIPAL USES ¹		
		C-1	C-2	I-1
	Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character			
1	Agricultural service establishments.	--	S	--
	Uses of a Primarily Residential Character			
1	Nursing home.	S	--	--
	Uses of a Primarily Commercial Character¹			
1	Any generally recognized retail business, excluding sexually oriented businesses, which supplies commodities on the premises within a completely enclosed building including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions, books, flowers, jewelry or hardware.	BR	BR	S ²
2	Personal service establishments which perform services on the premises within a completely enclosed building such as, but not limited to, shoe repair shops, barber and beauty shops, photographic studios, and dry cleaners, but excluding those uses delineated in #11 below.	BR	BR	--
3	Service establishments not otherwise identified in #2 above including but not limited to printing, publishing, and photographic services.	BR	BR	--
4	Day care centers.	S	--	--
5	Service station, standard.	S	S	--
6	Service station, multiple use.	S	S	--
7	Sale of new or used cars, farm machinery, and other vehicles and equipment, including items intended for tow, and the service and repair of such vehicles and equipment provided such service and repair is an accessory use.	S	--	BR
8	Service and repair of vehicles and equipment, including boats, cars, trucks, farm equipment and vehicle repair shops.	S	--	S
9	Motels and hotels.	S	S	S
10	Funeral homes and mortuaries.	S	--	--
11	Mini-storage facilities.	S	--	S

¹ See "Conformance to Table" at the beginning of Table 9-3 regarding exceptions to cell labeling.

² Such generally recognized retail businesses shall occupy a minimum of ten thousand (10,000) sq. ft. of floor area per business.

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	PRINCIPAL USES	ZONING DISTRICTS & PERMITTED PRINCIPAL USES ¹		
		C-1	C-2	I-1
		“BR” = Use Permitted by Right “S” = Special Land Use “--” = Prohibited Use		
12	Kennels.	S	--	S
13	Sexually oriented businesses	--	S	--
14	Hospitals and medical clinics.	S	S	S
15	Office establishments which perform services on the premises including but not limited to; financial institutions; insurance offices; real estate offices; artist offices and galleries; professional offices for accountants, doctors, lawyers, engineers, and architects; and similar office uses.	BR	--	S
16	Arcade	S	--	--
17	Offices and showrooms of plumbers, electricians, decorator, or similar trades in connection with which not more than twenty-five (25) percent of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise, and provided that the ground floor premises facing upon and visible from any abutting road shall be used only for entrances, offices, or display.	S	--	S
18	Offices of contractors, excavators, and similar construction businesses, and storage facilities for building materials, sand, gravel, stone, lumber, and equipment of such businesses.	S		S
19	Standard restaurants that do not serve alcohol nor constitute a sexually oriented business.	BR	BR	BR
20	Standard restaurants that serve alcohol, but excluding sexually oriented businesses.	S	S	S
21	Non-standard and outdoor restaurants, and drive-in, drive-through, take-out, pick-up, and other forms of in-vehicle retail or service establishments including financial institutions, dry cleaning businesses, and similar facilities.	S ³	S ³	S ³
22	Indoor commercial recreation such as theaters, bowling alleys, skating rinks, indoor shooting ranges, arcades, and banquet halls.	S	--	S
23	Veterinarian clinics.	BR	--	S
24	Wholesale and retail sales of ornamental trees, shrubs, and nursery stock.	S	S	S
25	Communication towers, Class 1.	S	S	S
26	Communication towers, Class 2.	BR	BR	BR
27	Existing automobile racetracks.	S	--	S
28	Outdoor Entertainment and Events	S	--	--
Uses of a Primarily Industrial Character¹				
1	Bulk storage and warehousing establishments; storage and transfer establishments; truck terminals; and distribution plants.	--	--	S
2	Laboratories including experimental, film and testing.	--	--	S
3	Junkyards.	--	--	S
4	Plastic molding and extrusion, tool and die manufacturing, and monument and art stone production establishments.	--	--	S
5	Food processing, smoking, curing, and canning.	--	--	S

³ Outdoor restaurants are classified as a use permitted by right (BR) where the outdoor area is no greater than 1,500 square feet in area and is designed and used to accommodate no more than sixty (60) persons at any one (1) time, sitting or standing, and in which no alcohol is served or consumed. See Section 14.19 for definition of “outdoor area.”

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	PRINCIPAL USES	ZONING DISTRICTS & PERMITTED PRINCIPAL USES ¹		
		C-1	C-2	I-1
		“BR” = Use Permitted by Right “S” = Special Land Use “--” = Prohibited Use		
6	Manufacture of brick, tile, terra cotta, glass, plastic, gas, chemicals, and cement.	--	--	S
7	The manufacturing, compounding, processing, treatment, fabrication or packaging of such products as: drugs, perfumes, pharmaceuticals, toiletries, bakery goods, candy, ceramics, clothing, jewelry, hardware, instruments, optical goods, and cutlery, but excluding food products.	--	--	BR
8	The manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, canvas, cork, felt, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, sheet metal, wax, and wire. Previously prepared materials are materials that were processed, manufactured or created at another location and shipped to the manufacturers permitted in this District for assembly into new products.	--	--	BR
9	Machine and battery building, and tire recapping and retreading.	--	--	S
10	Assembly of electrical appliances, electronic instruments and devices, radios and phono-graphs, including the manufacture of small parts such as condensers, transformers, crystal holders, and the like.	--	--	BR
Other Uses not Listed Above				
1	Public assembly facilities such as, but not limited to, cemeteries, parks, schools, libraries, religious facilities, museums, and bus and train passenger terminals.	S	S	S
2	Public facilities not otherwise included in (1) above such as, but not limited to, fire stations, police stations, substations, jails, and public parking lots.	S	S	S
3	Clubs, lodges, and similar social centered organizations.	S	--	--
4	Solar Panels	A/S	A/S	A/S
5	Solar Farms	--	--	S

End of Table 9-3

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Birch Run Township Zoning Ordinance

**Table 9-4
Site Development Requirements¹**

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage ²	Maximum Building Height	Minimum Floor Area Per Dwelling (sq. ft.)	Maximum Lot Coverage	Minimum Yard Setback		
						Front ³	Side	Rear
A-1	1 acre ¹⁰	200 ft. ⁵	35 ft. ⁶	1,200 ⁷	10% ¹¹	50 ft.	15 ft. each ⁴	40 ft.
R-1	1 acre	150 ft. ⁵	35 ft.	1,200 ⁷	10% ¹¹	30 ft.	10 ft. each ⁴	30 ft.
R-2	<u>SFD</u> : 1 acre w/o public sewer, otherwise 12,500 sq. ft.; <u>TFD</u> : 1 acre w/o public sewer, otherwise 15,000 sq. ft.	150 ft. w/o public sewer, otherwise: <u>SFD</u> : 70 ft. <u>TFD</u> : 75 ft.	35 ft.	<u>SFD</u> : 1,200 ⁷ <u>TFD</u> : 900 ⁷	25% ¹¹	30 ft.	10 ft. each ⁴	30 ft.
R-3	<u>SFD</u> : 1 acre w/o public sewer, otherwise 8,000 sq. ft.; <u>TFD</u> : 1 acre w/o public sewer, otherwise 10,000 sq. ft.	150 ft. w/o public sewer, otherwise: <u>SFD</u> : 55 ft. <u>TFD</u> : 65 ft.	35 ft.	<u>SFD</u> : 1,200 ⁷ <u>TFD</u> : 900 ⁷	35% ¹¹	30 ft.	10 ft. each ⁴	30 ft.
R-MF	See Section 9.07(B)							
R-MHC	See Section 9.07(C)							
C-1	1.50 acres	200 ft. ⁵	40 ft.	NA	50%	40 ft.	10 ft. ⁹	20 ft. ⁹
C-2	1.50 acres	200 ft. ⁵	40 ft.	NA	50%	50 ft.	10 ft. ⁹	20 ft. ⁹
I-1	1.50 acres	200 ft. ^{5,8}	35 ft.	NA	50%	40 ft.	20 ft. ⁹	20 ft. ⁹

SFD = single family dwelling; TFD = two family dwelling; sq. ft. = square feet;
1 Acre = 43,560 sq. ft.

See Following Page for Footnotes

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Birch Run Township Zoning Ordinance

Footnotes for Table 9-4

1. All uses shall comply with the site development requirements in Table 9-4, unless otherwise specified by Article 5 – Standards for Specific Special Land Uses or Article 20 – General Provisions, or otherwise authorized pursuant to Article 12 – Open Space Communities Overlay District or Article 12 – Planned Unit Development District. In addition, all uses shall comply with all other applicable site development provisions of this Ordinance, including, but not limited to, the following Articles: Article 16 - Off-Street Parking and Loading; Article 17 - Landscaping and Screening; Article 18 - Environmental Protection, Article 19 - Access and Private Roads, and Article 20 - General Provisions.
2. The depth of a lot shall not exceed 4 times its width, except in the A-1 District, in which case the depth of a lot shall not exceed 2 times its width.
3. Front yard setback shall be measured from the road right-of-way.
4. On a corner lot, a minimum 25' side yard setback shall be maintained along the side yard abutting the road.
5. The minimum lot width and frontage shall be increased to three-hundred (300) feet for any lot that gains direct access to M-54, M-83 or Dixie Highway.
6. The maximum height of farm structures shall be eighty-five (85) feet. See Section 20.10 for additional height exceptions.
7. The minimum floor area of dwelling units shall comply with the following:
 - a. Single Family Dwellings: Each dwelling unit shall have a minimum of one thousand two hundred (1,200) square feet of heated living area. In the case of a dwelling unit composed of two (2) or more stories, the dwelling unit shall have a minimum of seven hundred fifty (750) square feet of heated living area on the first story.
 - b. Two Family Dwellings: Each dwelling unit shall have a minimum of nine hundred (900) square feet of heated living area. In the case of a dwelling unit composed of two (2) or more stories, the dwelling unit shall have a minimum of six hundred (600) square feet of heated living area on the first story.
8. The minimum lot width/frontage requirement may be reduced by 50% where a lot is located within an industrial park and gains direct access from a road serving the interior of such park.
9. Minimum setback to be increased to 100 feet where the yard abuts a Conservation or Residential District.
10. See Section 9.07(A) regarding the maximum number of development sites that may be created from a parcel in the A-1 District.
11. The following additional maximum lot coverage requirements shall apply:
 - a. A minimum of sixty percent (60%) of a lot used principally for residential purposes shall be maintained as open space. For the purposes of this Footnote #11, “open space” shall be defined as areas dedicated to the growth and maintenance of grasses, shrubs, trees and/or other plant material. For clarification purposes, features that shall not be considered as open space shall include, but not be limited to, wood or other decking; stone, brick, asphalt, concrete, gravel, landscape pavers, and hard surface patios and outdoor areas irrespective of the width of the gap between bricks and stones, and similar component surfaces of such areas. For clarification purposes, features that shall be considered as open space include, but are not limited to, lawns, woodlands, gardens, and planting beds including mulched beds.
 - b. In the case of an authorized nonresidential use in the A-1, R-1, R2 or R-3 Districts, according to table 9-2 and 9-3 or elsewhere in this Ordinance, such as in the case of a museum or nursing home, the allowable maximum lot coverage shall be 25%.
 - c. In the case of an A-1, R-1, R-2 or R-3 lot that is nonconforming due to noncompliance with the minimum lot area standard for the district in which it is located, the allowable maximum lot coverage on such lot shall be the total of the maximum lot coverage standard specified in table 9-4 and 2,000 sq. ft. Furthermore, accessory buildings and structures shall also comply with all of the site development requirements in Table 9-4 and other regulations found in this Ordinance.

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Birch Run Township Zoning Ordinance

End of Article 9

(8-12-14, Ord. 2014-04, amended Table 9-4 Footnote 11)
(6-10-14, Ord. 2014-03, amended Table 9-3)
(2-12-13, Ord. 2013-04, amended Table 9-2 and 9-3)
(9-11-07, Ord. 2007-01, amended Table 9-4)
(12-13-16, Ord. 2016-04, added 28 to Table 9-3 under Uses of a Primarily Commercial Character)
(6-13-17, Ord. 2017-02, amended 11 to Table 9-3 under Uses of a Primarily Commercial Character)
(6-13-17, Ord. 2017-03, amended 7 to Table 9-3 under Uses of a Primarily Commercial Character)
(7-10-18, Ord. 2018-01, amended Table 9-3, adding additional miscellaneous uses to the I-1 Zoning District by either "S"= Special Land Use or "BR" Use Permitted by Right)
(5-14-19, Ord. 2019-04, amended Table 9-4 Footnote 11.b and 11.c)
(5-14-19, Ord. 2019-05, inserted Solar Panels and Solar Farms under Other Uses Not Listed Above to Table 9-2 and 9-3)

Birch Run Township Zoning Ordinance

Article 10
OPEN SPACE COMMUNITY (OSC) OVERLAY DISTRICT

Section 10.01 Purpose

It is the purpose of this Article to provide opportunities for residential development which, because of the more flexible standards available to “Open Space Communities” (OSC) under this Article, more effectively encourage the preservation of the Township’s agricultural land and other natural resources, sensitive environmental areas, open spaces, and rural character. The regulations of this Article propose to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the District within which the OSC is proposed to be located, so that the remainder of the site will be largely undisturbed or available for agricultural or other open space preservation purposes.

Section 10.02 Overlay District

The OSC District is established as an overlay District. The District exists as an overlay on top of all Conservation and Residential Districts. Land located within such Districts may be developed according to the more traditional provisions of the base District, or according to the more flexible open space community overlay provisions of this Article. A rezoning for OSC is not necessary as it is already available in Conservation and Residential Districts by the presence of the OSC Overlay District.

Section 10.03 Procedures For Open Space Communities

A. Applications for an OSC shall not be considered an application for a special land use. However, the process for application, review, and action on an OSC request shall follow the same procedures and requirements for special land uses under Article 5 except as provided below:

1. **Conventional Plan**: At the time the applicant submits a preliminary site plan for the OSC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the underlying District provisions. This plan shall identify the total number of lots and dwellings reasonably attainable. The Planning Commission shall review the conventional plan and determine the number of dwellings and lots attainable by conventional design. This information shall be used when determining the number of lots and dwellings permissible in the OSC plan.
2. **Unified Control**: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
3. **Recording of Approval Action and Permit Issuance**: The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved OSC plan unless a change is approved by the Planning Commission. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Township Clerk. Upon final project approval by the Planning Commission, and upon receipt of the recorded documents by the Township Clerk, the Township Clerk shall direct the Zoning Administrator to issue a Zoning Permit for the OSC project.

Section 10.04 Approval Standards

- A. Design and Compatibility Standards: An application for an OSC shall comply with the following:
1. **Compliance with OSC Concept**: The proposed development shall be consistent with the purpose of this Article, as prescribed in Section 10.01.
 2. **Section 4.05(B)**, Site Plan Approval Standards.
 3. **Section 5.06**, General Approval Standards for Special Land Uses.
 4. **Section 10.05**, OSC Design Standards.

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Section 10.05 OSC Design Standards:

A. Regulatory Flexibility: To encourage flexibility and creativity consistent with the OSC concept, modifications from the regulations of the base District may be permitted, subject to review and approval by the Planning Commission. For example, such modifications may include but are not limited to lot dimensional standards, setback requirements, and lot area requirements. However, in no case shall such modifications exceed the standards of this Section except as may be authorized by Section 10.06. All proposed modifications shall be specified in the OSC application materials.

B. Permitted Number of Dwelling Units: The number of dwelling units authorized in an OSC shall be equal to an additional thirty percent (30%) of the number attainable by the Conventional Plan, according to Section 10.03(A)(1). In addition to this thirty percent (30%) increase in the number of dwelling units attainable by the Conventional Plan, a further additional increase of four percent (4%) of the number attainable by the Conventional Plan shall be granted for each of the following attributes that the Planning Commission finds is substantially reflected in the OSC design, based upon the reasonable discretion of the Planning Commission:

1. The dedication of usable open space to a public entity or nonprofit land or nature conservancy that has the effect of increasing or enhancing the public use and enjoyment of scenic areas, natural areas, or other significant environmental areas; and/or the dedication of usable open space for other public use that clearly addresses a need in the community.
2. Dedication of more than sixty-five percent (65%) of the project parcel as permanent open space.
3. Effective preservation of rural character along the existing public road frontages that the OSC abuts, either through:
 - a. substantially increased building setbacks and screening by the retention of existing vegetation and/or the planting of new native species;
 - b. dedicated open space of at least two-hundred (200) feet in width that extends along a minimum of fifty percent (50%) of the existing public road frontage or three-hundred (300) feet, whichever is greater.
4. Strategic placement of dedicated open space in relation to abutting OSC projects to support continuous networks of important environmental resources systems including, but not limited to, wetlands, woodlands, stream corridors, and wildlife corridors and habitats.
5. Strategic placement of dwellings and dedicated open space in relation to adjacent agricultural operations to minimize conflicts between ongoing farming activities and dwellings and residents in the OSC.

C. Permitted Principal Uses: The following principal uses shall be permitted within an OSC:

1. Dwellings, as authorized by the base District's requirements.
2. Dedicated open space for agriculture, resource conservation, recreation and/or preservation in an undeveloped state.

D. Permitted Accessory Uses:

1. Accessory buildings, structures and uses on a residential lot shall be limited to uses customarily incidental and subordinate to a dwelling.
2. Accessory buildings, structures and uses on dedicated open space shall be limited to uses customarily incidental and subordinate to the intended purpose of such open space as delineated on the approved site plan.

E. Lot Size: This minimum lot size for a dwelling shall be one (1) acre except in the case where public sewer is available, in which case the minimum lot size shall be one-half (1/2) the minimum lot size required by the base District.

F. Building Setbacks: In no case shall a building setback be less than that specified below:

1. Along a road outside of the OSC parcel: One hundred feet (100) feet, except where the Planning Commission finds the natural or proposed topography, vegetation, or other conditions provide adequate screening and buffering, in which case such setback may be reduced to no less than sixty (60) feet.
2. Along a road inside of the OSC parcel: Twenty-five (25) ft.
3. Side and rear yard setbacks: No dwelling shall be located within ten (10) feet of a side lot line or twenty (20) feet of a rear lot line. Where such lot lines serve as perimeter boundary lines of the OSC parcel, subsection (d) below shall apply.
4. Along OSC parcel perimeter, but not adjacent to a road: One hundred (100) feet.
5. Along lakes, ponds, rivers, streams, and wetlands: Fifty (50) feet.

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G. Location of Lots: The arrangement of lots on the OSC parcel shall be based upon the following standards, recognizing that satisfying all of the standards equally may not be feasible.

1. Preservation of land resources for agriculture, resource conservation, wildlife habitat, passive recreation, and/or other open space preservation purposes.
2. Minimize visual impact of new dwellings on surrounding properties.
3. Preservation of the rural character of existing public roads abutting the OSC parcel.
4. Minimize interruptions of scenic vistas, as viewed from abutting public roads.

H. Guarantee of Open Space: An OSC shall include permanently dedicated open space. The dedicated open space shall forever remain open space, subject only to uses approved by the Planning Commission on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation, or agricultural uses or preservation in an undeveloped state, except for easements for utilities and septic systems, shall be strictly prohibited. The applicant shall guarantee to the satisfaction of the Township that all open space portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OSC plan.

1. A minimum of fifty percent (50%) of the OSC parcel shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land and found acceptable to the Planning Commission. For the purposes of this subsection, the following terms and phrases shall have the following meanings:
 - a. “Conservation easement” means that term as defined in section 2140 of The Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - b. “Undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.
 - c. “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.
2. The dedicated open space shall be set aside by the owner through an irrevocable conveyance that is found acceptable to the Township Attorney, such as recorded deed restrictions, covenants that run perpetually with the land, transfer to a non profit land trust, or a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended. Such conveyance shall assure that the open space will be protected from all forms of development, except as specifically delineated on an approved site plan. All subsequent use and improvements to the dedicated open space shall comply with the approved site plan. Changes to the authorized uses or improvements to the open space are prohibited except where the Planning Commission approves a revised site plan upon finding that the applicant’s proposed changes shall not alter the essential character of the open space or undermine the purpose and spirit of the OSC concept as presented in this Article. Such conveyance shall:
 - a. Indicate the proposed allowable use(s) of the dedicated open space.
 - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - c. Provide standards for scheduled maintenance of the open space.
 - d. Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.
3. Structure(s) or building(s) accessory to a recreation, conservation, or agricultural use or area preserved in an undeveloped state, may be erected within the dedicated open space, subject to the approved site plan. The accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the total required open space area.

I. Utilities:

1. The OSC shall provide for underground installation of all utilities.
2. An OSC permit shall not be issued unless public water and sanitary sewer service is provided to the

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development if such service is available.

3. Provisions shall be made for appropriate storm water management, including the construction of necessary storm water facilities. The storm water system may include the establishment of detention or retention basins, and associated infrastructure. Storm water management systems shall minimize alterations to the natural topography and drainage patterns of the site.
4. Fire protection measures shall be provided in all OSCs which provide public water, and in OSCs which are generally characterized by lots of approximately one half (1/2) acre or less in size where such lots are clustered or otherwise generally adjacent to one another. Fire protection measures shall include an adequate on-site source of water for use by the local fire department and associated infrastructure to enable the local fire department to effectively respond to a fire emergency.

J. Access and Circulation:

1. Access:
 - a. The nearest edge of any entrance or exit drive for a OSC shall be located no closer than two hundred (200) feet from any existing street or road intersection, as measured from the nearest intersection right-of-way line.
 - b. All dwellings shall gain access from an interior road within the OSC.
 - c. An OSC may include private roads provided such roads meet the review and approval requirements of this Ordinance (see Article 19).
2. Pedestrian Circulation: A pedestrian circulation system may be required along one side of, or all of, the internal roads of the OSC. The exact location, alignment and design features of the pedestrian ways shall be jointly agreed upon by the applicant and the approving body, and shall be coordinated with existing or planned pedestrian ways and roads in the area. The pedestrian circulation network shall assure ease of access from residences to the designated open space areas.

K. Natural Features: The development shall be designed to promote the preservation of natural features such as woodlands, wetlands, floodplains, stream corridors, and special plant and animal habitats.

L. Stormwater Management: The OSC shall incorporate a storm water management program that relies upon natural systems to the greatest extent possible and preserves the quality and integrity of such systems, rather than systems that encourage unnecessary topographic alternations, erosion, heightened impurities directed to surface and ground water systems, and similar negative impacts.

M. Scheduled Phasing:

1. Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.
2. Timing of Phases: Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved final site plan. If construction of any phase is not commenced within the approved time period, approval of such phase shall expire and no construction shall be initiated in association with such phase prior to the resubmital and approval of a new OSC application according to Section 10.03.

Section 10.06 Section 10.06 Waiver of Standards

A. The Planning Commission may waive any of the Section 10.05 standards for an OSC, except Sections 10.05(B), (C), (D), and (H), where the applicant can demonstrate, within the discretion of the Planning Commission, the following:

1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
2. The spirit and intent of the open space development provisions will still be achieved.
3. No nuisance will be created.

The Planning Commission shall not consider any waiver of standards unless the applicant has submitted written justification for those standards to be waived, according to 10.06(A)(1), (2), and (3) above. Such justification shall address each requested waiver individually.

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End of Article 10

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**Article 11
PLANNED UNIT DEVELOPMENT (PUD) DISTRICT**

Section 11.01 Purpose

The provisions of this Article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments (PUD). It is the intent of the Article to authorize the use of PUD regulations for the purpose of: encouraging the use of land in accordance with its character and adaptability; conserving natural resources and natural features and energy; encouraging innovation in land use planning; providing enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Township; and bringing about a greater compatibility of design and use between neighboring properties. The provisions of this Article are not intended as a device for ignoring this Ordinance or the planning upon which it is based. To that end, the provisions of this Article are intended to result in land use development substantially consistent with the planned development pattern for the Township, with modifications and departures from generally applicable Ordinance requirements made in accordance with standards provided in this Article to insure appropriate, fair, and consistent decision making.

Section 11.02 PUD Is A Separate District

A PUD is permitted as a separate zoning district only when determined to be in compliance with the regulations of this Article. The approval of a PUD shall require an amendment of the Zoning Map constituting a part of this Ordinance so as to designate the property “PUD” and the PUD shall be subject to the approved PUD application.

Section 11.03 Minimum Eligibility Criteria

A. The following minimum eligibility criteria shall be met in order for PUD approval:

1. **Recognizable and Substantial Benefit:** The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely under the regulations of other Districts.
2. **Availability and Capacity of Public Services:** The proposed type and intensity of use shall not result in an unreasonable burden in the use of existing public services, facilities, and utilities.
3. **Compatibility with the Master Plan:** The proposed development shall be in accordance with the goals and policies of the Birch Run Township Master Plan.
4. **Compatibility with the PUD Intent:** The proposed development shall be consistent with the intent and spirit of these regulations, as stated in Section 11.01.
5. **Economic Impact:** The proposed development shall not impede the continued use or development of surrounding properties for uses permitted on such properties.
6. **Unified Control of Property:** The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance and the specifications of the PUD approval. This provision shall not prohibit a transfer of ownership or control, upon due notice to the Zoning Administrator.

Section 11.04 Use and Design Standards

A. Permitted Uses and Mix of Uses: Any land use authorized in this Ordinance is permitted in a PUD as a principal or accessory use provided that public health, safety, and welfare are not impaired and the essential character of the proposed PUD meets the general intent of the Master Plan. Where the Master Plan provides for residential development patterns, commercial and other nonresidential uses may be permitted as part of a PUD which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant. The Planning Commission shall determine predominance of use after taking into account the following criteria: the extent to which a non-residential use serves residents in the PUD compared to others who travel to the site; amount of traffic generated by the non-residential use; operational hours of the non-residential use; proportional land area allocated to the non-residential use; and building area allocated to a non-residential use.

B. General Site Development Standards and Waivers: The site development standards for all proposed individual land uses and facilities in a PUD shall conform to this Ordinance, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road

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widths, and similar requirements, except that the Township Board may waive such standards where such modifications will result in a higher quality of development than would be possible without the modifications.

1. Except where a waiver is granted, standards pertaining to lot area and dimensions, density, lot coverage, and setbacks shall comply with those standards of the District which most closely characterizes the dominant character of the PUD development.
2. Except where a waiver is granted, mixed uses shall comply with the regulations applicable for each individual use, including those standards contained in Article 5, Special Land Uses. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.
3. The waiving of development standards may be authorized only upon a finding by the Township Board that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a departure is sought.

Section 11.05 Approval Standards

A. Each application and site plan for a PUD shall conform to all applicable provisions of this Ordinance and the following:

1. Site Plan Approval Standards, Section 4.05.
2. General Approval Standards for Special Land Uses, Section 5.06.

Section 11.06 Procedure for Review and Approval

A. Optional Preapplication Conference: Prior to the submission of a preliminary site plan for PUD approval, the applicant may request a meeting with the Chairperson of the Planning Commission and the Township Supervisor, together with such consultants and local officials and staff as either the Township or the applicant deem appropriate. The purpose of the meeting is to inform township officials of the general theme for the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the Township pertaining to the proposed development. Statements made in the course of a preapplication conference shall not be legally binding commitments. At the preapplication conference (or conferences), the applicant may present a general sketch plan of the proposed PUD which provides an overview of the proposed project.

B. Preliminary Plan: Application, Public Hearing, and Action:

1. The applicant shall submit to the Township Clerk twenty (20) copies of a preliminary plan and a application form supplied by the Township Clerk. The Township Clerk shall forward copies to the Planning Commission. The Preliminary Plan shall comply with the requirements of Section 4.04(B) and include a detailed text description of the proposed development and all Ordinance standards that the applicant is seeking a waiver for.
2. The Planning Commission shall review the preliminary plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review of the preliminary plan submittal, the Planning Commission shall act on the preliminary plan as if it were an application for rezoning, and in doing so, shall follow the provisions of Article 7.
3. Following the public hearing and any fact finding and additional studies, the Planning Commission shall prepare written findings regarding the preliminary plan's conformance with the applicable requirements of this Article and Ordinance, including the approval standards of Sections 4.05 and 5.06. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the preliminary plan. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its decision, and any recommended conditions relating to an affirmative decision.
4. The Township Board shall take final action to approve, deny, or approve with conditions the preliminary plan. In reviewing the preliminary plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 4.05 and 5.06. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision. The effect of Township Board approval of the preliminary plan shall be:
 - a. to authorize the fundamental PUD character and layout embodied in the preliminary plan, including any conditions applied to the approval, prior to the preparation of a final site plan.

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- b. to authorize a change on the Zoning Map to classify the subject property as PUD.

C. Final Plan and Permit Issuance

1. Within twenty-four (24) months following receipt of preliminary plan approval, the applicant shall submit to the Township Clerk twenty (20) copies of a final plan, or phase one of a final plan, including a final site plan conforming with Section 4.04(D) and including a detailed text description of the proposed development and all Ordinance standards that the applicant is seeking a waiver for. If the final plan has not been submitted within such period, the preliminary plan approval shall become null and void unless the Planning Commission extends the time for submission of the final plan upon a showing by the applicant that no material change of circumstances has occurred having bearing on the original action of the Planning Commission, found upon inspection by the Planning Commission to be valid.
2. The Township Clerk shall record the date of the receipt of the final site plan and transmit copies to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, Saginaw County Drain Commissioner, and Saginaw County Road Commission.
3. The Planning Commission shall review the final plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its recommendation, and any conditions relating to an affirmative decision. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the final plan. The Township Board shall take final action to approve, deny, or approve with conditions the final plan. In reviewing the final plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 4.05 and 5.06. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision.
4. If and when the final site plan is approved, all improvements and use of the property shall be in conformity with the final site plan and any conditions imposed. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved PUD unless a site plan revision is approved by the Planning Commission upon request or approval of the applicant or applicant's transferee and/or assignees. Upon receipt of the recorded documents, the Zoning Administrator shall issue a permit for that portion of the PUD project receiving final site plan approval.

Section 11.07 Phasing

A. Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PUD and residents of the surrounding area.

B. In developments which include residential and nonresidential components, the phasing plan shall provide for completion of at least thirty-five percent (35%) of all proposed residential units concurrent with the first phase of any nonresidential construction; completion of at least seventy-five percent (75%) of all proposed residential construction, concurrent with the second phase of nonresidential construction; and completion of one hundred percent (100%) of all residential construction prior to the third phase of nonresidential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined at the discretion of the Planning Commission. Such percentages may be modified should the Planning Commission determine that the applicant presented adequate assurance that the residential component or components of the project will be completed within the specified time period.

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Article 12
RESERVED for FUTURE USE

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**Article 13
NONCONFORMING LOTS, USES, and STRUCTURES**

Section 13.01 Purpose

It is recognized that there exists lots, structures and uses of land and structures within the districts established by this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance. It is the intent of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article..

Section 13.02 Nonconforming Lots

A. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record. This provision shall apply even though such lot fails to meet the requirements for area, width, and/or frontage, that are generally applicable in the District; provided that yard dimensions, setbacks and other requirements not involving area, width and/or frontage shall conform to the regulations for the District in which such lot is located unless a variance is obtained through approval of the Zoning Board of Appeals.

Section 13.03 Nonconforming Uses

A. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance with the exception of nonconforming commercial uses in residential zoning districts outlined in subsection 7 below. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
2. No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
4. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of less nonconformance, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
5. If a nonconforming use of a parcel or lot ceases for any reason for a period of more than one hundred and eighty (180) consecutive days, the subsequent use of such parcel or lot shall conform to the regulations and provisions of this Ordinance for the District in which such lot or parcel is located.
6. Any use of land or structure, or combination thereof, that is superseded by a permitted use, shall thereafter conform to the regulations for the District in which such use is located, and the nonconforming use may not thereafter be resumed.
7. An active nonconforming commercial use located in an A-1, R-1, R-2 or R-3 zoning districts may be permitted to be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance by approval of the Planning Commission following a public hearing meeting the requirements of 3.08 of this Ordinance. In granting this exception, the Planning Commission may impose conditions necessary to ensure that such change meets the standards for approval below:
 - a. The nonconformity must have existed prior to the effective date of this amendment.

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- b. It must be a legal nonconforming use. The use could not have been established in violation of *the Ordinance requirements in effect at that time*.
- c. The change shall not significantly increase the impact of the use on the surrounding parcels or such impacts can be adequately mitigated. Impacts can include noise, odor, dust, light, glare traffic, house of operation, or appearance.
- d. The change in the use would not be contrary to the public health, safety, or welfare or the spirit of the Ordinance.

(7-10-18, Ord. 2018-02, amended Sec. 13.03.A.1 and inserted Sec. 13.03.A.7)

Section 13.04 Nonconforming Structures

A. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance or subsequent amendment by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity. However the use of a structure and/or the structure itself may be changed or altered to a use permitted in the District in which it is located provided such changes are also in conformance with the requirements of the District in which it is located.
2. Should a nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the respective site development standards for the District in which it is located. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator shall seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion.
 - a. The limitations of this subsection shall not apply in the case where the construction of the replacement structure in the same location as the destroyed structure is completed to an extent equal to fifty percent (50%) of its construction cost within eighteen (18) months of the previous structure's destruction, and the replacement structure is no more nonconforming then the previous destroyed structure.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
4. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, shall eliminate the nonconforming status of the land, and all subsequent uses and structures on the land shall conform to the applicable District regulations.

Section 13.05 Repairs and Maintenance

A. Nonconforming Structure: No nonconforming structure may undergo repairs or maintenance which has the effect of increasing its nonconformity.

B. Nonconforming Use: On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the then building's replacement cost prior to the initiation of repairs, exclusive of foundations, provided that the cubic content of the building as it existed at the time of passage or amendment of this Article shall not be increased.

C. Unsafe Building: Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

Section 13.06 District Changes

Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of another classification, the provisions of this Article shall also apply to any existing uses and structures that become nonconforming as a result of the boundary changes.

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Section 13.07 Illegal Nonconformities

Nonconforming uses of structures or land existing at the effective date of this Ordinance that were established without approval of zoning compliance or without a valid building permit, or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of this Ordinance, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

Section 13.08 Hardship Cases

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Zoning Board of Appeals finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alteration or enlargement may be granted only with a finding by the Zoning Board of Appeals that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

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**Article 14
Standards and Regulations for Specific Land Uses**

The following standards and requirements apply to the special land uses authorized in the District of this Ordinance. A special land use shall be approved only where such application complies with the general standards of Section 5.06(A) and those standards contained in this Article for specific special land uses. The regulations and standards contained in this Article shall be applied in addition to any other applicable standard or regulation contained elsewhere in this Ordinance unless specifically noted otherwise. See Article 5: Procedures for Special Land Uses. Any requirements of this Article regarding data, plans, and drawings shall be in addition to the data requirements of Section 4.04 regarding required site plan information.

Section 14.01 Bed and Breakfast

A. The following site and developmental requirements shall apply:

1. No bed and breakfast use shall be permitted within a subdivision plat or condominium development, or on any property where there exists another bed and breakfast use within one thousand (1,000) feet, measured as a straight line distance between the closest lot lines.
2. One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a single family dwelling.

B. Special Performance Standards:

1. The bed and breakfast facility shall be a single family dwelling which is operated and occupied by the owner of the dwelling.
2. Meals may be served to overnight guests only. No separate or additional kitchen facilities shall be provided for the guests.
3. The number of bedrooms available for use by guests shall not exceed six (6).
4. No receptions, private parties or activities for which a fee is paid shall be permitted except as may be expressly authorized in association with the special land use approval.
5. The establishment shall contain at least two (2) exits to the outdoors.
6. Rooms utilized for sleeping shall be part of the primary residential structure.
7. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
8. Lavatories and bathing facilities shall be available to all persons using the premises.
9. The exterior appearance of the structure shall not be altered from its single family character.

Section 14.02 Commercial Stables

A. The following site and developmental requirements shall apply:

1. A commercial stable shall not be established on any lot less than ten (10) acres in area.
2. Commercial stables shall provide off-street parking at a minimum of one parking space per two (2) animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stable. In the case where horse shows may be part of the stable's operations, the site plan shall identify designated overflow parking areas. Such overflow parking areas shall be set back a minimum distance of one-hundred (100) feet from any lot line.
3. Commercial stables shall not be located in platted subdivisions or condominium subdivisions unless specifically designed as an equestrian community and located in an A-1 District.
4. Stables and buildings housing horses shall be set back a minimum of one-hundred (100) feet from any lot line.
5. A vegetative strip of at least fifty (50) feet wide shall be maintained between any animal holding area, manure pile, or manure application area and any surface water or well head. In areas with slopes of over five percent (5%), the approving body may increase setbacks in order to minimize runoff, prevent erosion, and promote nutrient absorption.

B. Special Performance Standards:

1. The facility shall be constructed and maintained so that dust and drainage from the stable will not create a nuisance or hazard to adjoining property or uses.
2. Manure shall be removed and/or applied so as to prevent a nuisance.

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3. No special events such as shows, exhibitions, and contests shall be permitted within one hundred (100) feet of a residentially used or residentially zoned property, including viewing areas.

Section 14.03 Vehicle / Car Wash Establishment

A. The following site and developmental requirements shall apply:

1. All washing activities shall be carried on within an enclosed building or under a covered structure with side walls separating individual washing bays, except where the applicant can successfully demonstrate that fully open bays will not create negative impacts upon nearby properties and abutting roads.
2. Vacuuming activities shall be set back a minimum of one hundred (100) feet from property zoned or used for residential purposes.
3. All maneuvering lanes and stacking lanes shall be located on the site and shall provide sufficient room to avoid waiting cars encroaching into a road right-of-way.

B. Special Performance Standards:

1. Each bay shall be graded and drained to collect run-off originating in the bay.
2. Trash containers shall be provided and emptied as necessary to minimize the accumulation of liter.

Section 14.04 Vehicle Repair Shops and Service Stations

A. The following site and developmental requirements shall apply:

1. The site shall be no less than two hundred (200) feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.
2. No more than two (2) driveways onto a roadway shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.
3. All gasoline pumps shall comply with the minimum setback requirements for principal buildings in the District.
4. The entire area used for vehicle service shall be paved and adequately drained.
5. Driveways shall be located and designed to prohibit conflicting turning patterns.

B. Special Performance Standards:

1. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
2. Vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall not be maintained on the property for more than thirty (30) days. Such vehicles shall not be parked or stored in a front or side yard, and shall be screened.
3. A car wash may be established as part of the principal structure or as a separate structure but shall conform to all setback requirements for a principal structure.
4. Vehicle renting or leasing in association with a repair facility may exist only as an accessory use to the principal repair activities, and only upon approval of a site plan delineating such rental/lease area and the type and maximum number of vehicles to be stored on the site for such purpose.
5. The application materials shall identify the extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used or created, and the measures to be used for proper handling, storage, and disposal of such materials.
6. All provisions for the storing and disposing of fuels, oils, and waste products, including daily generated garbage, shall meet county, state, and federal regulations. The applicant shall document the availability and capacity of sewage facilities to handle the anticipated volumes and types of wastes.

Section 14.05 Shooting Ranges

A. The following site and developmental requirements shall apply:

1. Minimum lot area shall be forty (40) acres for outdoor firearm shooting activities and shall be twenty (20) acres for outdoor archery-only shooting activities.
2. Minimum front, side and rear yard setbacks for outdoor shooting ranges shall be two hundred fifty (250) feet.

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3. An outdoor shooting range shall be fenced around its boundaries with a fence at least four (4) feet high, to clearly identify the boundaries of the shooting range. The range shall be clearly posted with warning signs around its perimeter. All vehicular access shall be controlled by locked gates.

B. Special Performance Standards:

1. A site plan for the range, whether indoor or outdoor, shall be submitted clearly indicating all safety provisions to assure that any projectile discharged within the confines of a shooting range shall not carry into or over an adjacent district or area.
2. The Planning Commission may submit a copy of the site plan to law enforcement agencies for review and comment.
3. All indoor and outdoor activities, including the shooting of projectiles and storage of projectiles, shall comply with the most current published standards and guidelines of the National Rifle Association and National Field Archery Association, as applicable.
4. Hours of outdoor operation shall be between sunrise and sundown, according to such times as published by the National Weather Service, unless expressly authorized otherwise by the approving body.

Section 14.06 Day Care Facility, Group Home

A. The following site and developmental requirements shall apply:

1. A group home day care facility shall not be located closer than fifteen-hundred (1,500) feet to any of the following facilities as measured along a street, road, or other public thoroughfare, excluding an alley:
 - a. Another group home day care facility licensed by the State of Michigan.
 - b. A adult foster care group home licensed by the State of Michigan.
 - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people which is licensed by the State of Michigan.
 - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

B. Special Performance Standards:

1. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high.
2. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the neighborhood. A group day care home should not require exterior modifications to the dwelling nor shall the front yard be the location of play equipment.
3. One identification sign shall be permitted. Such sign face shall not be greater than two (2) square feet, shall be mounted flush to a wall, made of a material that is compatible with the dwelling unit, and shall not be illuminated. Sign text shall be limited to the name of the facility and an address.
4. At least one (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the residence. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for non-family employees of the dwelling and the parking normally required for the residence.
5. Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.

Section 14.07 Agricultural Labor Housing

A. The following site and developmental requirements shall apply:

1. Minimum parcel area used for agricultural production in association with the agricultural labor housing shall be eighty (80) acres.
2. Labor housing facilities shall be located a minimum of one hundred (100) feet from all property lines and in no case shall such housing be located in the front yard of the principal dwelling.

B. Special Performance Standards

1. The special land use permit shall terminate at such time as the occupants of such mobile homes and/or recreational vehicles do not satisfy this Ordinance's definition for "agricultural labor housing."

Section 14.08 Junkyards

A. The following site and developmental requirements shall apply:

1. The minimum lot size shall be five (5) acres.

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2. A solid fence or wall at least eight (8) feet in height shall be provided around all sides of the area used to store junk. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
3. All enclosed areas shall be set back at least one-hundred (100) feet from any lot line, but in no case shall such enclosed area be less than two-hundred (200) feet from a Conservation or Residential District. A landscaped buffer area shall be provided adjacent to such enclosed areas.

B. Special Performance Standards:

1. All activities shall be confined to within the enclosed area including any: storage of materials; stockpiling of materials; disassembly of materials, parts, and vehicles; and the storage or parking of all equipment and inoperative vehicles. There shall be no stocking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed that height.
2. No open burning shall be permitted, and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building between the hours of 5:00 p.m. and 8:00 a.m.
3. All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
4. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles.
5. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Environmental Quality.
6. No inoperable vehicle shall be maintained on the site for more than forty-eight (48) hours except where all fluids in such vehicle, including but not limited to fuels, oils, and coolants, are fully drained. Such fluids shall be disposed of in accordance with all local, county, state and federal regulations.

Section 14.09 Kennels

A. The following site and developmental requirements shall apply:

1. The lot shall be at least five (5) acres in size.
2. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one-hundred feet (100) to any lot line.

B. Special Performance Standards:

1. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor. The site plan application materials shall document the manner in which animal waste shall be disposed of and measures to be taken to protect against environmental contamination, odors, fleas, and the spread of disease.
2. All animals must be licensed and maintained in a healthful and careful manner.
3. The kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
4. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
5. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
6. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.

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Section 14.10 Mini Storage Facilities

A. The following site and developmental requirements shall apply:

1. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee plus two (2) for any on-site office and one (1) per caretaker residence.
2. There shall be a minimum of thirty-five (35) feet (forty-five (45) feet if the driveway is two-way) between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be twenty-five (25) feet. Traffic direction and parking shall be designated by signaling or painting. The accessory housing unit may be a freestanding structure or single, complete, self-contained living unit created within an existing single-family dwelling.

B. Special Performance Standards:

1. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units by the lessees.
2. The entire site, exclusive of access drives, shall be enclosed with a six (6) foot high obscuring wall or fence. A chain link fence may only be permitted along property lines which do not abut a Residential District or residentially used property.
3. Storage spaces shall not contain more than 400 square feet each.
4. All storage shall be within the enclosed building area unless specifically provided for otherwise as part of an approved site plan, as in the case of the storage of recreational vehicles. No outdoor storage shall occur within fifty (50) feet from any right-of-way.
5. The exterior of mini-storage buildings shall be of finished quality and maintained so as not to be offensive to adjacent property or abutting roads.
6. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.
7. A caretaker's residence may be located on the property. It shall comply with the minimum floor area requirements of Section 9.07.B.9.

Section 14.11 Private Landing Strips

A. The following site and developmental requirements shall apply:

1. Landing strips shall be located on a parcels of at least twenty (20) acres in size.
2. The landing strip shall be a minimum distance of fifteen hundred (1,500) feet in length and allow a clear approach slope of 20:1.
3. The ends of a landing strip shall be a minimum of five hundred (500) feet from all property lines and the sides of the strip shall be a minimum of two hundred (200) feet from all property lines.

B. Special Performance Standards:

1. Approval of landing strips shall not be made prior to the receipt of the Federal Aviation Authority's review of the proposed landing strip.

Section 14.12 Campgrounds

A. The following site and developmental requirements shall apply:

1. All campsites and principal and accessory buildings shall be setback a minimum distance of one hundred fifty (150) feet from all right-of-way and lot lines.
2. A common use area shall be provided on the parcel at a rate of five hundred (500) square feet per campsite, except that a minimum of ten thousand (10,000) square feet shall be provided.
3. There shall be no permanent storage of tents, campers, or travel trailers in the development unless specifically permitted. Temporary or permanent storage of mobile homes is prohibited.
4. No commercial enterprises shall be permitted to operate on the campground parcel, except that a convenience goods shopping building may be provided where more than forty (40) camp sites are provided. Such building shall be located to discourage use of the facility by non-campers.
5. Each campsite made available as a travel trailer space shall contain at least 2,000 square feet. Each space shall be clearly defined on the ground by stakes or markers, and no parking space shall be closer than thirty (30) feet to another space.

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6. All entrances and exit lanes within a campground shall be lighted.

B. Special Performance Standards:

1. At least one public telephone shall be provided in the facility.
2. No more than one permanent dwelling shall be allowed in a campground which shall only be occupied by the owner, manager or an employee.
3. Each campsite shall have a picnic table and designated place for fires.
4. All campgrounds shall be licensed by the Michigan Department of Public Health.

Section 14.13 Sexually Oriented Business

A. Definitions: For the purposes of this Section 14.13 and Ordinance, the following terms and phrases shall have the following meanings:

1. **Adult Arcade:** Any place to which the public is permitted or invited wherein cash-operated, credit-operated, coin-operated or slug-operated or electronically, internet or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specified anatomical areas".
2. **Adult Bookstore, Adult Novelty Store or Adult Video Store:** An establishment which offers for sale or rental for any form of consideration, as one of its principal business purposes, any one or more of the following:
 - a. Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion pictures, video matter or photographs, cassettes or video reproductions, slides or other visual representation and/or items which depict or describe "sexually explicit activities" or "specified anatomical areas" or which are characterized by their emphasis upon exhibition or description of 'sexually explicit activities' or "specified anatomical areas"; or
 - b. Instruments, devices or paraphernalia which are characterized by their emphasis upon "sexually explicit activities" or "specified anatomical areas" or designed for use in connection with "sexually explicit activities"; or
 - c. Items, materials or paraphernalia depicting, displaying, advertising or packaged as "sexually explicit activities" or which depict or describe, or are characterized by their emphasis upon, the exhibition or description of "specified anatomical areas".
 - d. For purposes of this Ordinance, "principal business purpose" means:
 - 1) The devotion of a significant or substantial portion of its stock-in-trade or interior floor space, meaning thirty percent (30%) or more of the interior floor area as defined by the applicable Building Code, to the items as described in this Section 14.13(A)(2); or
 - 2) The receipt of fifty (50%) percent or more of its annual revenues from the sale of the items listed in Section 14.13(A)(2) above. Revenue is a gross increase in assets or a gross decrease in liabilities recognized and measured in conformity with generally accepted accounting principles; or
 - 3) The devotion of a significant or substantial portion of its advertising expenditures to the promotion of the sale, rental or viewing of books, magazines, periodicals or other printed matter, or photographs, film, motion pictures, video cassettes, compact discs, slides or other visual representations, items, materials, or paraphernalia which are characterized by the depiction, description, display, advertising or packaging of "sexually explicit activities" or "specified anatomical areas".
 - 4) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "sexually explicit activities" or "specified anatomical areas", and still be characterized as an adult book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such establishment from being categorized as an adult bookstore, adult novelty store, adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store as set forth above.
3. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment, whether or not alcohol is served, which regularly features:
 - a. Persons who appear in a state of nudity, semi-nudity or any form of dress whereby the entire buttocks and all portions of the breast below the topmost portion of the areola are not opaquely covered; or

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- b. Live performances of an erotic nature which are characterized by the partial exposure of "specified anatomical areas" or "sexually explicit activities" on a stage, on poles, in booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises wherein an entertainer or waitress provides adult entertainment to members of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a direct or indirect profit; or
 - c. Films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas".
4. Adult Massage Parlor: Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other manipulation of the human body which occurs as part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. An Adult Massage Parlor shall not include the practice of massage in any licensed hospital, nor by a licensed chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program nor a therapeutic massage practitioner.
 5. Adult Motel: A hotel, motel or similar establishment which:
 - a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are regularly characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas"; and which advertises the availability of this adult type of material by means of a sign, visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, internet or television; or
 - b. Permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for transmission off the premises; or
 - c. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - d. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
 6. Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas".
 7. Adult Theater: A theater, concert hall, auditorium or similar establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by the performance of "sexually explicit activities".
 8. Alcoholic Commercial Establishment: Any hotel, motel, tavern, restaurant, park, nightclub, cocktail lounge, burlesque house, bar, cabaret, taproom, club or other similar establishment licensed by the State of Michigan Liquor Control Commission, or where alcoholic beverages, including beer, are dispensed and/or consumed. This definition shall exclude a theater or auditorium.
 9. Entertainer: A person who performs some type of activity or pose with the intent of allowing others to witness that activity or pose.
 10. Escort: A person who, for consideration in any form, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately perform as an entertainer, including, but not limited to, the modeling of lingerie, the removal of clothing and the performance of a dance or skit. Under this definition, "privately" shall mean a performance for an individual or that individual's guests.
 11. Escort Agency: A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.
 12. Establishment: Any of the following:
 - a. The opening or commencement of any sexually oriented business as a new business; or
 - b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 - c. The location or relocation of any sexually oriented business.
 13. Licensee: The individual listed as an applicant on the application of a sexually oriented business license, or a person whose name appears on a license to operate a sexually oriented business.

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14. Manager: An operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees, or is otherwise responsible for the operation of the sexually oriented business.
15. Massage: The treating of external parts of the body for remedial or hygienic purposes, consisting of stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided shall pay any consideration whatsoever therefore. For purposes of this Ordinance, the term "bodywork" shall mean massage.
16. Nude Model Studio: Any place where a person appears in a state of nudity or displays "specific anatomical areas", and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include a modeling studio whose primary function is to provide art classes as part of a college, university or educational institution and which is certified by the State of Michigan.
17. Nudity or a State of Nudity: The appearance of a human bare buttock, anus, male genitals, female genitals or female breasts.
18. Operator: The owner, licensee, manager or person in charge of any premises.
19. Peep Booth: An adult motion picture theater with a viewing room or cubical of less than one hundred fifty (150) square feet of floor space.
20. Premises or Licensed Premises: Any premises that requires a sexually oriented business license and that is classified as a sexually oriented business.
21. Private Room: A room in a hotel/motel that is not a peep booth, has a bed and a bath in the room or adjacent room, and is used primarily for lodging.
22. Regular or Regularly: Recurring, attending or functioning at fixed or uniform intervals.
23. Semi-Nude: A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
24. Sexual Encounter Center: A business or enterprise that, as one (1) of its primary business purposes, offers a place where two (2) or more persons may congregate, associate or consort for the purpose of "sexually explicit activities" or the exposure of "specified anatomical areas" for any form of consideration, including, but not limited to:
 - a. Physical contact in the form of wrestling or tumbling between persons of the same or opposite sex; or
 - b. Activities when one or more of the persons is in a state of nudity or semi-nudity; or
 - c. Permits patrons to display or be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for recording or transmission over the World Wide Web or any other media.
25. Sexually Explicit Activities: Any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
 - b. Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation or sodomy; or
 - c. Masturbation, actual or simulated; or
 - d. Any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires; or
 - e. The display of human genitals in a state of sexual stimulation, arousal or tumescence; or
 - f. The display of excretory function as part of or in connection with any of the activity set forth in (a) through (e) above.
26. Sexually Oriented Business: An adult arcade, adult bookstore, adult massage parlor, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
27. Significant or Substantial Portion: Thirty percent (30%) or more of the term modified by such phrase.
28. Specified Anatomical Areas. Any of the following:
 - a. Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, or female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola, or any combination of the foregoing; or

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- b. Human genitals in a state of sexual arousal, even if opaquely and completely covered.
- 29. Specified Criminal Acts: Sexual crimes against children, sexual abuse, criminal sexual conduct, rape, crimes classified as sexual crimes by the State of Michigan or any other state, or crimes connected with another sexually oriented business, including, but not limited to, the distribution of obscenity, prostitution and/or pandering.

B. The following site and developmental requirements shall apply

- 1. Separation Distances: A sexually oriented business shall not be located closer than one thousand (1,000) feet to the property line of any of the following listed in subsections (1)(a)-(g) below. Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property site boundary of a sexually oriented business to the nearest property line of the premises of any use, district or right-of-way listed in subsections (a) – (g) below. Access easements or portions of the parcel that are exclusively used to provide access to the site of the sexually oriented business shall be excluded from the parcel boundary in determining whether the site complies with the required separation. The intent of this exclusion is to allow sexually oriented businesses to comply with the separation requirement from major thoroughfares by means of an access easement or access strip of land from the site to the thoroughfare.
 - a. Church, religious institution, or building used primarily for religious worship and related religious activities.
 - b. Public or private elementary or secondary school, vocational school, special education school, junior college or university.
 - c. Any single-family, two-family or multiple-family zoning district.
 - d. Lot or parcel in residential use
 - e. Public park
 - f. Existing sexually oriented business
 - g. Child care facility, nursery or preschool
- 2. Within Same Building:
 - a. No sexually oriented business shall be located within or otherwise be attached to a building in which one (1) or more dwelling units are located, or on the same lot where one (1) or more dwelling units are located.
 - b. No more than one (1) sexually oriented business shall be established in a building, structure or portion thereof. No existing sexually oriented business within the same building, structure or portion thereof as another sexually oriented business shall be enlarged or expanded in floor area by more than ten percent (10%) after the adoption date of the ordinance amending this Section 14.13.
- 3. Off-Street Parking: All off-street parking areas and entry door areas of a sexually oriented business shall be illuminated from dusk until the closing time of the business with a lighting system which meets the standards of this Ordinance.
- 4. Signs and Exterior Treatments: Signs and exterior aspects of the building or portion thereof housing a sexually oriented business shall comply with the Birch Run Township Sign Ordinance in addition to the following:
 - a. The merchandise or activities of the sexually oriented business shall not be visible from any point outside the establishment.
 - b. The exterior portions of the sexually oriented business including signs pertaining thereto shall not have any words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity as defined in this Ordinance.

C. Special Performance Standards

- 1. Semi-nude Viewing: No employee in a sexually oriented business shall knowingly or intentionally appear in view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remains at least six (6) feet from all patrons and on a fixed stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- 2. Employee Mingling: No employee in a sexually oriented business shall knowingly or intentionally mingle with patrons unless they are not dancing or have not danced for at least thirty (30) minutes.
- 3. Nude Entertainment in Alcoholic Commercial Establishments: No person shall perform in any alcoholic commercial establishment, to knowingly permit or allow to be performed therein, any of the following acts or conduct:
 - a. The public performance of acts or simulated acts of sexual intercourse, masturbation, sodomy,

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- bestiality, oral copulation, flagellations, or any sexual acts which are prohibited by law;
 - b. The actual or simulated touching, caressing or fondling on the breasts, buttocks, anus or genitals in public; or
 - c. The actual or simulated public displaying of the pubic hair, anus, vulva or genitals.
 - d. The wholly or substantially exposure to public view of one (1) or both female breasts. "Wholly or substantially exposed to public view" as it pertains to breasts shall mean the showing of the female breast in an alcoholic commercial establishment with less than a fully opaque covering of all portions of the areola and nipple.
 - e. Topless or bottomless or totally uncovered waitresses, bartenders or barmaids, entertainers including dancers, impersonators, lingerie models, or any other topless, bottomless or totally uncovered person for the attraction or entertainment of customers.
 - f. Wet t-shirt and similar contests.
4. **Lighting:** Except in the case of a theater, the premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
 5. **Manager's Station:** The applicant shall submit a diagram of the premises showing a plan thereof and specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and illumination intensity of each. A manager's station shall not exceed fifty (50) square feet of floor area.
 6. **Changing of Attire:** All changing of attire by employees or performers shall be within a completely enclosed room into which access by patrons is prohibited.
 7. **License Required:** Approval of a sexually oriented business shall be granted on the condition that the operator or owner of the sexually oriented business obtain a license from the Township Clerk or his/her designee to operate the business as required by Birch Run Township Ordinance # 2001-01 as amended. No license shall be issued for an existing or proposed business where the existing or proposed business would be illegal under any law or ordinance of the United States of America, the State of Michigan, the County of Saginaw or the Township of Birch Run.

Section 14.14 Golf Courses, Country Clubs, and Driving Ranges

A. The following site and developmental requirements shall apply:

1. Regulation length 18-hole golf courses shall have a minimum lot size of 120 acres, of which a minimum of 110 acres of usable land shall be allocated to fairways, roughs, and greens. Eighteen-hole par-3 courses, and nine-hole courses with regulation length fairways, shall have a minimum lot size of 60 acres.
2. All principal and accessory buildings, and parking areas, shall be not less than seventy-five (75) feet from any lot line.
3. No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of an existing dwelling.
4. A golf driving range shall maintain a seventy-five (75) foot setback from all property lines. The area shall be buffered by vegetation to minimize the impact upon adjoining properties. Additional buffering conditions necessary to minimize the impact or safety threats upon adjacent land uses may be imposed.
5. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course. The minimum width for fairways shall be one hundred (100) feet, unless the golf course designer can demonstrate that, because of the location of trees, sand traps, berms, or other features, a narrower fairway will not compromise safety. The minimum length of a driving range shall be two hundred seventy-five (275) yards, measured from the tee to the end of the range.

B. Special Performance standards:

1. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.
2. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further

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estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.

3. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable, and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with the Township. Plans for emergency containment and clean-up shall also be provided.
4. Accessory uses may include clubhouse/pro shop, managerial facilities, maintenance sheds, toilets, lockers, and other accessory uses directly incidental to the golf course. Accessory uses shall not include restaurants and drinking establishments; tennis, racket sport, or swimming facilities; or other uses having no direct reliance upon the sport of golf. This limitation shall not prohibit concession stands and grills provided no food or beverages are sold to the general public. The design of the clubhouse and other accessory buildings shall be of a residential character and exterior materials shall be primarily wood or brick.
5. Golf course hours, including those for general operations and public admission, shall not exceed dawn to dusk.
6. All motorized equipment, excluding golf carts and equipment of lesser size, shall be stored within a building when not in use.

Section 14.15 Artificial Ponds

A. The following site and developmental requirements shall apply:

1. The minimum size of a parcel on which an artificial pond is to be established shall be five (5) acres.
2. An artificial pond shall be set back a minimum of fifty (50) feet from all lot lines except where such pond crosses a lot line to occupy a portion of an abutting lot. No single pond occupying a portion of more than one (1) parcel shall be approved except upon the recording of an easement found acceptable to the site plan approving body, after consultation with the Township Attorney, that ensures a practical and feasible manner for the continued maintenance and use of such pond.
3. An artificial pond shall have a minimum depth of (6) feet over a minimum fifty percent (50%) of its maximum design surface area, and no portion of an artificial pond shall be less than two (2) feet deep except along its banks, which shall be at a minimum grade of 1:10 but no greater than 1:1.
4. No artificial pond shall be created within fifty (50) feet of ecologically sensitive sites, including wetlands and streams, unless all applicable county, state and federal permits are obtained.
5. No artificial pond shall cover more than twenty percent (20%) of the area of a lot.

B. Special Performance Standards:

1. Erosion control must be provided for all filled or disturbed surface areas including the water body margin and locations where water is discharged into or out of the artificial pond. These areas must be covered or treated during all phases of construction to prevent material from being wind blown onto neighboring properties or eroded by runoff. The applicant shall meet all requirements of the most currently published standards and specifications for soil erosion control promulgated by the Saginaw County Soil Conservation District and Saginaw County Drain Commissioner.
2. All excavated material shall be deposited on the property and suitably landscaped to assure the appearance of natural landforms and compatibility with surrounding properties. No berms created by the excavated material shall exceed slopes of 3:1. No less than twelve (12) feet shall exist between the pond and the toe of any berm. Any pond construction that constitutes an extraction operation as defined by this Ordinance shall require a zoning permit for such extraction operation according to Article 5, Procedures for Special Land Uses.
3. All surface areas disturbed by excavation and filling activities, which are intended to be above the water level of the pond, shall be provided with a minimum three (3) inch layer of arable topsoil. The area shall be landscaped with grass or other live material and maintained as such.
4. The application for an artificial pond shall include a plan for the reclamation of the pond site and surrounding disturbed areas should the excavation of the pond not be fully completed or should the pond area be subsequently abandoned or discontinued as a feature on the site. The reclamation plan shall provide for the filling of excavated areas to return said areas to their surface elevations prior to any pond excavation activities taking place. The reclamation plan shall provide for the continued landscaping of

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- the area previously proposed as the pond, or otherwise disturbed by excavation activities, consisting of live groundcover.
5. The approving body may require screening around the pond, in the form of plant material or fencing, if it finds that such screening or transition strip, because of the pond's location and character in relation to surrounding land uses or circulation systems, is necessary to assure compatibility between land uses or otherwise protect the public health, safety, or welfare. Such fences shall be located a minimum of twenty (20) feet from the edge of the pond.
 6. Artificial ponds shall be so located and designed so as to reduce the potential of pollution from nearby sources such as septic tanks, site drainage, and the like, and farm operations when the artificial pond is not intended for agricultural use.
 7. The construction and maintenance of an artificial pond shall not adversely impact neighboring uses by changes in surface drainage or underwater aquifers.
 8. An engineering report must be submitted with the following minimum information:
 - a. A water body profile with elevations and changes in slope illustrated at two (2) foot intervals.
 - b. Soil evaluation for the site with any necessary soil modifications due to seepage or other concerns.
 - c. Specifications for spillway or drain, foundation preparation, and fill placement.
 - d. A detailed plan for stormwater runoff and erosion control provisions.
 9. As a condition precedent to the issuance of the permit, the applicant shall indemnify and hold harmless the Township, its officials, agents, and employees, from all manner of liability, whatsoever, that may arise as a result of such pond construction.
 10. The applicant shall have the responsibility and obligation to stop work and immediately notify the Township or the proper utility, at any time during such pond construction, when an underground electrical line or conduit is uncovered and shall continue such work stoppage until an inspection of same can be made by said personnel.
 11. No machinery or equipment used in association with the construction of an artificial pond in a Conservation or Residential District shall enter, exit, or operate on the site between the hours of 8:00 p.m. and 7:00 a.m.
 12. The applicant shall demonstrate to the satisfaction of the approving body that the proposed design of the pond will not result in stagnation, odors, mosquito infestation, or other nuisance-causing conditions.

Section 14.16 Sale of Fireworks

A. The following site and developmental requirements shall apply:

1. All storage and sales of fireworks shall be from within a building.
2. Any building used for the sale or storage of fireworks shall be a minimum of one hundred (100) feet from the nearest property line, and the sales and storage of fireworks shall comply with all state regulations regarding setbacks including those from railways, roads, and inhabited buildings.
3. Any building used for the sale or storage of fireworks shall be a minimum of one thousand (1,000) feet from the nearest property line of any facility that has a principal function or operation involving the storage and/or sale of explosive material including, but not limited to, the storage and/or sale of fuels, pesticides, fertilizers, and fireworks.

B. Special Performance Standards:

1. Where required by separate ordinance, law, or statute, the owner of a fireworks business shall be township, county, state and federally licensed to sell such materials.
2. A fireworks business shall have public access doors of at least thirty-six (36) inches in width, and have at least one (1) such door on two (2) separate building walls.
3. No smoking shall be permitted in a fireworks business. Signs stating in bold letters "NO SMOKING OR OPEN FLAME – FIREWORKS" shall be prominently displayed inside and outside the business.
4. The discharging of fireworks on the same lot as the sale of fireworks is prohibited.
5. A fireworks business shall not have on its premises any hazardous materials that are unrelated to the sale of fireworks.
6. No dwelling shall be located above, below, or otherwise attached to or be part of a building devoted in whole or part to the sale of fireworks.

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Section 14.17 Extraction Operations

A. Additional Materials to be Submitted for Special Use Review: Each application shall be accompanied by plans, drawings, and information prepared by appropriate registered professionals depicting, at a minimum:

1. A master plan for the extraction of minerals on the site, including:
 - a. The area and amount of material to be excavated in cubic yards.
 - b. Proposed side slopes and depths for all portions of the excavated area.
 - c. Proposed drainage system, settling ponds and retention ponds, as appropriate.
 - d. The time, duration, phasing and proposed work schedule of the total project.
 - e. The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
 - f. Area from which extraction will take place in the first year of operation and likewise for each successive year to completion.
2. The proposed location of access points to the site and proposed haul routes for transport of excavated material.
3. Proposed plans for fencing, and signs.
4. Depth to groundwater.
5. A detailed reclamation plan that identifies, at a minimum, the following:
 - a. Physical descriptions of the location of each principal phase, number of acres included in each phase, and estimated length of time to complete each phase in extraction.
 - b. Depiction of finished, stabilized, side slopes, including methods and plant materials proposed for use.
 - c. Landscape plan for the portion of the property disturbed by extraction and associated activities, including an inventory of plant/tree species to be used.
 - d. Description of the intended reclamation use of the site upon completion of extraction activities and the spatial arrangement of proposed reclamation uses.
 - e. The restoration of vegetation upon the site, including appropriate seeding of grasses, or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface to minimize erosion.
 - f. The restoration of the site topography so that no gradients in disturbed earth are steeper than a slope of 3:1 (horizontal-vertical).
 - g. The placement of a three inch (3") layer of arable topsoil over the excavated area, except exposed rock surfaces or areas lying below natural water level, in accordance with the proposed reclamation use.
 - h. No noxious, flammable or toxic backfill and grading materials shall be used.
 - i. Fill and soils shall not be overly compacted and of sufficient quality to be well drained, non-swelling. If the reuse plan involves development of dwellings or other buildings, fill and soils shall be of proper bearing capacity to support foundations and septic systems.
 - j. All temporary structures shall be removed from the premises upon completion of the extraction activity unless said structures are of sound construction and are compatible with the reclamation goals. Said structures shall be accurately depicted upon the approved reclamation plan.
6. The applicant shall make an adequate financial guarantee with the Township or other authority acceptable to the Township, to address any additional road maintenance and/or improvements necessitated by extraction operation truck traffic.

B. The following site and developmental requirements shall apply:

1. Minimum lot area shall be twenty (20) acres.
2. Notwithstanding any other minimum yard sizes required by this Ordinance, all extraction activities, including buildings, fixed and temporary buildings and equipment, washing and stockpiling of materials, and limits of site disturbance shall be set back a minimum distance of one hundred (100) feet from a lot line.
3. There shall be not more than one (1) entrance-way from a public road to said lot for each six hundred sixty (660) feet of frontage.

C. Special Performance Standards:

1. The approving body may require fencing in designated areas where it determines necessary to ensure the public health, safety and welfare, including any locations that may be subject to ponding or inundation

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- by water. Fences shall be of adequate design and location to effectively discourage trespassing and shall include “KEEP OUT-DANGER” or similar signage.
2. No area under excavation shall exceed a slope of 1:1 (horizontal to vertical).
 3. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extractive use site shall be kept reasonably clear of mud, dirt and debris from vehicles exiting the site.
 4. No topsoil shall be removed from the extraction site except in the immediate area of current extraction activities.
 5. The extraction shall be graded in a fashion which will not cause water to accumulate in stagnant pools.
 6. Air pollution, noise and vibrations shall be minimized from any effect upon adjacent properties by adequate soundproofed equipment and buildings designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens.
 7. Truck or heavy vehicle traffic related to extraction operations shall use major thoroughfares for access to the greatest extent feasible.
 8. No machinery or equipment shall operate, and no trucks, trailers, or toner conveyances shall enter, leave, or operate before 7:00 a.m. or after 8:00 p.m.
 9. Reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with extraction activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas. Excavated areas shall be reclaimed pursuant to the approved reclamation plan.
 10. The excavator may be required to post an acceptable performance bond pursuant to Section 3.06 of this Ordinance to address the reclamation costs for each five (5) acres of land to be disturbed or excavated or fraction thereof. Extraction activities shall not be initiated on any location of the site until such performance bond or letter of credit has been posted for that area of the site.
 11. Extraction processing or storage shall not be conducted as to cause the pollution by any material of any surface or subsurface water-course, or body of water outside the lines of the lot on which such use shall be located.
 12. When activities on or use of the area subjected to extraction, or any portion thereof, have ceased for more than one (1) year, the operation shall be considered abandoned and a new permit necessary before additional extraction activities can occur. Cessation may be determined by any of the following events:
 - a. The completion of the extraction.
 - b. The Planning Commission determines that no substantial work has occurred on the site for more than one (1) year.
 - c. The Planning Commission has received notification from the owner that operations are complete.
 - d. A zoning permit for the extraction has expired.

D. Existing Extraction Areas: All extraction operations existing on the effective date of this Ordinance shall be subject to the regulations above for any extraction activities which are not permitted according to the originally issued permit for the extraction operation, including expansion into areas of the site not covered by a Township issued permit validly in place at the effective date of this Ordinance, and shall require special approval.

Section 14.18 Communication Towers, Class 1

A. The following site and developmental requirements shall apply:

1. The maximum height of a communication tower shall not exceed one hundred eighty (180) feet. The approving body may waive this standard upon the applicant successfully demonstrating that a greater height is necessary for reasonable communication by the applicant (and by other entities to collocate on the structure). Applicants shall present an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within the respective District.
2. The setback of the support structure from any adjacent property shall be no less than the height of the tower, or the minimum distance necessary so that if it were to fall or collapse, it would remain within the confines of the parcel.
3. The base of the tower shall be fenced with a minimum eight (8) foot chain-link fence. In the case where guy wires or a similar support system is used, fencing shall surround all locations where such supports are anchored to the ground.
4. The support system shall be constructed in accordance with all applicable building codes and shall

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include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and a statement confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

5. All structures shall be located at least two hundred (200) feet from any dwelling and five hundred (500) feet from a residence.
6. Communication towers shall be constructed no closer than two (2) miles apart in an A-1 District. This requirement may be waived by the approving body upon a finding by the approving body that establishing a new tower within a lesser setback shall, because of the particular conditions, more effectively minimize negative impacts of telecommunication facilities on the Township as a whole. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located irrespective of municipal, township and county jurisdictional boundaries.

B. Special Performance Standards:

1. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes, including wind load standards, and those of the Federal Aviation Administration and the Federal Communications Commission.
2. Towers shall not be artificially lighted unless required by the Federal Aviation Administration or other public agency.
3. The approving body shall, in its discretion, review and approve the support structure and all accessory buildings with respect to the design and appearance so as to minimize distraction, reduce visibility, maximize aesthetic appearance, including landscaping, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the communication facility in a neat and orderly condition.
4. Collocation
 - a. Statement of Policy: It is the policy of the Township to minimize the overall number of newly established locations for communication towers within the community, and encourage the use of existing structures or towers while promoting the public health, safety, and welfare and minimizing negative impacts of such sites. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, contrary to the Township's policy for collocation. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.
 - b. Feasibility of Collocation: Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:
 - 1) The communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
 - 2) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - 3) The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - 4) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the approving body, taking into consideration the standards contained in this Section.
 - c. Requirements for Collocation:
 - 1) A permit for the construction and use of a Class 1 communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
 - 2) All new communication towers shall be designed and constructed so as to accommodate collocation.
 - 3) If a party who owns or otherwise controls a communication tower shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new communication tower, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township, and,

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consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for new communication towers within the Township for a period of five years from the date of the failure or refusal to permit the collocation. Such a party may seek a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

5. Removal

- a. A condition of every approval of a communication tower shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - 1) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
 - 2) Six months after new technology is available at reasonable cost as determined by the Township, which permits the operation of the communication system without the requirement of the support structure, or with a support structure which is lower and/or less incompatible with the area.
- b. The situations in which removal of a facility is required, as set forth in paragraph (a) above, may be applied and limited to portions of a facility.
- c. Upon the occurrence of one or more of the events requiring removal, specified in paragraph (a) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Township Board.
- d. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
- e. The person who had used the facility shall immediately notify the Township Clerk in writing if and as soon as use of a facility ceases.

C. Special Application Requirements

1. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
2. The application shall include a map showing existing and known proposed communication tower facilities within the Township, and further showing existing and known proposed communication facilities within four (4) miles from the borders of the Township, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility.

D. Additional Application Requirements: In addition to submitting the information required for all special land uses, including a site plan pursuant to Article 4, each applicant for a communication tower shall provide the following additional information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, electrical, or structural, shall be certified by a licensed professional engineer registered in the State of Michigan.

1. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within Birch Run Township or one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. Such information may be shared with other applicants applying for approvals under this Section or other organizations seeking to locate towers or antennas within the jurisdiction of Birch Run Township, provided, however, that the sharing of such information

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- in no way constitutes a representation or warrant by the Township that such sites are available or suitable.
2. Elevation drawings of the proposed tower and any other structures.
 3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 4. The separation distance from other towers described in the inventory of existing sites submitted pursuant to (A)(1) above 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(s)/operator(s) of the existing tower(s), if known.
 5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 6. A notarized, sworn statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
 7. For wireless communication systems, identification of the entities providing the backhaul network (i.e., the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, and/or the public switched telephone network) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
 8. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services proposed through the use of the proposed new tower.
 9. A description of the feasible location(s) of future towers or antennae within the Township based on existing physical, engineering, technological, or geographical limitations.

Section 14.19 Outdoor Restaurants

A. "Outdoor Area" Defined: "Outdoor area" shall be defined as the area of the outdoor portion of the restaurant designed for or otherwise used for outdoor eating or drinking, irrespective of whether the serving of such food or drink initially occurs inside of the restaurant.

B. Additional Application Requirements: In addition to compliance with the site plan submittal information of Sec. 4.04, the following additional information shall be made part of the site plan:

1. The number and location of all proposed temporary and permanent structures in the outdoor area including tables, chairs, planters, outdoor storage facilities, and other equipment as well as lighting locations, if any.
2. The proposed capacity of the outdoor area and the capacity of existing indoor dining/drinking areas.

C. The following site and developmental requirements shall apply:

1. The outdoor area shall be setback from all property lines as required by the site plan approving body; however in no case shall the setback be closer than 100 feet from an existing utilized residential dwelling.
2. The boundaries of the outdoor eating area shall be clearly defined by planters, surface material, or other visual means. Fencing, if installed shall be as required by the Liquor Control Commission or other approving agencies.
3. Signage shall comply with the Birch Run Township Outdoor Advertising Ordinance as amended .
4. Electrical illumination of an outdoor eating area need not comply with Section 18.04 but such lighting shall be directed downward except in the case where such lighting does not exceed six (6) feet in height above the outdoor area surface and the site plan approving body determines that such lighting will not undermine the use and enjoyment of nearby property, and such lighting shall not increase glare or light levels by more than one-half (1/2) candle power of light across a lot line in or adjacent to an Agricultural or Residential District.
5. Off-street parking as applied to the outdoor area shall only need comply with fifty percent (50%) of the parking regulations found in Article 16.

D. Special Performance Standards:

1. No furniture, apparatus, decoration or appurtenance used in connection with the outdoor area shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building.
2. The outdoor area may operate during the regular business hours of the restaurant; however all outdoor music or amplification from any source shall cease at midnight .
3. The outdoor area shall be kept free of litter. Trash receptacles shall be emptied daily. At no time shall trash or debris be permitted to be blown or swept beyond the outdoor area.
4. All outdoor tables, chairs, umbrellas and similar furnishings shall be adequately weighted or otherwise secured to resist movement by wind, and shall be maintained in good repair and in a clean and safe

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- condition.
5. Outdoor entertainment shall be permitted and comply with the Birch Run Township Public Nuisance Ordinance as amended
 6. The size of any outdoor area shall not exceed the total square footage of the business building square footage by more than seventy-five (75%) percent, up to a maximum of two-thousand (2000) square feet.

Section 14.20 Wind Energy Conversion Facilities (WECFs)

A. The following site development requirements shall apply:

1. The minimum lot area for a commercial or private WECF, or test facility, shall be as necessary to meet required setbacks of this Section 14.20 and any other standards of this Ordinance, but in no case shall the lot be less than the minimum lot area required by Table 9-4 of Article 9.
2. The permitted maximum private wind turbine or test tower height shall be ninety (90) feet. The permitted maximum commercial wind turbine and test tower height shall be 350 feet. As a condition of approval of a commercial WECF, the Township may require a lesser height for a wind turbine if reasonably necessary to comply with the general special land use approval standards of Section 5.06. All heights shall comply with the requirements of the Federal Aviation Authority and county, state and federal regulations including the Michigan Tall Structures Act and Airport Zoning Act.
3. Setbacks and Separation Distances:
 - a. No part of a private WECF or test tower (including guy wire anchors associated with a test tower) shall be located within or above any required front, side or rear yard setback according to Table 9-4 of Article 9. In addition, in the case of a wind turbine serving a private WECF, such turbine and test tower shall be set back a minimum distance from all property lines, a distance equal to two (2) times the wind turbine height. No setback shall be required in the case where the WECF is mounted on a roof or similar support structure and does not increase the height of such structure by more than ten (10) feet provided such structure complies with all required setbacks. In addition, for a private WECF of less than sixty (60) feet in height, the approving body may decrease the required setback to no less than one (1) times the height of the wind turbine upon finding that existing site and surrounding conditions warrant a more flexible setback requirement, such as due to the proximity of nearby dwellings or the screening effects of site conditions.
 - b. No part of a commercial WECF or test tower (including guy wire anchors associated with a test tower) shall be located within or above any required front, side or rear yard setback according to Table 9-4 of Article 9. In addition, in the case of a wind turbine serving a commercial WECF, such turbine shall be set back a minimum distance from all property lines, and above-ground public electrical and communication lines, a distance equal to the wind turbine height, but in no case shall a wind turbine be located within five-hundred (500) feet of an existing residence. No wind turbine shall be located closer to another wind turbine than the minimum separation distance recommended by the manufacturer or the wind energy industry as may be published from time to time.
4. In the case of a wind turbine serving a private WECF, the lowest point of the arc created by rotating wind vanes or blades shall be no less than twenty (20) feet from the ground below except where the turbine is attached to a roof or other structure that prohibits vehicular and pedestrian movement below such blades. In the case of a wind turbine serving a commercial WECF, no rotor/blade shall approach closer than twenty (20) feet to the ground surface below and seventy-five (75) feet to any structure or tree on the same parcel.
5. Safety measures for all WECF's
 - a. All access doors to turbine towers and electrical equipment shall be lockable, and no climbing device shall be made part of a wind turbine except within the interior of the tower from such lockable door or where not located within twelve (12) feet of the ground when placed on the exterior of the tower.
 - b. A tower capable of being climbed shall be enclosed by a locked, protective chain-link fence at least ten (10) feet high with barbed wire at the top.
 - c. All electrical equipment shall include applicable warning signs.
 - d. All electrical wiring shall comply with all applicable safety and stray voltage standards including any connections to an off-site electrical network.
 - e. All electrical distribution lines from the WECF to an off-site electrical network shall be located and maintained underground on the property where the WECF will be located.
 - f. A WECF shall include a system to prevent uncontrolled rotation at excess wind speeds unless the

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manufacturer certifies that such a system is not necessary.

6. A test tower shall be temporary and removed within twenty-four months of erection.
7. All WECFs shall be sited in such a manner to minimize shadow flicker from the blades on any road or on any building on an adjacent property existing at the time the application is considered.
8. All WECFs and test towers shall comply with the electrical and building codes of the Township and all other regulations and requirements of county, state and federal agencies including those of the Federal Aviation Authority, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the permit is approved. A WECF shall meet the manufacturer's specifications for erection and anchoring the wind turbine including foundation specifications, and shall exceed such specifications where local, state or federal regulations require so.

B. Special Performance Standards:

1. There is no limitation on the peak capacity of a WECF provided, in the case of a private WECF, all provisions of this Section are met including and the definitional provisions in Article 21 for a private WECF.
2. No WECF shall produce noise levels that exceed fifty-five (55) decibels on the dB(A) scale, measured along the property lines of the parcel on which the WECF is located. This sound pressure level shall not be exceeded for more than three (3) minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be the ambient dB(A) plus 5 dB(A).
3. Appearance:
 - a. Wind turbines shall be of monopole construction except that a private WECF tower may be of lattice construction provided the wind turbine height is no greater than sixty (60) feet. Wind turbines shall be of such color and finish to minimize visual intrusion and improve compatibility with surrounding conditions, subject to any applicable standards of the Federal Aviation Authority. Any additional buildings or structures shall, to the extent reasonably practical, use materials, colors, textures, screening and landscaping to enhance the compatibility of the facility with surrounding conditions.
 - b. No WECFs shall be artificially lighted, except to the extent required by the Federal Aviation Authority or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. Strobe lights, as may be required by the Federal Aviation Authority, shall be shielded from the ground.
 - c. No wind turbines shall be used for displaying any advertising except that each wind turbine shall have one (1) or more signs of no greater than four (4) square feet each that shall provide operational information including, but not necessarily limited to, a warning of high voltage and a specification of the manufacturer's name, company/utility operator, and emergency number(s).
4. No commercial WECF shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the WECF. No commercial WECF shall be installed in any location within the line of sight of an existing microwave communications link where operation of the WECF is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
5. Under no circumstances shall any WECF or test tower produce vibrations or wind currents humanly perceptible beyond the property boundaries of the parcel on which the WECF or test tower is located.
6. Any WECF or test tower that is not used for one (1) year or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials, to a minimum depth of four (4) feet, shall be removed. The ground shall be restored to its original condition within ninety (90) days of abandonment.

C. Special Authorization and Approval Procedures for Private WECF:

1. Private WECFs shall be construed as accessory structures, as defined in this Ordinance, and are permissible in all districts.
2. Approval Procedures:
 - a. A private WECF that has a wind turbine height of no greater than sixty (60) feet, and is not to be located within one-hundred fifty (150) feet of an existing building on another parcel, is subject to Zoning Administrator approval according to Section 4.03. The applicant shall submit a plot plan

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containing the information required by Section 4.03(A) and any additional information necessary to demonstrate conformance with the standards of this Section. The Zoning Administrator shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance.

- b. A private WECF that has a wind turbine height greater than sixty (60) feet, or is to be located within one-hundred fifty (150) feet of an existing building on another parcel, is subject to Planning Commission approval. The applicant shall submit a plot plan containing the information required by Section 4.03(A) and any additional information necessary to demonstrate conformance with the standards of this Section. The Planning Commission shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance, and that the WECF is sited to maximize compatibility with surrounding conditions to the greatest extent practical.

D. Special Authorization and Approval Procedures for Commercial WECF: An application for a commercial WECF shall be accompanied by all information normally required for a special land use including a site plan according to Article 4, and including the identification of the proposed location of wind turbines, underground and overhead wiring including wiring depths, substations and accessory structures; the location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above-ground features associated with the WECF; and engineering data concerning construction of the turbine towers and bases. In addition to the submittal requirements of Article 4, the following supplemental information shall be provided. Where the application is for a wind energy conversion test facility only, the designated approving body may waive any of the submittal requirements where it determines such information is not necessary in evaluating the application solely for testing purposes based on the character of the site, surrounding conditions, and the nature of the test tower.

1. Locations and height of all adjacent buildings, structures, and above-ground utilities located within 300 feet of the exterior boundaries of the parcel where the proposed commercial WECF and/or test tower will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether to be utilized or not with the commercial WECF or test tower, located on the parcel involved, as well as within 1,000 feet of the boundaries of such parcel.
2. A lighting plan describing all lighting that will be utilized, including any lighting that may be required by the Federal Aviation Authority. Such plan shall include but shall not be limited to the planned number and location of lights, light color and whether any lights will be flashing.
3. Location of access drives and their dimensions and construction profiles.
4. Planned security measures to prevent unauthorized trespass and access.
5. Narrative description of facility operations including anticipated regular and unscheduled maintenance, and the manner in which the site will be returned to its original condition upon termination of its use as a commercial WECF.
6. Proof that the proposed WECF site has a minimum wind rating of 3 according to the U.S. Department of Energy, National Renewable Energy Laboratory.
7. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the county to accommodate construction vehicles, equipment or other deliveries.
8. The applicant shall conduct an analysis of the alternating changes in light intensity caused by the moving blades of a WECF casting shadows on the ground and stationary objects, commonly referred to as "shadow flicker." The analysis shall identify the locations of shadow flicker that may be caused by the WECF and the expected durations of the flicker at these locations where located on adjacent properties, from sunrise to sunset over the course of the year. The analysis shall identify areas where shadow flicker may affect such properties including persons in structures or on roads, measures that shall be taken to eliminate or mitigate flicker in such circumstances, and the source and basis for such flicker projections.
9. The applicant shall fund an environmental study assessing the potential impact on wildlife. At minimum, the analysis shall include a thorough review of the existing information regarding species and potential habitats in the vicinity, the potential effects on specified list under the Federal Endangered Species Act and Michigan's Endangered Species Protection Law, and the extent to which the WECF conforms to the "Interim Guidance on Avoiding and Minimizing Wildlife Impacts from Wind Turbines" as prepared by the U.S. Fish and Wildlife Services.

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10. The applicant shall submit modeling and analysis that will confirm that the WECF will not exceed the maximum permitted sound pressure levels specified in subsection (B)(1). Modeling and analysis shall conform to International Electrotechnical Commission 61400 and International Organization for Standardization 9613.
11. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECF and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.

Section 14.21 Outdoor Entertainment and Events

A. Directions to Apply for a Special Event: Complete the application in accordance with the Birch Run Township “Temporary Non-Residential Uses and Structures” regulations (Section 20.18) for all events which will be attended by more than 200 persons, and return it to the Township Office at least six (6) weeks prior to the starting date of the event.

B. Additional Materials to be Submitted for Special Use Review: In addition to the information required by this ordinance for submission of site plans and special uses, each application shall be accompanied by plans, drawings, and/or written information addressing at a minimum:

1. A description of the range of activities proposed, number of events a year, hours of operation and days of the week the activities are proposed to be undertaken
2. Emergency services necessary based on the anticipated number of participants
3. Water supply and facilities;
4. Toilet facilities;
5. Camping and trailer facilities;
6. Noise control and abatement;
7. Facilities for cleanup and waste disposal;
8. Insurance and bonding arrangements.
9. Reviews of the proposed plans by the Township Fire Chief and Police Department

C. Special Performance Standards:

1. The Township Board may impose limits on the operation necessary to ensure compatibility with the surrounding land uses and to mitigate off-site impacts. Conditions may include the limit on the frequency of a particular activity and the operations hours of operation.
2. A property granted an Outdoor Entertainment and Events special land use is prohibited from receiving a Temporary Non-Residential Uses and Structures Permit per Section 20.18 of the Zoning Ordinance unless approved by the Township Board per Section 20.18.B.1. The Township Board’s approval shall include limits on the range and frequency of activities. Any increase in the range or frequency of activities or any other condition of approval will require amendment to the Special Use approval.
3. It is the intention of this provision to require approval once, except for changes to the original approval noted in paragraph 2 above. It is not intended to require re-approval every time an activity occurs. However, the Special Use approval may be withdrawn if the applicant fails to comply with the requirements of their approval or of this ordinance.
4. In the case of proposed uses whose potential impact is unclear, the Planning Commission may as an option to amending a Special Use approval to add a use, approve the use as a one-time temporary use, using the conditions and standards in Section 20.18 Temporary Non-Residential Uses and Structures.
5. Permanent or temporary toilet facilities are required at a rate of 1 per 150 persons based on the maximum attendance permitted at any point in time during the event.

Section 14.22 Solar panels.

The solar panels for private use may be permitted by right as an accessory use in all zoning districts provided it complies with the following requirements, however freestanding panels exceeding the requirements outline in subsection D below will require approval of a special land use.

A. Freestanding Panels

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1. Freestanding solar panels shall not be located in the front or side yard;
2. All freestanding solar panels shall be regulated as an accessory structure and shall meet all applicable accessory building requirements of the ordinance;
3. No freestanding solar panel shall be permitted to exceed a height of fifteen (15) feet;

B. Roof or Structural Mounted Panels including solar shingles

1. Shall not project more than two (2) feet above the roof line. However, the solar panel when installed shall not exceed the maximum height allowed in the Zoning District. The use of flat mount solar panels or solar shingles are preferred;
2. May be constructed on any roof surface of an existing structure.
3. Shall not be located within three (3) feet of any peak, eave or valley to maintain adequate accessibility.

C. Requirements for All Panels

1. The solar panels, solar shingles and arrays of panels shall be reviewed by the Fire Department.
2. The panel array shall be fitted with an automatic shut off or breaker switch as approved by the Fire Department to isolate the panels in case of fire.
3. The Fire Department shall keep on file the type of system that the solar panel array is a part of, either photovoltaic or thermal.
4. All panels shall have tempered, non-reflective surfaces.
5. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
6. Solar energy equipment shall be repaired or replaced within three months of becoming nonfunctional.
7. Each system shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
8. Solar energy collectors and installation and uses shall comply with construction code, electrical code, and other state requirements.

D. Accessory Use Solar Panels Requiring Special Land Use Approval

1. Free standing solar panels used accessory to a non-agricultural use shall require special land use approval if they do not meet the setback or placement criteria of Section 20.20.B of this ordinance or exceed the square footage for accessory structures outlined in Section 20.20.D of this zoning ordinance.
2. Free standing solar panels used accessory to an agricultural use shall require special land use approval if they do not meet the setback or placement criteria of Section 20.20.B of this ordinance or exceed the square footage for accessory structures outlined in Section 20.20.D of this zoning ordinance, with the exception that on a parcel 4 acres or greater the maximum square footage allowed by right will be lesser of 2.9% of the lot or 6,000 square feet, including any other accessory buildings on the property.

Section 14.23 Solar Farms.

Solar farms shall be permissible in the A-1, and I-1 zoning districts subject to special use permit approval:

A. Solar Farms – Required additional Information

In addition to the information required for site plans outlined in Section 4.04 of this ordinance, applications for Solar Farms shall include the following:

1. Project Description and Rationale. Identify the type, size, rated power output, performance, safety and noise characteristics of the system including the transmission line/grid connection for the project. Identify the project construction time frame, project life, development phases (and potential future expansions) and likely markets for the generated energy.
2. Visual Impacts. Graphically demonstrate the visual impact of the project using photos or renderings of the project with consideration given to setbacks and proposed landscaping.
3. Environmental Analysis. Identify any impacts on water and air quality and supply for the area.
4. Waste. Identify any solid or hazardous waste generated by the project.
5. Lighting. Provide plans showing all lighting within the facility.
6. Transportation Plan. Provide a proposed access plan during construction and operational phases.
7. Show proposed project service road ingress and egress locations onto adjacent roadways and the layout of the facility service road system.
8. Public Safety. Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways and to the general public that may be created.

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9. Sound Limitations. Identify noise levels at the property lines of the project when completed and operational.
10. Telecommunications Interference. Identify any electromagnetic fields and communications interference that may be generated by the project.
11. Decommissioning. Provide a Decommissioning Plan acceptable to the Planning Commission to ensure that structures and appurtenances are properly decommissioned upon the end of their operational life, inoperability or improvement abandonment.
 - a. A Decommissioning Plan shall be submitted for review and approval detailing the expected duration of the project, how the improvements will be decommissioned, a Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond holder with which the financial resources shall be deposited.
 - b. The decommissioning plan shall also include an agreement between the applicant and the Township that includes, but is not limited to the following conditions:
 - 1) The financial resources for decommissioning shall be in the form of a surety bond with a replenishment obligation and shall be deposited by a bonding agent acceptable to Birch Run Township.
 - 2) The financial resources for decommissioning shall be 125% of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a Professional Engineer.
 - 3) The Planning Commission shall annually review the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the Township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.
 - 4) The Township shall have access to the surety bond funds for the expressed purpose of completing decommissioning. If decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of the solar farm or facility abandonment. Surety bond funds may be used for administrative fees and costs associated with decommissioning.
 - 5) The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - 6) The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the surety bond amount and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

B. Solar Farms – Design Requirements

The solar farms shall comply with the following requirements

1. Solar Panels. The solar panels used in a solar farm shall comply with the requirements in Section 14.21.C of this ordinance
2. Setbacks. All Photovoltaic (PV) systems and support structures associated with such facilities (excluding perimeter fencing) shall be setback a minimum of two hundred (200) feet from any habitable structure or one hundred (100) feet from a property line, whichever is greater.
3. Lighting. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels.
4. Buffering. Solar farms shall install landscaping as required by Section 17.04 of the zoning ordinance, provided the Planning Commission may require modifications to these requirements including the use of fencing or other screening and buffering techniques as determined necessary to adequately screen the solar farm from surrounding land uses.
5. Decommissioning
 - a. Any solar farm that is not operated or found to be inoperable due to disrepair for a continuous period of six (6) months shall be considered abandoned. If it is found that a solar farm is abandoned, the Planning Commission upon notice by the Zoning Administrator, shall provide written notice to the applicant/owner/operator of a hearing before the Planning Commission to hear evidence that the solar farm should not be decommissioned.

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- b. If a solar farm is repaired, a Professional Engineer (hired at the expense of the owner or operator) shall certify the solar farm's safety prior to the resumption of operation.
- c. Within ninety (90) days of the hearing where the Planning Commission has determined that a solar farm is abandoned or inoperable, the owner/operator shall obtain a demolition permit to remove any solar farm.
- d. Failure to obtain a demolition permit within the 90-day period provided in this subsection shall be grounds for the Township to remove the solar farm at the Owner's expense.
- e. Decommissioning shall include removal of all equipment associated with the solar farm including all materials above and below ground, up to four (4) feet in depth. The site shall be restored to a condition that reflects the specific character of the site including topography, vegetation, soils, drainage, and any unique environmental features.
 - 1) The restoration shall include: road repair and hazardous waste cleanup, if any, all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the wind energy system.
 - 2) The restoration process shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one (1) year.
 - 3) Extensions may be granted upon request to the Planning Commission prior to that expiration of the one (1) year requirement for completed decommissioning.
- f. The decommissioning plan shall also include an agreement between the applicant and the Township that includes, but is not limited to the following conditions:
 - 1) The financial resources for decommissioning shall be in the form of a surety bond with a replenishment obligation and shall be deposited by a bonding agent acceptable to the Township.
 - 2) The financial resources for decommissioning shall be 125% of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a Professional Engineer.
 - 3) The Planning Commission shall annually review the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the Township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.
 - 4) The Township shall have access to the surety bond funds for the expressed purpose of completing decommissioning. If decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of solar farm or facility abandonment. Surety bond funds may be used for administrative fees and costs associated with decommissioning.
 - 5) The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - 6) The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the surety bond amount and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien..

(9-8-2020, Ord. 2020-03, amended Sec. 14.10 / Mini Storage Facilities)

(6-10-14, Ord. 2014-03, amended Sec. 14.13 / Sexually Oriented Businesses)

(2-12-13, Ord. 2013-04, amended Article title)

(2-12-13, Ord. 2013-04, inserted Sec. 14.19 / Outdoor Restaurants and Sec. 14.20 / Wind Energy Conversion Facilities)

(08-11-15, Ord. 2015-01, amended Sec. 14.19 / Outdoor Restaurants)

(12-13-16, Ord. 2016-04, inserted Sec. 14.21 / Outdoor Entertainment and Events)

(9-8-2020 Ord. 2019-09, amended Sec. 14.21 / Outdoor Entertainment and Events)

(5-14-19, Ord. 2019-05, inserted Sec. 14.22 and Sec. 14.23)

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**Article 16
OFF-STREET PARKING and LOADING**

Section 16.01 Purpose

It is the purpose of this Article to establish standards and requirements to assure that parking spaces shall be adequately provided and maintained by each property owner in every zoning district for the off-street storage of motor vehicles as may be necessary, including in association with the receiving and distribution of goods by motor vehicle, to prevent undue interference and hazards with the public use of such parking areas, receiving and distribution areas, roads, and other vehicle access areas.

Section 16.02 General Requirements

A. Fractional Space: When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

B. Requirements for a Use Not Mentioned: In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. This determination shall be made during site plan review proceedings and a record of the rationale applied shall be documented for the record.

C. Use of Off-Street Parking Areas: Off-street parking areas shall be reserved for the parking of vehicles used to service the establishment to which it is accessory and by its patrons. No commercial repair work, servicing, storage, selling or any other activity shall be conducted in an off-street parking area except as may be otherwise authorized through the issuance of a permit for a temporary use.

D. Building Additions or Other Increases in Floor Area: Whenever a use requiring off-street parking is increased in area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.

E. Location and Joint Use of Parking Areas: All off-street parking areas shall be located on the same lot, or on the adjacent premises in the same district as the use they are intended to serve. The joint use of parking facilities by two or more uses may be granted during site plan review proceedings whenever such joint use is practical and satisfactory to each of the uses intended to be served, and when all site development requirements of Section 16.04 are met.

1. **Computing Capacities:** In computing capacities of any joint use, the total space requirement shall be the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
2. **Record of Agreement:** A copy of a proposed agreement between joint users shall be filed with the application for a zoning permit and a copy shall be recorded with the County Register of Deeds upon approval of the application. The agreement shall include a guarantee for continued use of the parking facility by each party and a provision requiring written approval by all joint users and the site plan approving body for termination of such agreement.

F. Vehicles Waiting to Park/Exit: There shall be a minimum of fifty (50) linear feet of on-site storage to accommodate vehicles waiting to park or exit the site without using any portion of a public road right-of-way or in any other way interfering with road traffic. The site plan approving body may increase this length where it feels the minimum required fifty (50) foot distance will not adequately address public safety issues due to anticipated traffic patterns and/or types of vehicles.

G. Decrease in Parking Areas: No off-street parking area which exists at the time this Ordinance becomes effective, or which subsequent thereto is provided for the purpose of complying with this Ordinance, shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless additional parking area or space is provided sufficient to meet the requirements of this Article and Section 4.08.

H. Barrier-Free Parking Spaces: Barrier-free parking spaces shall be provided in accordance with the most current standards and rules of the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division. Such spaces shall be placed in the most convenient locations to facilitate access into a building.

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Such spaces shall be clearly identified by both adequate paint striping and wall or post signs.

Section 16.03 Site Development Requirements for Off-Street Parking

All off-street parking areas, except for single family and two family dwellings, shall be designed, constructed and maintained in accordance with the following standards and requirements.

A. Marking and Designation: Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.

B. Driveways: Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. Two-way drives for ingress and egress to a parking area shall be not less than twenty-five (25) feet wide and all turning radii shall comfortably accommodate vehicle turning patterns. Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any adjacent lot within a Residential District, and a minimum of ten (10) feet from all other lot lines.

C. Surface: All required off-street parking areas shall be paved with concrete, bituminous asphalt or similar material, approved by the site plan approval body. The site plan approval body may waive this requirement for special land uses in Conservation and Residential Districts upon its determination that such paving is not in character with the surrounding and intended land use pattern, and the lack of paving will not cause a nuisance to current and future residents. Paved parking spaces shall be marked with striping.

D. Drainage: All required off-street parking areas shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent direct drainage onto abutting properties and public streets.

E. Location/Setback:

1. Off-street parking areas shall be set back a minimum of twenty (20) feet from all property lines, and in no case shall an off-street parking area be in the required front yard setback for the principal building.
2. Off-street parking areas shall be designed and arranged to prohibit a parked vehicle from being closer than five (5) feet to a building, including any bumper overhang.

F. Lighting: All parking lot lighting shall comply with the applicable provisions of Section 18.04.

G. Parking Spaces and Maneuvering Lanes: Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a public road right-of-way shall be prohibited. The layout of off-street parking areas shall be in accord with the following minimum standards:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0° (Parallel)	10 ft.	9 ft.	23 ft.
30° to 53°	13 ft.	9 ft.	20 ft.
54° to 74°	18 ft.	9 ft.	20 ft.
75° to 90°	22 ft.	9 ft.	18 ft.

1. All maneuvering lane widths shall permit one-way traffic movement only, except for ninety (90) degree and parallel parking patterns which may provide for two-way traffic movement.
2. Where a parking space is curbed, the vehicle overhang off the curb may be credited as two (2) feet if adjacent to landscaping, or adjoining a sidewalk at least seven (7) feet wide.

H. Service Drives and Connections to Adjacent Parking Areas: To minimize traffic hazards and congestion and protect the public health, safety and welfare through appropriate access management, the site plan approving body may require the development of a parcel in a Commercial or Industrial District to include one or both of the following improvements, where practical and feasible, in association with a proposed site plan:

1. Off-street parking areas shall provide for direct vehicular access to existing or potential off-street parking areas on adjacent parcels to minimize the necessity for additional curb cuts onto public roads and vehicles unnecessarily entering onto public roads to gain access to nearby parcels or businesses.
2. Off-street parking areas shall include a service drive across the front or rear of the respective lot to collect traffic from parking areas and funnel the traffic to one or more curb cuts along a public road, so as to reduce the number of curb cuts that would otherwise be required if each parking area accessed the public

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road. Such service drives shall be designed to afford connections to existing or potential service drives on adjacent parcels.

I. Number of Spaces: See Section 16.04.

J. Landscaping and Screening: See Section 17.05.

Section 16.04 Parking Space Requirements

A. Compliance with Required Number of Parking Spaces:

1. This Section identifies the number of required off-street parking spaces in all districts, by land use type. Such parking spaces shall be located on the lot or parcel upon which the land use is located unless joint use of parking areas is permitted according to Section 16.02(E).
2. In recognition that certain commercial uses generate significantly heightened demands for parking spaces during seasonal or holiday shopping periods, the site plan approving body may, upon request by the applicant, waive up to twenty-five percent (25%) of the required number of parking spaces as a reserved parking area for possible future use. However, the site plan approving body may subsequently require the applicant to construct such parking spaces upon a determination by the site plan approving body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within 6 months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures, or similar improvements shall be established in the reserve parking area. This subsection shall apply only to commercial uses that are required to provide more than thirty (30) parking spaces.

B. Residential Uses:

1. One and Two Family Dwellings: Two (2) spaces for each single family dwelling unit.
2. Multiple Dwellings: Two (2) spaces for each multiple family dwelling unit plus one space per five (5) units for guest parking, and one (1) additional parking space shall be provided for each employee of the largest work shift.
3. Mobile Home Park: Two (2) spaces for each mobile home site plus one (1) space per three (3) units for guest parking.
4. Group Homes (adult foster care): One (1) space for every three (3) residents of the home, and one (1) additional parking space shall be provided for each employee of the largest work shift.

C. Commercial Uses: In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

1. Athletic Clubs, Physical Exercise Establishments, Health Studios, Sauna Baths, Judo Clubs: One (1) parking space per three (3) patrons based on the occupancy load established by the State Fire Marshall.
2. Automobile or Machinery Sales and Service Garages: One (1) space for each 200 square feet of showroom floor area plus two (2) spaces for each service bay, provided at least ten (10) spaces are provided. Spaces used for storage of vehicles for sale shall not be used to meet parking requirements.
3. Banks and Financial Institutions: One (1) parking space for every one-hundred fifty (150) square feet of usable floor area plus sufficient area for six (6) stacking spaces for the first drive-through window and two (2) spaces for each additional window.
4. Barber Shops and Beauty Parlors: Two (2) spaces for each beauty/barber chair.
5. Bowling Alleys: Four (4) spaces for each alley.
6. Car Wash, Automatic: Two (2) spaces for each stall, not including the stall itself, and five (5) stacking spaces for each stall.
7. Car Wash, Self-Service: One (1) space for each stall, not including the stall itself, and three (3) stacking spaces for each stall.
8. Medical Clinics: Two (2) spaces for each examination or treatment room.
9. Clothing, Furniture, Appliance, Hardware, Automobile, Machinery Sales, Shoe Repair, Personal Services (other than beauty and barber shops): One (1) space per four hundred (400) feet of gross floor area.
10. Convalescent Homes and Similar Uses: One (1) space for each three (3) beds.
11. Service Stations: Two (2) spaces for each repair and service stall (a service stall is not considered a

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- parking space).
12. Dance Halls, Roller Skating Rinks, Pool and Billiard Rooms: One (1) space for every three (3) persons allowed based on the maximum capacity of the facility as determined by the State Fire Marshall.
 13. Day Care Centers, Child Care Center, Nursery School, School of Special Education: One (1) parking space for each 350 square feet of usable floor space or one (1) space for each seven children, whichever is greater.
 14. Funeral Homes and Mortuaries: One (1) space for every fifty (50) square feet of floor area of chapels and assembly rooms.
 15. Kennels: One (1) space for each five (5) animals of the facility's capacity.
 16. Laundromat: One (1) space for every three (3) washing or drying machines.
 17. Motels, Hotels, Auto Courts, Tourist Homes: One (1) space for each sleeping unit, plus spaces for bars, restaurants, banquet rooms, and other associated facilities as determined by the Planning Commission.
 18. Offices, Business and Professional: One (1) space for every one hundred fifty (150) square feet of useable floor area or, in the case of medical and dental clinics, three (3) spaces for each examining room, whichever is greater.
 19. Private Recreational Facilities: One (1) space for every six (6) potential members based on the capacity of the facility as determined by the State Fire Marshall.
 20. Retail Stores, (except as otherwise specified herein): One (1) space for every one hundred fifty (150) square feet of useable floor area.
 21. Restaurant, Standard: One (1) space for every four (4) seats, plus an additional one (1) space for each 75 square feet of usable floor area.
 22. Restaurant, Drive-Through: One (1) space for every four (4) seats, plus sufficient area for eight (8) stacking spaces for drive-in windows.
 23. Restaurant, Drive Through (no indoor eating facilities): One (1) space for every 15 square feet of usable floor area except that a minimum of ten (10) spaces is provided.
 24. Restaurant, Carry-Out (no indoor eating facilities): One (1) space for every fifteen (15) square feet of usable floor area, provided a minimum of five (5) spaces are provided.
 25. Supermarket, Self-Service Food Store: One (1) space for every one-hundred (100) square feet of gross floor area, excluding walk-in refrigeration units.

D. Industrial Uses:

1. Industrial or Manufacturing Establishments: One (1) space for every employee of industry's largest working shift.
2. Warehouses: One (1) space for every fifteen-hundred (1,500) square feet of gross floor area.

E. Other Uses: In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

1. Church, Synagogue, Chapel, Temple: One (1) space for each three (3) seats or six (6) linear feet of pew or bench seating in the main unit of worship.
2. Auditorium, Theater, Assembly Hall: One (1) space for each three (3) seats or six (6) linear feet of bench seating, or one (1) space for each three (3) persons based on the occupancy load as established by the Building Code, which ever is greater.
3. Private Civic, Fraternal Club or Lodge: One (1) space for each five (5) members, based upon the load capacity as determined by the Building Code.
4. Elementary and Middle Schools: See requirements for auditoriums.
5. High Schools: One (1) space for each five (5) students (based on the capacity of the facility as determined by the Building Code), plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
6. Hospital, Sanitarium, Nursing Facility, Home for the Aged: One (1) space for each two (2) beds.
7. Libraries, Museums, Post Offices: One (1) space for every five hundred (500) square feet of floor area.
8. Outdoor Recreation Not Otherwise Part of a School:
 - a. Golf Courses: Five (5) spaces for each golf hole, except in the case of a par 3 course in which only three (3) spaces for each hold shall be required.
 - b. Miniature Golf: Two (2) spaces for each golf hole.
 - c. Batting Cages: (3) spaces per cage.
 - d. Tennis/Racquetball Courts: Six (6) spaces for each court.
9. Outdoor Theaters and Other Outdoor Entertainment Facilities: One (1) space for every four fixed seats

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and one (1) additional space for every five hundred (500) square feet available to accommodate additional attendees not otherwise restricted to a fixed seating area.

10. Indoor Recreational Facilities: One (1) space per two (2) patrons based on the maximum capacity of the facility as determined by the Building Code, plus six (6) spaces for each tennis or racquetball court.

Section 16.05 Loading and Unloading Space Requirements

A. Additional Parking Space: Loading space required under this Section shall be provided as area additional to off-street parking space as required under Section 16.04 and shall not be considered as supplying off-street parking space.

B. Space Requirements: There shall be provided an adequate space for standing, loading, and unloading service adjacent to the building opening for loading and unloading. Each space shall be a minimum of twelve (12) feet in width and twenty-five (25) feet in length, and fifteen (15) feet in height, open or enclosed. The site plan approval body may require a greater space length where necessitated by the anticipated type of truck traffic.

Institutional, Commercial, and Industrial Uses Spaces Required

Up to 5,000 square feet of gross floor area:	1 space, if determined necessary during site plan review.
5,001 to 60,000 square feet of gross floor area:	1 space, plus 1 space per each 20,000 sq. ft.
60,001 square feet of gross floor area and over:	4 spaces, plus 1 space per each additional 20,000 square feet.

Industrial Uses Spaces Required

Up to 1,400 square feet of gross floor area:	0 spaces.
1,401 to 20,000 square feet of gross floor area:	1 space.
More than 20,000 square feet of gross floor area:	1 space, plus 1 space per each 20,000 sq. ft. of gross floor area in excess of 20,000 sq. ft.

C. Access: Access to a truck standing, loading, and unloading space shall be provided directly from a public road or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a road or alley.

D. Screening: All loading and unloading areas which are adjacent to another District or residential property, or face or are visible from residential properties or public thoroughfares, shall be screened.

E. Location: A loading-unloading area shall not be located within any front yard. A loading-unloading area may be located in a required side or rear yard setback except where such yard adjoins a Commercial or Industrial District. In no case shall the loading-unloading area be located closer than fifty (50) feet to a residential lot line.

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Article 17
LANDSCAPING and SCREENING

Section 17.01 Purpose

It is the purpose of this Article is to establish standards and requirements to assure adequate provisions are made for landscaping and screening so that land uses minimize noise, air, and visual pollution; improve the appearance of off-street parking and other vehicular use areas; assure adequate buffering between incompatible uses; support the desired community character along property adjoining public rights-of-way; prevent soil erosion and soil depletion; and protect and preserve the appearance, character, and value of the community as a whole and its residential and business areas.

Section 17.02 Application

The requirements of this Article shall apply to those uses for which site plan approval is required under Article 4, Site Plan & Plot Plan Review, and any other use so specified in this Ordinance. No site plan shall be approved unless said site plan shall show landscaping, buffer areas, and screening consistent with the requirements set forth in this Article. This Article shall not apply to individual single family and two-family dwellings.

Section 17.03 Landscape Plan Required

A. A detailed landscape plan is required to be submitted as part of a site plan (see Article 4). The landscape plan shall be prepared at a minimum scale of 1" = 100' and shall identify all buffer areas (see Sections 17.04 and 17.05). The landscape plan shall include, but not necessarily be limited to, the clear delineation of the following items:

1. Proposed plant location, spacing, and size and descriptions for each plant type proposed for use to meet the requirements of this Article.
2. Identification of grass and other proposed ground cover and method of planting.
3. Existing and proposed contours.
4. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
5. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
6. Identification of existing trees and vegetative cover to be preserved and those areas of trees six (6) inches or larger in diameter, measured five (5) feet from ground surface, to be removed.

Section 17.04 Buffer Areas

A. Side and Rear Yard Buffer Areas: A buffer area shall be established along all side and rear lot lines. The buffer area shall not be used for storage or used in any other manner except for the purposes of a buffer.

1. The buffer area shall extend from the respective lot line for a width equal to the respective required yard setback for the principal building, but in no case shall such buffer be less than ten (10) feet in width. The buffer yard shall include a berm or solid wall or fence or a combination thereof, and be of at least (5) feet in height. The buffer area shall be planted and maintained with evergreens such as spruce, pines, or firs, and deciduous trees. While such plantings need not be evenly spaced, the trees shall be provided at a rate of at least one (1) evergreen tree per fifty (50) linear feet and one (1) deciduous tree per one hundred (100) linear feet. Heights of walls shall be measured on the side of the proposed wall/fence having the higher grade. At the time of their planting, evergreen trees shall be a minimum of five (5) feet in height and deciduous trees shall have a caliper of at least two and a half (2 1/2) inches, measured five (5) feet above the ground surface, and be a minimum of twelve (12) feet in height.
 - a. A buffer area need not include a berm, wall or fence where the abutting parcel is in the same District as the buffer yard, except where such a measure is determined necessary during site plan review proceedings to adequately mitigate negative impacts. However, all plant material required by (1) above shall be provided.

B. Front Yard Buffer Areas: The required front yard setback area for the principal building shall be reserved as a buffer area and shall be landscaped with a minimum of one (1) tree meeting the minimum size requirements specified in Section 17.04(A) above for each seventy-five (75) lineal feet, or portion thereof, of frontage adjoining

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the road right-of-way. The remainder of the front yard buffer area shall be landscaped in grass, shrubs, trees and/or other ground cover. Access ways from public rights-of-way through required buffer areas shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of required trees.

Section 17.05 Parking Lot Landscaping and Screening

A. Parking lots shall be landscaped and screened as follows:

1. There shall be provided a minimum of one (1) deciduous tree of at least two and a half (2 1/2) inch caliper for every eight (8) parking spaces. Such trees shall be located within parking islands or within fifteen (15) feet of the edge of the parking lot. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the edge of curbing and pavement.
2. Where a parking lot contains six (6) or more parking spaces and is within two hundred (200) feet of a Conservation or Residential District, or is within view from a residence or public road, a berm, fence, wall and/or vegetative screen shall be installed to screen views to the parking area. All shrub materials shall be a height of at least three (3) feet at the time of their planting.

Section 17.06 Minimum Standards of Landscape Elements

A. Quality: Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to the climate, conform to the most current standards of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections. Plant species which are generally considered undesirable due to limited disease tolerance, low wood strength and/or high wood-splitting tendencies, such as boxelder, mulberry, and willows, are not permitted unless specifically authorized otherwise by the site plan approving body.

B. Composition: A mixture of plant material, such as evergreen and deciduous trees and shrubs, shall be required as a protective measure against insect and disease infestation. Plant materials shall be selected to ensure hardiness.

C. Existing Trees:

1. If existing plant material is labeled "To Remain" on site plans by the applicant or required by the site plan approval body, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material, shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the site plan approving body.
2. In the event that existing healthy trees which are used to meet the minimum requirements of this Ordinance, or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the site plan approving body, the applicant shall replace them with trees which meet Ordinance requirements.

Section 17.07 Installation, Maintenance And Completion

A. All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy or, where the applicant can demonstrate to the site plan approving body that seasonal conditions prohibit the installation of the plant material prior to desired occupancy, the plant material shall be installed within six months of receipt of such Certificate.

B. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.

C. All plant material shall be maintained in a healthy condition, and free of refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first.

Section 17.08 Fencing and Walls Construction

All required fencing and walls shall be constructed and maintained in a sound manner to assure long-term structural integrity and visual character, and be of such height to adequately mitigate the impacts for which the screening is deemed desirable. Site plans shall include all necessary construction details to illustrate compliance

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with this requirement. The finished side of fencing shall face abutting properties.

Section 17.09 Waivers and Modifications

Any of the requirements of this Article may be modified through site plan review proceedings, provided the approving body first makes a written finding that specifically identifies characteristics of the site or site vicinity that would make required buffer areas, fencing, or screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.

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Article 18
ENVIRONMENTAL PROTECTION

Section 18.01 Purpose

The purpose of this Article is to promote a healthy environment in Birch Run Township as it relates to the Township's natural resources; sensitive ecosystems; the integrity of the Township's land, water, and air; the quality of the Township's visual environment, including the management of outdoor lighting and its impact upon traffic safety, adjacent land uses and the night sky; and the provision of adequate sewage disposal and potable water. All provisions of this Article apply to all structures and uses unless otherwise noted.

Section 18.02 Natural Resources

A. Compliance with Local, County, State, and Federal Regulations: All land uses and construction activities shall conform with the provisions of this Ordinance and all county, state and federal regulations including, but not limited to, the following:

1. Applicable fire safety and emergency vehicle access requirements of the State Construction Code and State Fire Marshall.
2. Requirements of the Michigan Department of Consumer and Industry Services and the Saginaw County Health Department.
3. Requirements of the Michigan Department of Environmental Quality including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, and waste disposal.
4. All local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.
5. Applicable rules and regulations of the Federal Communications Commission.

B. Discharges

1. No dust, fumes, or noxious, odorous matter shall be discernible at or beyond the property line except as may be expressly authorized by law. Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use. This subsection shall not apply to farm operations in compliance with most current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.
2. It shall be unlawful to discharge any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Environmental Quality.

C. Sensitive Lands:

1. Where a portion of a parcel is characterized by sensitive or fragile environmental features, including marshes, hydric soils, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
2. Except where required to do so by state or federal law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits, or satisfactory evidence has been submitted to the approving body verifying the acquisition of such permit is not necessary.
3. The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

D. Clearing, Grading, and Drainage: In order to protect soil resources, adjacent properties, public roads, and public watercourses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance.

1. **Removal of Topsoil:** Stripping and removal of topsoil from a site is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized in an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed

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- to be paved or otherwise built upon.
2. **Flow Restrictions:** The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface waters flow away from the building or structure and are managed in a manner which avoids increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public watercourse, or the creation of standing water over a private sewage disposal drainage field.
 3. **Drainage:** All lots shall retain storm water runoff on-site, or detain it so as to allow discharge without any impact on adjacent lands, streams or water bodies above the existing pre-development runoff impact. No land use shall be permitted which will increase the rate of runoff discharge from a lot or parcel or otherwise cause erosion or direct sedimentation upon adjacent properties including an adjacent street. No land use shall be permitted which will reduce the level of service currently being provided by existing storm water management infrastructure or existing drainage patterns unless necessary improvements to such infrastructure or natural drainage pattern are first made.

Section 18.03 Potable Water and Sewage Disposal

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, institutional, or mercantile purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of generated wastes. All on-site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Saginaw County Public Health Department as well as those of other applicable local, county, state, or federal agencies.

Section 18.04 Lighting

- A. No lighting shall in any way impair the safe movement of traffic on any road.
- B. Lighting associated with a commercial, industrial, or other non-residential uses shall comply with the following:
 1. A wall, fence, or berm, at least five (5) feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No wall/fence shall in any way impair safe vertical or horizontal sight distance for any moving vehicles.
 2. Lighting shall be designed and constructed to ensure that direct and reflected light is confined to the lot or parcel upon which the light source is located.
 3. Exterior lighting shall be so installed that the surface of the source of light shall be hooded or louvered to the greatest extent practical so that:
 - a. light sources shall not be visible from beyond the lot lines and shall be so arranged to reflect light away from adjacent properties.
 - b. no more than one foot candle power of light cross a lot line five (5) feet above the ground in a Residential District.
 4. No light source shall exceed the height of the tallest structure on the lot or parcel, and in no case shall a light source exceed a height of twenty-five feet, measured from the ground or pavement closest to the light source.
- C. Outdoor lighting which need not comply with the standards of (B) above shall be limited to:
 1. Outdoor recreation and amusement areas, and similar outdoor use of light, provided the lighting is designed with baffling and glare guards to ensure that no more than one foot candle power of light shall cross a lot line five (5) feet above the ground in a residential district, and such lighting is turned off during hours the facility is closed to the public.

Section 18.05 Vibration

Operating any devices that creates vibration which is above the vibration perception threshold of an individual at or beyond the lot of the source shall be prohibited. For the purposes of this Section, vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or observation of moving objects.

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Section 18.06 Glare and Heat

Any operation which produces glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an operation, it shall be so insulated as to not raise the temperature at any property line at any time.

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End of Article 18

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**Article 19
ACCESS PROVISIONS**

Section 19.01 Purpose

The purpose of this Article is to provide standards which will facilitate safe and efficient traffic movement and vehicular access in the Township. The standards contained herein are intended to protect the public health, safety, and welfare, including minimizing congestion and potential for accidents, and better assuring accessibility to property under emergency conditions. The regulations and standards of this Article apply to all properties in the Township. The requirements and standards of this Article shall be applied in addition to the requirements of the Michigan Department of Transportation, Saginaw County Road Commission, and other provisions of this Ordinance.

Section 19.02 Lots To Have Access

A. All parcels or lots hereinafter created in the Township shall have frontage on a public road, or private road constructed and approved according to this Ordinance, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. This Section shall not apply to buildings and activities associated with a farm operation.

Section 19.03 Driveways

A. Driveways: All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the Township shall contain a plan for the proposed driveway access to the premises which shall be part of the plot plan or site plan pursuant to Article 4. No such plan shall be approved unless such driveway access is onto an approved public or private road (Section 19.05), or shared driveway (Section 19.06). Driveways and curb cuts shall, at a minimum, meet the following standards:

1. Driveways shall be within ten (10) degrees of perpendicular to the road.
2. No driveway shall serve more than one (1) single family dwelling or more than one (1) dwelling unit in a two family dwelling unless specifically approved otherwise.
3. Residential driveways shall be a minimum of ten (10) feet in clear unobstructed width, be clear and unobstructed to a minimum height of fifteen (15) feet, and have a surface designed and maintained to permit emergency access.
4. Non-residential driveway ingress and egress points shall not be closer than one-hundred (100) feet to the intersection of any two (2) roads or closer than one hundred (100) feet to an adjacent driveway, except upon a finding by the site plan approving body that lesser separation distances shall not undermine the public health, safety and welfare based on projected turning patterns and vehicle trips.

Section 19.04 Clear Vision Zone

A. Roads: No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) and ten (10) feet above road grade on any corner lot within the triangular area formed by the intersection of any road right-of-way lines and a diagonal line connecting them at points fifty (50) feet from their intersection (See Figure 19.04-1).

B. Driveways: No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) and ten (10) feet above road grade on any lot or parcel within the triangular area formed by the intersecting lines of a driveway edge and road right-of-way line and a diagonal line connecting them at points twenty (20) feet from their intersection (See Figure 19.04-2).

Section 19.05 Private Roads

A. Private Roads Permitted: Private roads are permitted in Birch Run Township provided such roads comply with the regulations and standards of this Ordinance.

B. Zoning Permits Required:

1. No private road, including a new private road or a private road existing on the effective date of this Ordinance, shall be constructed, extended, improved, or relocated after the effective date of this

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Ordinance unless a Zoning Permit has been issued for such construction by the Zoning Administrator, after approval of the Township Board.

2. No building or zoning permits shall be issued for any use, structure or building that relies upon a private road for access until such road has received final approval from the Township Board through the issuance of a zoning permit for the use of such road.

C. Application: Application for a private road shall require site plan approval according to Article 4. In addition to the data required by Article 4 for site plan approval, the following additional information shall be provided:

1. A general property development plan identifying the following:
 - a. Project description, in both narrative and map form, including the location of the proposed private road easement and approximate location of proposed land divisions to gain access from said private road.
 - b. The legal description of the proposed private road easement.
 - c. Construction plans and drawings illustrating the proposed design and construction features of the proposed private road and easement, including existing and proposed elevation contours within all areas to be disturbed or altered by construction of the private road. Proposed traffic control measures (including signs) and proposed road names shall also be indicated.
 - d. A signed statement by a civil engineer licensed in Michigan certifying that the plans and drawings for the private road, submitted for review, meet or exceed the provisions of the Birch Run Township Zoning Ordinance.
2. Road easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and Saginaw County Register of Deeds providing for:
 - a. Easements to the public for purposes of emergency and other public vehicles, and easements for utilities.
 - b. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the road.
 - c. A provision that substantially conforms to the following:

"This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only. Neither Saginaw County nor Birch Run Township has any responsibility for maintenance or upkeep of any improvement across this easement, except as may be provided by an established special assessment district. Maintenance is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972, as amended.)"
 - d. Draft road maintenance agreement signed by applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
 - 1) A method of initiating and financing of such road in order to keep the road up to properly engineered specifications and free of snow or debris.
 - 2) A workable method of apportioning the costs of maintenance and improvements to current and future uses.
 - 3) A notice that if repairs and maintenance are not made, the Township Board may perform the necessary repairs and maintenance, and bring the road up to established County Road Commission standards, and assess owners of parcels on the private road for the improvements, plus administrative fees.
 - 4) A statement both in letter form and on the development plan specifying that the proposed development shall be subject to the establishment of a special assessment district by the Township Board, as provided by law, to ensure continued and adequate maintenance of the road in the event the necessary maintenance is not undertaken by the property owners that are served by such road, and that no public funds of the Township shall be used to build, repair, or maintain the private road except through such an assessment district.

D. Zoning Permit for Use of Private Road Required: Upon completion of the construction of a private road as authorized by an approved site plan and zoning permit, the Township Board shall grant final approval for the use of the private road to provide access to structures and uses when the following conditions have been met:

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1. The applicant's civil engineer shall certify to the Township Board, in writing, that the required improvements were made in accordance with this Article and Ordinance and all approved plans. The applicant's engineer shall be registered in the State of Michigan.
2. The Township Board has received copies of the approved road easement agreement and road maintenance agreement recorded with the Saginaw County Register of Deeds.

E. Design Standards:

1. All private roads shall be designed and constructed to the most current standards of the Saginaw County Road Commission. However, the Township Board may waive one or more of such standards where the following findings are documented along with the rationale for the decision:
 - a. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
 - b. The spirit and intent of this Ordinance will still be achieved.
 - c. The road being proposed as a private road would not undermine the continuity of the public road network including the facilitation of efficient travel and connectivity between neighborhoods.
 - d. Significant natural features such as mature trees, natural slopes, and/or wetlands would be preserved through the waiving of such standards.
2. No departures from the most current standards of the Saginaw County Road Commission shall be authorized prior to the submittal of the private road application to the Township Engineer, Fire Chief, and other public entities whose review and comment is desired by the Township Board.
3. No departures from the most current standards of the Saginaw County Road Commission shall be authorized in the absence of adequate measures to address such public health, safety and welfare issues such as road drainage, soil erosion and sedimentation, emergency vehicle access, and the long-term structural integrity of the road corridor.
4. No departures from the most current standards of the Saginaw County Road Commission regarding paved road surfaces, including a gravel surface, shall be authorized in the absence of adequate documentation that the road surface is capable of satisfactorily accommodating the projected traffic loads on the road.

Section 19.06 Shared Driveways

A. Zoning Permit Required:

1. No shared driveway as defined in this Ordinance, including a new shared driveway or a shared driveway existing on the effective date of this Ordinance, shall be established, extended, or relocated after the effective date of this Ordinance unless a zoning permit has been issued for such activity by the Zoning Administrator.

B. Application and Review:

1. Application: Shared driveways require approval, subject to an application. An application for a shared driveway shall include the following:
 - a. A plot plan drawn to a scale of not less than one inch equals 100 feet (1" = 100') delineating the proposed alignment of the driveway and the lots it is to serve, soil conditions, and existing and proposed grades.
 - b. Draft maintenance agreement signed by applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
 - 1) A method of financing such shared driveway in order to keep the shared driveway up to the specifications of this Section.
 - 2) A workable method of apportioning the costs of maintenance and improvements to current and future lots along such shared driveway.
 - c. Draft easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
 - 1) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
 - 2) A provision that the owners of any and all of the property using the shared driveway shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress, public utilities, and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, vendors, tradesman, delivery persons, and others

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bound to or returning from any of the properties having a need to use the driveway.

2. **Review:** The approving body for an application for a shared driveway shall be the Zoning Administrator. The Zoning Administrator shall forward all relevant application materials for review and comment to the Fire Chief and Township Attorney and, where the Zoning Administrator considers necessary, to the Township Engineer.
3. **Action:** Upon a finding that the application materials conform to the requirements and standards of this Section and Ordinance, the Zoning Administrator shall approve, or approve with conditions, the application. No approval shall be granted until the Zoning Administrator has received copies of the approved shared driveway easement agreement and maintenance agreement recorded with the Saginaw County Register of Deeds.

C. Standards: Shared driveways shall comply with the following standards in addition to all other applicable standards of this Ordinance:

1. The shared driveway surface shall be a uniform minimum twelve (12) feet wide, measured edge to edge, with segments twenty (20) feet wide and forty (40) feet long, every three hundred (300) feet, to accommodate passing vehicles.
2. Shared driveways shall not serve more than two (2) dwelling units.
3. All addresses served by the shared driveway shall be clearly marked at its point of intersection with a road, and such addresses shall also be clearly marked at any location a single driveway splits from the shared driveway.
4. No shared driveway shall be posted with a name.

Figure 19-1: Clear Vision Area Along Road Intersections

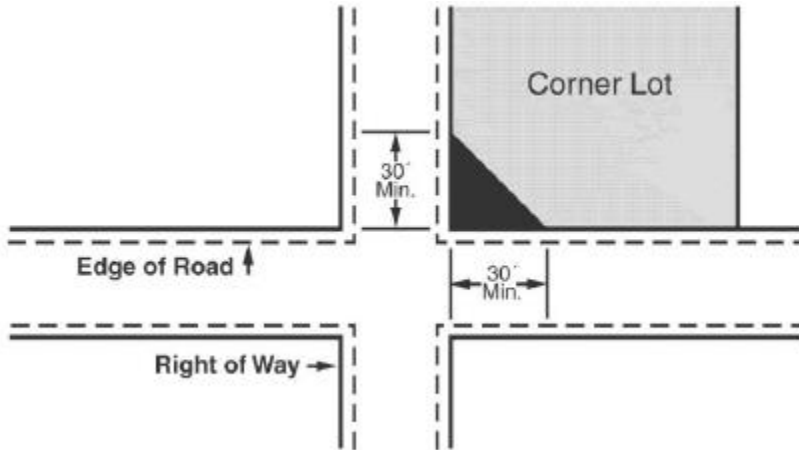
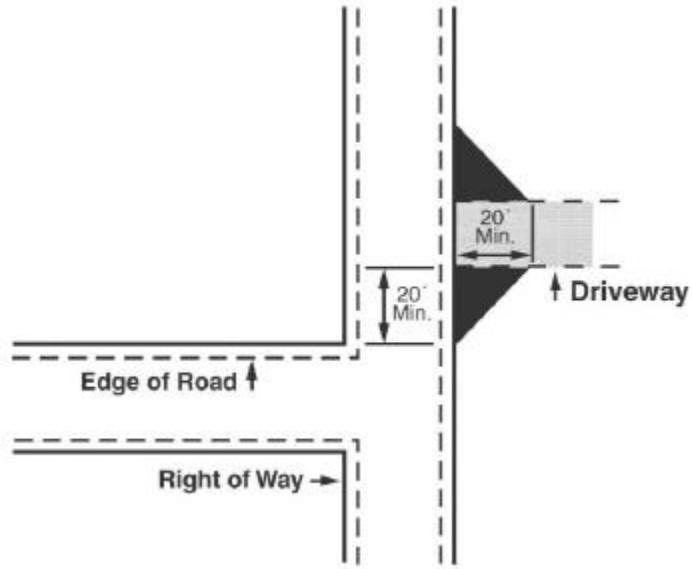


Figure 19-2: Clear Vision Area for Driveways



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End of Article 19

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**Article 20
GENERAL PROVISIONS**

Section 20.01 Purpose

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the requirements of the zoning district in which they are permitted to be located. The following general provisions establish regulations which are applicable to all zoning districts unless otherwise indicated.

Section 20.02 Conditional Approvals

A. Conditions on Discretionary Decisions: The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Protect the natural environment and conserve natural resources and energy.
3. Insure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

B. Requirements for Valid Conditions: Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

C. Record of Conditions and Changes: Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

D. Performance Guarantees: Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 3.06.

Section 20.03 Essential Services

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance. This provision shall not apply to administrative buildings, communication towers, public utility storage yards, and similar above-ground structures and uses associated with such essential services. See definition of “essential services” in Article 21.

Section 20.04 Permitted Yard Encroachments for Principal Buildings

A. Certain architectural features such as cornices, eaves, gutters, chimneys, pilasters and similar features may project three (3) feet into a required setback area. Balconies, and fire escapes and outside stairways of open construction, may project into a required yard to a maximum of five (5) feet.

B. An unroofed porch or deck may project from a principal building to within five (5) feet of a side or rear lot line, provided such deck or porch is unenclosed and, if walls are present, such walls are no greater height than six (6) feet and do not enclose more than one-half of the deck/porch perimeter.

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Section 20.05 Limitations on Commercial Vehicles in Residential Districts and Subdivisions

A. No commercial vehicle with a rated carrying capacity in excess of two (2) tons shall be stored overnight on a lot in a Residential District or in a condominium or platted subdivision. "Commercial vehicle" shall be defined as a vehicle primarily designed or used to transport goods, materials, equipment, tools, or other items.

Section 20.06 Signs

All uses shall comply with the Birch Run Township Sign Ordinance. See Section 20.22 regarding off-premises signs (billboards).

Section 20.07 One Single-Family Dwelling to a Lot

No more than one (1) single family dwelling unit shall be permanently established on a lot or parcel, unless specifically provided for elsewhere in this Ordinance.

Section 20.08 Moving Buildings

No existing building or structure within or outside of the Township shall be relocated upon any parcel or lot within the Township unless the building or structure meets all applicable provisions of this Ordinance, including but not limited to required setbacks, and the building and all materials therein are approved by the Building Inspector.

Section 20.09 Exception to Frontage Requirements

The frontage of a lot may be reduced below the minimum lot frontage requirement of the District in which it is located where the front lot line of such lot abuts a curvilinear segment of a road, including a cul-de-sac, where without such reduction, such lots would be unnecessarily excessive in lot width or lot area. However, such frontage reduction shall result in a lot with a minimum of sixty-six (66) feet of frontage and such lot shall comply with the minimum lot width requirement of the District over at least seventy percent (70%) of the lot area.

Section 20.10 Height Requirement Exceptions

A. The following are exempted from height limit requirements of the respective Districts, provided that no portion of the exempted structure may be used for human occupancy:

1. Those features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and such features do not exceed more than twenty percent (20%) of the structure's roof area nor result in the structure exceeding a total height of seventy-five (75) feet.
2. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height, but the structure and necessary appurtenances shall not exceed one hundred seventy-five (175) feet in height.
3. Public utility structures and communication towers, where so approved pursuant to Article 5, Special Land Uses.
4. Agricultural buildings shall not exceed a height of eighty (80) feet.

Section 20.11 Earth Sheltered Homes

The bottom edge of an earth berm abutting a wall or roof of a dwelling shall meet the height and setback requirements for the District in which it is located.

Section 20.12 Fences for Residences

A. Fences on a residential lot shall comply with the following:

1. Fences within or along any front, side or rear yard setback area shall not exceed six (6) feet in height as measured from the surface of the ground, except that any fence erected within fifty (50) feet of a front lot line shall not exceed four (4) feet in height.
2. Fences shall not be subject to setback requirements but shall comply with the clear vision requirements

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of Section 19.04.

3. The finished side of a fence shall face the adjoining lot.
4. No fence with barbs, spikes, nails, or other sharp or electrified devices shall be permitted in any District except for the purpose of confining animals.
5. Fences are required around all inground pools whether or not the pool is equipped with an automatic safety cover. The fence must meet the barrier requirements for an inground pool without an automatic cover system in the building and residential code being enforced in the Township.

Section 20.13 Home Occupations

A. The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home Occupations, as defined in Article 21, shall comply with the following conditions:

1. The home occupation shall be conducted entirely within the dwelling and shall not occupy more than twenty-five percent (25%) of the total floor area of the dwelling.
2. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
3. The operation of the home occupation shall not involve the presence of more than one (1) person not residing in the home.
4. All activities shall be carried on indoors. No outdoor storage or display shall be permitted.
5. There shall be no change in the exterior appearance of the dwelling including the addition of exterior doorways, or other visible evidence of the conduct of such home occupation other than a permitted sign.
6. No traffic shall be generated by such home occupation in volumes twenty percent (20%) greater than is normally associated with a single family dwelling, based upon the most current published standards of the Institute of Transportation Engineers. Any need for parking generated by the home occupation shall be met off the street and other than in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
7. No article shall be sold or offered for sale on the premises except such as is produced within the dwelling, or is provided as an incidental activity associated with the principal service offered by the home occupation.
8. The home occupation shall not entail the use or storage of explosive, flammable, or otherwise hazardous materials or waste in excess of quantities normally customary and incidental to a single family dwelling and lot.

Section 20.14 Condominium Subdivisions

A. Intent: The intent of this Section is to provide regulatory standards for condominium subdivisions similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than projects developed under another form of ownership.

B. Applicability of District Regulations: A condominium unit, including single family detached units, shall comply with all applicable site development standards of the district within which it is located, including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a condominium subdivision is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.

C. Review and Approval Procedures:

1. **Zoning Permit Required:** No grading or any other form of construction shall be initiated for a condominium subdivision prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of and illustrated on the final site plan, shall require an additional zoning permit prior to erection.
2. **Site Plan Approval Required:** The issuance of a zoning permit shall require the submittal and approval

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of a preliminary and final site plan pursuant to Article 4, Plot Plan and Site Plan Review, and master deed and bylaw documents. The Planning Commission shall be the approving body.

- a. In addition to the preliminary and final site plan information required by Article 4, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
3. **Master Deed/Bylaws Approval Required:** The applicant shall furnish the Planning Commission with fifteen (15) copies of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform with Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
4. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Township Clerk a copy of the final bylaws and master deed, and a copy of the approved site plan on a mylar sheet of at least twenty-four inches by thirty-six inches (24" x 36"). Upon the satisfactory submittal of these documents, the Clerk shall direct the Zoning Administrator to issue a zoning permit.
5. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.

D. Building Permit: No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator, and a building permit by the Building Inspector.

E. Utilities: The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

F. Roads: All roads within a condominium subdivision shall be designed and constructed in conformance with adopted standards of the Saginaw County Road Commission unless otherwise approved for private road construction pursuant to this Ordinance.

G. As-Built Plan and Occupancy: Submission of an as-built plan of a condominium subdivision is required. The Zoning Administrator may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee in the form of a cash deposit or irrevocable letter of credit is submitted to the Township Clerk, sufficient in amount and type to provide for the installation of improvements. The amount of the financial guarantee shall be determined by the Township Board based on an estimate by the Township Engineer.

H. Monuments: All condominium units which are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

Section 20.15 Single Family Dwelling Standards

A. All single family detached dwellings shall comply with the following standards, provided that the following standards shall not apply to temporary dwellings, or mobile homes located in a licensed mobile home park, except to the extent required by State and Federal law. Where the regulations of this Section are more stringent than those of the Michigan Building Code or other state or federal law, the provisions of this Section shall apply except

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where expressly preempted by law.

1. A single family dwelling shall have a minimum floor area as required by the District in which it is located, be of such dimensions to accommodate a horizontal 24' by 24' imaginary square within the limits of the walls of such dwelling, and have a roof pitch of 4:12 (four feet of rise for every twelve feet of length) over a minimum of seventy percent (70%) of the roof area.
2. A single family dwelling shall comply in all respects with the Michigan Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with federal or state standards or regulations for construction (as in the case of mobile homes) and where such standards or regulations for construction are different than those imposed by the Michigan Building Code, then and in that event such federal or state standard or regulation shall apply.
3. A single family dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required by the Michigan Building Code for such dwelling.
 - a. In the event that the dwelling is a mobile home, as defined herein, in a manufactured housing community or where authorized as a temporary dwelling pursuant to Section 20.17, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a concrete footing with a masonry wall extending from perimeter to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, made of commercial quality or equivalent, and comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards".
 - b. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
4. A single family dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Saginaw County Health Department.
5. A single family dwelling shall contain storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one-hundred (100) square feet, whichever shall be less.
6. A single family dwelling shall contain either a roof overhang of not less than twelve (12) inches on all sides, or alternatively, window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
7. A single family dwelling shall be compatible in design and appearance with other single family dwellings in the vicinity. The compatibility of design and appearance shall be determined by the Zoning Administrator upon review of the plans submitted for a particular dwelling. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of one or more residential dwellings located in the Township within three hundred (300) feet of the subject dwelling where such area is developed with dwellings; or, where said area is not so developed, by the general character, design and appearance of residential dwellings located in the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
8. All subsequent additions to a dwelling shall be of similar quality workmanship as the original structure, including construction of a foundation as required herein.
9. All construction required for a single family dwelling shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan Building Code provisions and requirements.

Section 20.16 Outdoor Storage

A. Commercial Display and Sales: Outdoor display or sales of merchandise shall be permitted only where expressly authorized pursuant to an approved site plan, and such display or sales area shall not extend into a District's required setback for the principal building. The maximum permitted outdoor display or sales area shall

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be a total of ten percent (10%) of the use's indoor retail sales floor area. This subsection (A) shall not apply to the display and sales of motor vehicles, items intended for tow, retail and wholesale landscape materials, or other items customarily requiring outdoor display and sales.

B. Commercial and Industrial Storage: Excepting the display and sales of motor vehicles, items intended for tow, or retail and wholesale landscape materials, or other items customarily requiring outdoor display and sales, and unless specifically noted elsewhere in this Ordinance, all storage of materials or products in association with a commercial or industrial use that are not intended for display or sales, including lumber piles, crates, boxes, building materials, discarded materials, and junk shall be completely enclosed or otherwise screened by an opaque fence or wall of not less than six (6) feet in height. The height of the wall or fence shall be increased to equal the height of any equipment, vehicles, or materials within the enclosed area. Such enclosure or screen shall be subject to site plan approval.

Section 20.17 Temporary Dwellings

A. Authorization: Temporary dwellings are prohibited except as provided for by this Section.

B. Emergency Housing and New Home Under Construction: The Zoning Administrator shall have the authority to approve a temporary zoning permit to use a mobile home as a temporary dwelling in the case of (1) and (2) below. Said permit shall be in effect for twelve (12) months and the Planning Commission may grant a single six (6) month extension upon a finding that the applicant has made a good faith effort to initiate and complete construction. Such permit shall be issued only on the following basis:

1. Emergency Housing: When a dwelling is destroyed by fire, collapse, explosion, Acts of God, or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the Building Inspector, a temporary zoning permit may be issued to allow a mobile home to be placed on the property upon the request of the owner. In no case shall a garage be used or authorized as a temporary dwelling.
2. New Home Under Construction: When a new dwelling is being constructed on a vacant lot, a temporary zoning permit may be issued to allow a mobile home on the same lot. In no case shall a garage be used or authorized as a temporary dwelling.

C. Standards: Temporary dwellings authorized by this Section shall comply with the following standards.

1. The temporary dwelling shall not be placed in a front yard and shall comply with all side and rear yard setback requirements of the District.
2. The temporary dwelling shall not interfere with emergency access to the principal dwelling.
3. Adequate measures are available for potable water and sewage disposal, in compliance with all applicable county health department rules and regulations.
4. The temporary dwelling need not comply with the dwelling standards of Section 15, but it shall contain a minimum of six hundred (600) square feet of floor area and comply with all applicable building codes.
5. The temporary dwelling shall be skirted, and it shall be fastened to the ground according to applicable building codes.
6. A performance guarantee in the amount established by the Township Board is made available from the property owner prior to placing the temporary dwelling, to ensure removal of the temporary dwelling at termination of the permit.

D. Removal: The temporary dwelling shall be removed from the lot no later than the termination date of the temporary permit.

Section 20.18 Temporary Non-Residential Uses and Structures

A. Scope: Temporary uses and structures may be established only under the conditions of this Section. Such temporary structures and uses may include, but shall not be limited to, temporary buildings associated with new construction projects, temporary buildings associated with school and religious facilities, temporary real estate offices part of a multi-unit residential development, garage sales, the sale of firewood on a parcel in a non-Commercial District, and large public gatherings. For the purpose of this Section, a large public gathering shall be defined as a gathering of more than two-hundred (200) persons for the purposes of entertainment of an outdoor nature such as, but not limited to circuses, carnivals, theatrical exhibitions, public shows, displays, and musical festivals, but excluding family reunions and similar family celebrations and gatherings.

B. Application, Permit, and Conditions

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1. Application: An applicant shall submit a completed application for a temporary zoning permit to the Zoning Administrator on a form established for that purpose. A plot plan meeting the requirements of Section 4.03(A) shall be submitted with such application. The Zoning Administrator shall refer the application to the Township Board for action in the case where, in the reasonable judgment of the Zoning Administrator, the temporary use may represent a threat to the public health, safety and welfare due to the potential for large gatherings of persons and/or vehicles. The Township Board may require the submittal of a site plan prepared according to Section 4.04(B) to adequately evaluate the merits of the request.
2. Conditions of Approval: No temporary use application shall be approved, or shall such use be permitted to continue, which does not comply with the following conditions:
 - a. The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
 - b. The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
 - c. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
 - d. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located. The entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.
 - e. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
 - f. The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.
3. Permits: A temporary zoning permit application may be approved, modified, conditioned, or denied by the Zoning Administrator. A written temporary zoning permit shall be issued for all approved temporary uses and shall contain the following information:
 - a. The applicant's name.
 - b. The location and effective dates of the temporary use.
 - c. Conditions specified by which the permit was issued, such as:
 - 1) use and placement of signs.
 - 2) provision for security and safety measures.
 - 3) control of nuisance factors.
4. Performance Guarantee: The Zoning Administrator may require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the Township Treasurer, be deposited with the Township Clerk in an amount equal to the estimated cost of removing any temporary structure authorized under this Section should it not be removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the Township harmless against any claim for damages if the Township were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.

C. Garage Sales: A temporary zoning permit shall not be required for garage sales, rummage sales, yard sales, moving sales, and similar activities. However, such activities shall comply with the following:

1. A single garage sale, rummage sale or similar activity shall not exceed three (3) days in length.
2. In no instance shall more than two (2) garage sales, rummage sales or similar activity be held in any one location within any twelve (12) month period.
3. All sales activity shall be conducted a minimum of thirty (30) feet from the front lot line.
4. No sales activity shall be conducted before 8:00 a.m. or continue later than 9:00 p.m.
5. All signs advertising a garage sale shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.

Section 20.19 Keeping of Animals

A. Definitions: For the purposes of this Section, the following phrases shall have the following definitions:

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1. "Vicious animal" shall be defined as any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.
2. "Large livestock" shall be defined as any livestock that can be reasonably expected to exceed a weight of one-hundred fifty (150) pounds upon reaching maturity.
3. "Small livestock" shall be defined as any livestock that can be reasonably expected to weigh one-hundred fifty (150) pounds or less upon reaching maturity.

B. Keeping of Vicious Animals: No vicious animal shall be kept permanently or temporarily in any District in the Township.

C. Keeping of Household Pets: The keeping of household pets, including dogs cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an accessory use in association with any residentially-used lot provided such activities do not constitute a kennel as defined in this Ordinance.

D. Keeping of Small and Large Livestock: The keeping of small and large livestock as an accessory use to the principal residential use of a lot shall be permitted in Conservation Districts only, according to the regulations of (E) below, except that the keeping of livestock is prohibited on any lot in a platted or condominium subdivision unless such subdivision is specifically designed and approved as an equestrian community. This subsection (D) shall apply only to the keeping livestock as accessory to the principal residential use of a lot, including private stables, and shall not apply to a farm or household pets as regulated by (C) above.

E. Standards: The raising and keeping of small and large animals as authorized in subsection (D) above shall comply with the following:

1. Animals shall be managed by the occupants of the premises.
2. No electrical fencing shall exceed twelve (12) volts, and such fencing shall be designed to discourage accidental shock.
3. All such raising and keeping or killing and dressing of poultry and animals processed upon the premises shall be for the use or consumption by the occupants of the premises only.
4. The occupants of the premises shall keep the odor, sounds and movement of the animals from becoming a nuisance to adjacent properties.
5. No storage of manure, offal, or odor or dust producing materials or use, shall be permitted within one hundred (100) feet of any adjoining lot line.
6. Any structure used to house animals shall be set back a minimum distance of one hundred fifty (150) feet from an existing residence on another lot. In the case of outdoor areas to which animals have access, such animals shall be restricted from approaching within fifty (50) feet of an existing residence on another lot.
7. The minimum lot area and maximum animal density shall be as follows:
 - a. A minimum lot area of three (3) acres is necessary for the keeping of one (1) large livestock, and two (2) additional acres of land shall be provided for each additional large animal.
 - b. A minimum lot area of two (2) acres is necessary for the keeping of a small livestock and one-half (1/2) additional acre of land shall be provided for each additional small animal, except that a maximum of fifty (50) rabbits, chickens or similarly sized animals may be on a lot at a single time provided such lot is a minimum of two (2) acres in area.
8. Newly born horses, cows, donkeys, mules and other animals that exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for up to six (6) months provided the maintenance of such animals on the premises does not increase the permitted number of animals beyond the limitations of subsection (7) above by more than fifty percent (50%). Newly born pigs, sheep, and other animals that do not exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for up to sixty (60) days where such maintenance would increase the permitted number of animal units beyond the limitations of subsection (7).
9. Maintenance of animals and operation of private stables shall be in conformance with all applicable county, state, and federal regulations.
10. All animal facilities shall be constructed and maintained so that dust and drainage from the facilities shall not create a nuisance or hazard to adjoining property or uses.
11. No living quarters shall be located in any private stable building except where expressly authorized as a special land use pursuant to Article 5.

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Section 20.20 Accessory Uses, Buildings, and Structures

A. Scope: Accessory buildings, structures and uses, except as otherwise permitted in this Ordinance, shall be subject to the regulations of this Section. This Section shall not apply to accessory uses, buildings and structures part of a farm operation.

B. Placement/Setbacks:

1. No accessory building or structure shall be located in a front yard unless it is a minimum of three hundred (300) feet from the front lot line, and no detached garage shall project more than five (5) feet beyond the dwelling's facade as viewed from the front lot line.
2. An accessory building or structure, including carports which are attached to the principal building, shall be set back a minimum distance of five (5) feet from a rear lot line except that, where such rear lot line abuts a adjoining side lot line, as in the case of a corner lot, such minimum setback shall be increased to ten (10) feet.
3. An accessory building or structure, including carports which are attached to the principal building, shall comply with side yard setback requirements applicable to the principal building.
4. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building.

C. Height:

1. In Conservation and Residential Districts, accessory buildings shall not exceed twenty-two (22) feet in height, except that accessory buildings shall not exceed thirty (30) feet in height on parcels of five (5) acres or greater in area in a Conservation District. In either case, for each one (1) foot in height in excess of fifteen (15) feet, the required setback of subsection (B) above shall be increased by one (1) foot. See Article 21 for definition of building height.
2. Accessory buildings in Commercial or Industrial Districts may be constructed to equal the permitted maximum height of principal structures in said Districts, subject to site plan approval.

D. Maximum Area of Lot:

1. **Definitions:** For the purposes of this subsection (D) only, the following terms shall have the following meanings:
 - a. **Building:** Any structure, either temporary or permanent, having a roof and enclosed along twenty-five percent (25%) or more of its side by a wall or similar full enclosure.
 - b. **Structure:** Any structure, either temporary or permanent, having a roof but which has no walls, or is enclosed by walling or similar full enclosure for less than twenty-five percent (25%) of its perimeter, or is enclosed by lathe or similar open construction, such as in the case of a roofed carport, roofed gazebo, and roofed decks and patios.
2. **Maximum Area:** Accessory buildings and structures as defined above in subsection (1), on a lot used principally for residential purposes, shall not occupy a greater area of such lot than as delineated in the Maximum Area of Lot Table below. For the purpose of calculating the area occupied by an accessory building, the calculation shall not include the first 1200 sq. ft. of any area of a garage that shares a wall with the dwelling for a minimum distance of ten (10) feet.

Table 20-1: Maximum Area of Lot Table

Lot Area	Accessory Buildings	Accessory Structures
Less than 1.99 acres	The lesser of 2.8% of the lot or 2,000 square feet	600 square feet
2.00 – 3.99 acres	The lesser of 2.9% of the lot or 4,500 square feet	800 square feet
4.00 acres or greater	The lesser of 2.9% of the lot or 6,000 square feet	1,000 square feet
<i>Note: 1 Accessory buildings and structures are also subject to the maximum lot coverage regulations of Table 9-4 (Article 9). See Article 21 for definition of lot coverage.</i>		

E. Habitation of Accessory Structures: No accessory building or structure shall be used or occupied as a dwelling. See Section 20.17, Temporary Dwellings.

F. Prior to a Principal Structure: Accessory buildings and structures may be erected on a lot or parcel prior to

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the establishment of a principal structure provided the landowner submits a plot plan or site plan to the Zoning Administrator pursuant to Article 4 and the Zoning Administrator finds that such building or structure will not hinder the future erection of a principal building(s) in conformance with all setback and other site development requirements of this Ordinance. Accessory buildings and structures approved for erection on a lot or parcel prior to the establishment of the principal structure shall be appropriately landscaped to be harmonious in appearance and character with surrounding properties. Such landscaping shall be identified on the plot plan or site plan and shall be installed within four (4) months of substantial completion of construction of the accessory buildings or structures.

Section 20.21 Removal of Soil and Gravel

A. The removal of soil, sand, gravel, or minerals for use elsewhere on the parcel or a different parcel, not otherwise associated with the erection of a structure for which a zoning permit has been obtained or “excavation” as defined in this Ordinance, shall comply with the following:

1. Maximum grades shall not exceed a 3:1 (horizontal-vertical) slope.
2. No removal activities shall occur within one hundred (100) feet of a lot line or road right-of-way.
3. The removal of soil, sand, gravel, or mineral, where such activity meets this Ordinance’s definition for “extraction operation,” shall require special approval pursuant to Article 5.

Section 20.22 Off-Premises Advertising Signs / Billboards

A. Definition of Off-Premises Advertising Signs: A sign which identifies goods, services, facilities, events, or attractions which are available or provided at a location other than the lot or parcel upon which such sign is located (commonly referred to as “billboards”).

B. Standards and Requirements: Off-premises signs are permitted provided such signs comply with all provisions of the Highway Advertising Act, P.A. 106 of 1972, as amended, and all rules promulgated pursuant to such Act, and the following provisions. Where the following provisions are more stringent than those of such Act, the more stringent provisions shall apply:

1. Off-premises advertising signs shall be permitted on parcels in Commercial or Industrial Districts only, provided such parcels abut the M-54, M-83, or Interstate 75 right-of-way.
2. The following setback and separation distance standards shall apply:
 - a. Except where otherwise required by this Section, off-premises advertising signs shall be set back a minimum distance of sixty (60) feet from all lot lines and two hundred (200) feet from a Conservation or Residential District.
 - b. No off-premises advertising sign shall be located within three hundred (300) feet of an existing park, school, cemetery, or building, including but not limited to dwellings, religious institutions, hospitals, and government buildings.
 - c. No off-premises advertising sign shall be located within five hundred (500) feet of a federal highway interchange or at-grade intersection.
3. There shall be a minimum of two-thousand (2,000) feet between any two off-premises advertising signs along the same side of the highway. A double face or V-type structure shall be considered a single sign.
4. An off-premises sign’s total surface area shall not exceed three hundred (300) square feet, nor exceed a height of twenty (20) feet.
5. No off-premises sign shall be erected on or over the roof of any building, nor have a sign above another sign.
6. All off-premises sign lighting shall comply with Section 18.04.

Section 20.23 Display of Sexually Oriented Material

A. Sexually Oriented Material Defined: For the purpose of this Section 20.23, “sexually oriented material” shall include any of the following that depict or describe “sexually explicit activities” or “specified anatomical areas” or which are characterized by their emphasis upon exhibition or description of “sexually explicit activities” or “specified anatomical areas”, but which do not constitute a adult bookstore, adult novelty store or adult video store according to Section 14.13 of this Ordinance: books; computer diskettes, tapes or hard drives; magazines, periodicals or other printed matter or photographs; films, motion pictures, or video matter; cassettes or video reproductions, slides or other visual representations; and instruments, devices or other miscellaneous articles and material depicting, displaying, advertising or packaged as “sexually explicit activities” or which depict or

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describe, or are characterized by their emphasis upon, the exhibition or description of "sexually explicit activities" or "specified anatomical areas". For the purpose of this definition, "sexually explicit activities" and "specified anatomical areas" shall be construed to have the meanings as provided in Section 14.13 of this Ordinance.

B. Display Limitations: Any use which is characterized by the display of sexually oriented material, but which does not constitute a sexually oriented business as defined by Section 14.13, shall comply with the following limitations:

1. Floor Space/Display Restrictions: The sale, display or exhibition of sexually oriented materials shall be limited to no more than twenty-nine (29%) percent of the total stock in trade or interior floor space. The sexually oriented material shall be located in the rear portion of a building away from its main entrance area. The sexually oriented materials shall be separated by racks, walls or other means that restrict visibility into the area displaying the sexually oriented materials. No sexually oriented material shall be located outside of such designated sexually oriented material area.
2. Exterior Visibility: No sexually oriented material shall be displayed in any of the business's windows at any time or visible from the exterior of the business or building. Additionally, no portion of the ceiling in a business or building shall be used to display sexually oriented material.
3. Magazines: Magazines that contain "sexually oriented material" or "specified anatomical areas" may be located outside an area specifically devoted to sexually oriented material provided the merchandise rack on which the materials are placed are located immediately adjacent to the separate area that displays or sells the sexually oriented material, and contain opaque blinders that only allow viewing of the magazine title.
4. Height Restrictions: The height of the racks and display walls upon which sexually explicit material can be displayed shall be limited to six (6') feet.

(8-12-14, Ord. 2014-04, amended Sec. 20.20(D))

(6-10-14, Ord. 2014-03, inserted Sec. 20.23 / Display of Sexually Oriented Material)

(9-11-07, Ord. 2007-01, amended Sec. 20.20(D))

(9-8-20, Ord. 2020-04, amended Sec. 20.12 / Fences for Residences

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End of Article 20

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**Article 21
DEFINITIONS**

Section 21.01 Construction of Language

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A.** Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B.** The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C.** The word "building" includes the word "structure" and both include any part thereof.
- D.** The word "lot" includes the word "plot", "tract", or "parcel".
- E.** The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F.** The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
- G.** The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
- H.** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
 - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I.** The "Township" is the Township of Birch Run in the County of Saginaw, State of Michigan; the "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Township Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
- J.** Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- K.** Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

Section 21.02 Definitions

Accessory Building or Structure: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

Accessory Use: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.
result of payment of a fee.

Agriculture: The act or business of cultivating land or using land, including associated buildings and machinery, for the commercial production of farm products as defined in the Michigan Right to Farm Act, P.A. 93 of 1981, as amended; including but not limited to pasturage, floriculture, dairying, horticulture, forestry, and livestock or poultry husbandry, but not including concentrated livestock operations as defined in this Ordinance.

Agricultural Service Establishments: Establishments which engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products

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essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; veterinary services; and facilities used in the research and testing of farm products and techniques.

Alteration: Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to herein as altered or reconstructed.

Arcade: Any establishment which provides on its premises six (6) or more machines which may be operated or used as a game, contest or for amusement of any description, not including devices used solely for playing music.

Artificial Pond: A body of water created other than by natural environmental conditions to cover, or be designed to cover, more than seven-hundred fifty (750) square feet of land area. The term “artificial pond” shall also include such land areas subsequently inundated as a result of the artificial or man-made extension of a natural water body or artificial pond.

Bed and Breakfast: A structure which was constructed for single family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis to tourists or travelers, including the provision of bathing and lavatory facilities and a breakfast meal for overnight guests only.

Basement: That portion of a building that is partially or wholly below grade but so located that the average vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

Berm: A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to: mobile homes, tents, sheds, garages, greenhouses, and other principal or accessory structures.

Building Height: The vertical distance measured from the finished grade at the center of the building where the building abuts the front yard to the highest point of the roof surface, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs (see Figure 21-3 at end of this Section).

Building Inspector: An individual or agency hired by the Township to administer the Township’s Building Code.

Campground: A parcel or tract of land under the control of a person, business, corporation or public body on which sites are offered for the use by the public, either free of charge or for a fee, for the establishment of temporary living quarters. Temporary living quarters means a tent, recreational vehicle, or any portable structure designed to be carried or towed by a vehicle and placed for temporary living quarters.

Cemetery: Property, including crematories, mausoleums, and/or columbiums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

Certificate of Occupancy: A document signed by the Building Inspector as a condition precedent to the commencement of a use which acknowledges that such use, structure or building complies with the provisions of this Ordinance and the Township’s building codes.

Change of Use: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance or in the State Building Code, as amended.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public.

Collocation: The location by two or more communication providers on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the Township. Commercial Wind Energy Conversion Facility (Commercial WECF): An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and may include substations, cables, wires and other structures and buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers. A commercial WECF may be a principal or accessory use of the parcel on which it is located.

Communication Tower: A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; radio and television citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are

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subject to state or federal law or regulations which preempt municipal regulatory authority.

1. **Class 1:** A communication tower proposed to be newly established and not otherwise meeting the definition of a Class 2 communication tower.
2. **Class 2:** A communication tower meeting either of the following requirements:
 - a. A communication tower to be affixed to an existing structure, such as existing building, tower, water tank, utility pole, and the like, where the proposed combined existing structure and communication tower is either less than a total height of twenty (20) feet or does not extend the height of the existing structure by more than ten percent (10%).
 - b. A proposed collocation upon an existing communication tower which had been pre-approved for such collocation as part of an earlier approval by the Township.

Concentrated Livestock Operation: A farm operation which exceeds a total of five hundred (500) animal units for more than forty-five (45) days, continuously or intermittently, in any twelve (12) month period:

The number of animal units shall be measured as follows

- | | |
|---|-----------------------------|
| a. horses: | 2.0 animal unit per animal |
| b. cows, cattle, buffalo, swine: | 1.0 animal unit per animal |
| c. ostrich, emews, and similar sized fowl: | 0.5 animal units per animal |
| d. sheep and goats: | 0.5 animal units per animal |
| e. chickens, turkeys, and similar sized fowl: | 0.1 animal units per animal |

Condominium Project: A plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59, 1978).

Condominium Subdivision ("Site Condo"): A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended.

Condominium Subdivision Plan: The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Condominium Unit: That portion of a condominium project or condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure. Any "condominium unit", or portion thereof, consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of the condominium subdivision with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage and maximum floor area ratio.

Day Care Center: A facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. 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 greater than 3 hours per day for an indefinite period, or not greater 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 greater than 3 hours while persons responsible for the children are attending religious services.

Day Care, Family Home: A private home in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Day Care, Group Home: A private home in which the operator permanently resides as a member of the household in which more than six (6) 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 more than six unrelated minor children for more than 4 weeks during a calendar year.

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District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations. A "district" is also known as a "zone" or "zoning district".

Drive-in Establishment: A business establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Driveway: A means of access for vehicles from a road or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, and complies with the provisions of this Ordinance.

Driveway, Shared: A driveway described by a recorded easement providing access to more than one (1) lot used for dwelling purposes, and complies with the provisions of this Ordinance.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes. In no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a permanent residential dwelling.

Dwelling, Multiple Family: A building containing three or more dwelling units designed for residential use for three or more families living independently of each other.

Dwelling, Single Family: A detached building or portion thereof designed and used exclusively as the home, residence or sleeping place of one family. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings.

Dwelling, Two Family (Duplex): A building containing not more than two separate dwelling units designed for residential use.

Dwelling Unit: One or more rooms with bathroom and principal kitchen facilities designed as a self contained unit for occupancy by one family for living, cooking and sleeping purposes.

Erected: The word "erected" means built, constructed, reconstructed, moved upon, or any physical activity upon a premises or lot required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including towers, or office buildings, substations, or structures which are enclosures or shelters for service equipment, or maintenance depots. Communication towers shall not be interpreted as essential services.

Excavation: Any breaking of ground, except common household gardening, general farming and ground care.

Extraction Operation: The removal, extraction, or mining of sand, gravel, or other naturally occurring mineral where:

1. such material is taken off of the parcel from where it was extracted for gain or profit; or
2. where more than twenty (20) cubic yards of such material is extracted in any one (1) year period.

Family:

1. An individual or group of two or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than one (1) additional person not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
2. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

Farm: Land and associated buildings and machinery used for agriculture comprising at least ten (10) contiguous acres, and which may contain other non-contiguous acreage, all of which is operated by a sole proprietorship, partnership, or corporation and including all necessary farm buildings, structures, and machinery.

Fence: An accessory structure artificially constructed to serve as an obscuring screen, physical barrier, and/or decorative landscape element.

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Filling: The depositing or dumping of any matter into or onto the ground.

Fireworks: A device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration, or detonation. However, those devices not requiring a state permit for the sale thereof pursuant to the Michigan Fireworks Law (PA 328 of 1931, as amended), including certain flat paper caps, sparklers, and cone and cylinder fountains, shall not be deemed as fireworks.

Floor Area, Gross: The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, unenclosed and covered porches, court yards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

Floor Area, Usable: For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

Foster Care Facility: An establishment which provides supervision, assistance, protection, or personal care, in addition to room and board, to persons. A foster care facility does not include a home for the aged or nursing home, licensed under PA 139 of 1956, as amended, or a mental hospital for mental patients licensed under PA 151 of 1923.

1. Family Home: A facility which provides foster care to six (6) or fewer persons.

2. Group Home: A facility which provides foster care to seven (7) or more persons.

Frontage: The total continuous length of the line separating said lot from the public or private road right-of-way, and frequently identical to the front lot line.

Garage: An accessory building or an accessory portion of a principal building designed or used primarily for the storage of non-commercial motor vehicles, boats, motor homes, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage Sale: The temporary sale or offering for sale to the general public of items of personal property on any portion of a residential lot, whether within or outside a residence.

Golf Course/Country Club: A golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as a principal use.

Gun Club: Any indoor or outdoor facility that is principally designed for the shooting of firearms on designated ranges for practice or competition, including rifles, shotguns, and handguns.

Home Occupation: An occupation or profession conducted entirely within a dwelling which is clearly incidental and secondary to the residential use of the lot, does not change the character of the dwelling, and meets all applicable provisions of this Ordinance.

Hospital: An institution which is licensed by the Michigan Department of Public Health to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, and staff offices.

Hotel: See "Motel."

Junk Yard: Any land or building used for: 1) the abandonment, storage, keeping, collecting, selling, exchanged or baling of junk including paper, rags, scrap metals, or other scrap or discarded materials; and/or 2) the abandonment, demolition, dismantling, storage, keeping, collecting, selling, exchanging or salvaging of machinery, automobiles, boats, or other vehicles not in normal running condition, or parts thereof. A junk yard shall be considered a special land use requiring special approval.

Kennel: A lot or premises on which five (5) or more dogs, cats or similar domesticated animals, one (1) year of age or older, are kept either permanently or temporarily for the purposes of grooming, breeding, boarding, leasing, training, transfer, or sale.

Livestock: Cattle, sheep, goats, swine, poultry, and other similar domestic animals or fowl normally kept or raised on a farm.

Loading Space: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: A tract 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

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designated as such on public records. *(see Figure 21-1 at end of this Section)*.

Lot Area: The area of the horizontal plane within the lot lines of a lot, exclusive of the area of a lake or any public or private road right-of-way adjoining any portion of the lot, except in the case of lots of ten (10) acres or more in size in which case the area of any public or private road right-of-way may be considered part of the lot area.

Lot, Corner: Any lot having at least two (2) contiguous sides adjoining upon one or more roads, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot adjoining a curved street(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet. *(see Figure 21-1 at end of this Section)*.

Lot Coverage: The amount of a lot, stated in terms of percentage, that is covered by all buildings or other roofed structures including car ports, gazebos, and roofed patios, porches and decks, whether fully roofed or of a lathe character. Provided such features are unroofed, the phrase "lot coverage" shall not apply to decks, patios, driveways, swimming pools, tennis courts and similar unroofed features. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof. *(Amended 9-11-07, Ord. 2007-01)*

Lot Depth: The distance from the front lot line of the lot to its opposite rear line, measured midway between the side lot lines. *(see Figure 2-2 at end of this Section)*

Lot, Flag: A lot whose access to a road is by a narrow, private right-of-way that is either a part of the lot or an easement across another property, including a shared driveway, and does not meet the frontage requirements of the district in which it is located. *(see Figures 21-1 and 21-2 at end of this Section)*

Lot Lines: The lines bounding a lot or parcel *(see Figure 21-2 at end of this Section)*.

1. **Lot Line, Front:** *(see Figure 21-2 at end of this Section)*
 - a. In the case of a lot not located on a corner, the line separating said lot from the public or private road right-of-way.
 - b. In the case of a corner lot or through lot, the front lot line shall be that line that separates said lot from the right-of-way for the road which is designated as the front on the plat, or on the plot plan or site plan review application, subject to approval.
 - c. In the case of a flag lot or lot that gains access from a shared driveway, the front lot line shall be the lot line most parallel to and nearest the road from which access is obtained. This application shall also apply in the case of a lot which gains access from a shared driveway and does not have frontage upon a public or private road.
 - d. In the case of a lot that gains access from a shared driveway, the front lot line shall be the lot line most parallel to and nearest the shared driveway.
2. **Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.
3. **Lot Line, Side:** Any lot line other than a front or rear lot line.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the Office of the Saginaw County Register of Deeds prior to the adoption or amendment of this Ordinance, or a tract, parcel or lot described by metes and bounds, the deed to which has been recorded in the Office of the Saginaw County Register of Deeds prior to the adoption or amendment of this Ordinance.

Lot, Through: A lot having frontage on two (2) roads other than a corner lot *(see Figure 21-1 at end of this Section)*.

Lot Width: The straight line horizontal distance between the side lot lines, measured at the two (2) points where the minimum required front setback line intersects the side lot lines *(see Figure 21-2 at end of this Section)*.

Manufactured Housing Community (Mobile Home Park): A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Master Deed: The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

Medical Clinic: An establishment where human patients, not lodged overnight, are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its

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patients, but may not include facilities for overnight patient care or major surgery.

Mini Storage (warehouse) Facilities: A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis, including recreational vehicles and water craft.

Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term mobile home shall not include pick-up campers, travel trailers, motor homes, dwellings consisting of prefabricated units transported to a site on a removable undercarriage or flat-bed and assembled for permanent location on a lot (modular homes), recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

Modular (Pre-Manufactured) Home: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Motel: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and similar appellations which are designed as integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling.

Motor Home: A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

Nonconforming Building or Structure: A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming Lot (Substandard Lot): A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

Nonconforming Use: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.

Nuisance: Any offensive, annoying, unpleasant, or obnoxious thing or practice or a cause or source of annoyance, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

Nursery: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for wholesale or retail sales including products used for gardening and landscaping. "Nursery" shall not be interpreted to mean any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

Nursing Home: An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

Outdoor Entertainment and Events: The use of property for outdoor activities of a commercial or recreational nature. Examples include: Race tracks, go cart tracks, sporting events, flea markets, auctions, car shows, live entertainment, outdoor movies

Owner: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

Parcel: A lot described by metes and bounds or described in a recorded plat.

Parking Space: An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

Person Aggrieved: A person aggrieved shall be any person, firm, partnership, corporation, or association with an interest in real property which will suffer "special damages" as a result of the decision in question. Special damages shall be defined as a particular injury to a land owner's beneficial use or enjoyment of his own land, which injury is not shared in common with other members of the general public.

Planned Unit Development: A tract of land or lot, developed under single ownership or management as a

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separate neighborhood, community unit, or non-residential use, based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

Plat: A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act, P.A. 571 of 1996, as amended, or a prior statute.

Plot Plan: A plan showing basic features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A plot plan depicts less detailed information compared to a site plan.

Principal Building: The main building on a lot in which the principal use exists or is served by.

Principal Use: The main use to which the premises are devoted and the main purpose for which the premises exist. Private Wind Energy Conversion Facility (Private WECF): An electricity generating facility consisting of one or more wind turbines, and may include cables, wires and other structures and buildings accessory to such facility, that is used to serve only the parcel on which the private WECF is located. A private WECF shall be construed as an accessory structure to the principal use of the parcel. This definition shall not be construed to prohibit a private WECF from transmitting or otherwise selling back to a public utility any excess generated electricity, commonly referred to as net metering.

Prohibited Use: A use of land which is not permitted within a particular zoning district.

Public Assembly Facility: A public or semi-public facility or institution whose principal function involves the regular gathering of members of the general public, as opposed to gatherings associated with a restricted membership. Examples of public assembly facilities include, but are not limited to, theaters, places of religious worship, parks, and museums.

Public Facility: Land and associated structures and buildings used to carry out a governmental function(s) or provide a governmental service(s), such as a use or service owned or managed by a city, village, township, county, state, or public school board, and including commissions or other arms of such entities. Examples of such facilities include, but are not necessarily limited to, municipal parks and cemeteries, police and fire protection facilities, courts of justice, and government offices.

Public Utility: Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Restaurant: An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state.

1. **Restaurant, Standard:** A restaurant whose principal method of operation includes one or both of the following characteristics:
 - a. customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed, within a building.
 - b. a cafeteria-type operation where food and beverage are consumed within a building.
2. **Restaurant, Non-Standard:** A restaurant, other than an outdoor restaurant, whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state and which does not meet the definitional requirements of a "standard restaurant," including establishments in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state: 1) from a drive-through window to patrons in motor vehicles; 2) for delivery by the restaurant to the customer in the customer's vehicle other than by a drive-through window, for consumption in the vehicle on the restaurant property; 3) from a counter for consumption by the customer off-site; and 4) for delivery by the restaurant to the customer at another location. Such non-standard restaurant may be commonly referred to as a carry-out, delivery service, drive-in, and drive-through restaurant.
3. **Outdoor Restaurant:** An outdoor area designed or otherwise used for the serving or consumption of food or beverages, and the building in which the food or beverages are prepared. An outdoor restaurant may operate as the principal restaurant or be accessory to a restaurant that also includes indoor serving and consumption.

Restoration: The reconstruction or replication of an existing building's original architectural features.

Retreat Center: A facility used for professional, educational, or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing and recreation for participants during the period of the retreat or program only, and provided all kitchen facilities are limited to a single centrally located building and not within individual sleeping quarters. This term shall not apply to facilities utilized by the general public for meals or overnight accommodations.

Right-of-Way: A public or private street, road, alley, or other thoroughfare or easement permanently established

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for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries referred to as right-of-way lines.

Road: A thoroughfare, classified as either a “public” or “private” road, which affords the principal means of access to adjoining property, and complies with the provisions of this Ordinance. . The term “road” also includes the term “street.”

Road, Private: Any private way or means of approach not dedicated for general public use, excluding “shared driveways” as defined in this Ordinance.

Road, Public: Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Saginaw County Road Commission or other public entity.

Service Station, Standard: A place used primarily for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Such places may also perform minor automobile repair, limited to engine tune-ups and servicing of brakes, air conditioning, and exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight. Standard service stations may also include up to four hundred (400) square feet of floor area used for the sale of convenience items such as food products, magazines, and similar convenience items.

Service Station, Multiple Use: A standard service station as defined in this Ordinance, which also includes other accessory or principal uses and/or services such as, but need not be limited to, a restaurant, shower facilities, and/or convenience store. Such places may also perform minor automobile repair, limited to engine tune-ups and servicing of brakes, air conditioning, and exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

Setback: The distance between the road right-of-way line or the side or rear lot line and the nearest supporting member of a structure on the lot.

Sexually Oriented Business: See Section 14.13.

Shooting Range: Any indoor or outdoor facility designed for and devoted to the shooting of firearms or archery equipment. Depending upon the type of shooting range, such shooting range may also be commonly referred to as a gun club, hunt club, sportsman club, rifle range, pistol range, trap/skeet range, sporting clay range, and archery range.

Sign: Any device, structure, fixture, figure, symbol, banner, pennant, flag, balloon, logo, or placard consisting of written copy, symbols, logos and/or graphics, designed for the purpose of bringing attention to, identifying or advertising an establishment, product, goods, services, or other message to the general public. However, a “sign” shall not include a sign located completely within an enclosed building.

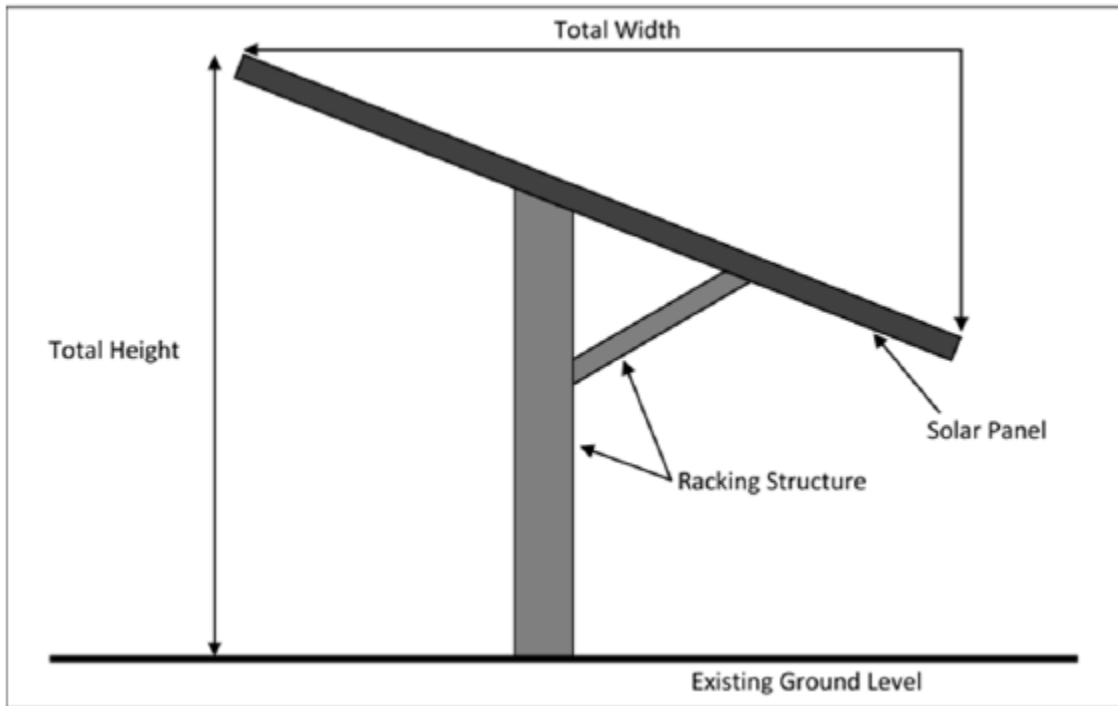
Site Plan: A plan showing all physical features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

Solar panels: Structures that provide electrical power generation through the utilization of photovoltaic cells, typically building-integrated, non-mechanical semiconductor devices that convert sunlight into direct current electricity.

Solar farms: Facilities that consist of a group of solar panels used to generate electrical power for use off-site

Solar panel height: Distance from the base of the structure to the highest point of the solar panel.

Figure 21-1: SOLAR PANEL HEIGHT



Special Land Use: Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within a zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing. Refer to Article 5: Procedures for Special Land Uses.

Stable, Commercial: A structure and/or land use where horses are bred, reared, trained, cared for, and/or boarded and does not meet all of the definition requirements of a private stable, as defined in this Ordinance.

Stable, Private: An accessory structure and/or land use where no more than five (5) horses are bred, reared, trained, cared for, and/or boarded, irrespective of remuneration. A private stable may provide horse care and/or riding lessons but a private stable shall not be interpreted to include a facility providing horse shows, training exhibitions, or any other activity typically characterized by the gathering of spectators or observers.

Stop Work Order: An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. Fences shall not be considered as “structures,” but must comply with all applicable standards of this Ordinance.

Temporary Use: A use of land which is authorized for a limited duration of time pursuant to Section 20.23.

Towing Service: A facility whose principal function is to provide for the transport and temporary storage of vehicles but does not include disposal, disassembly, salvage, repair or accessory storage of inoperable vehicles.

Underground Storage Tank: A tank or combination of tanks, including underground pipes connected to the tank or tanks or underground ancillary equipment containment systems, if any, which is, was, or may have been, used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to the tank or tanks is 10% or more beneath the surface of the ground.

Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building

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may be occupied.

Variance: A modification of the literal provisions of the Zoning Ordinance authorized by the Zoning Board of Appeals according to the provisions of this Ordinance.

Vehicle Repair Shop: Buildings and premises for the purpose of engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender repair, and vehicle painting.

Veterinary Clinic: An establishment which is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals receiving medical treatment and such related facilities as laboratories, testing services, and offices.

Wind Energy Conversion Testing Facility: A structure and accessory equipment used to determine the potential for the placement of a private or commercial WECF by measuring and recording the speed of the wind. A wind energy conversion testing facility may also be referred to as a "test tower. **Wind Turbine:** A wind energy system that converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, and base, and may include a transformer. **Wind Turbine Height/Test Tower Height:** The height of a wind turbine or test tower shall be the distance from the ground elevation at the structure's base to the highest point of the wind turbine or test tower including to a blade tip in its highest position if such tip is the highest point.

Yard: An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (*see Figure 21-2 at end of this Section*):

1. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building. There shall be maintained a front yard on each street side of a corner lot and through lot.
2. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building. In the case of corner lots, there shall only be one rear yard which shall be determined by the owner.
3. **Side Yard:** An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest line of the principal building.

Zoning Administrator: The authorized individual or agency charged with the responsibility of administering this Ordinance and appointed by the Township Board.

Zoning District (District): A portion of the Township within which specific regulations and requirements, or various combinations thereof apply as provided in this Ordinance.

Figure 21-2: LOT TYPES

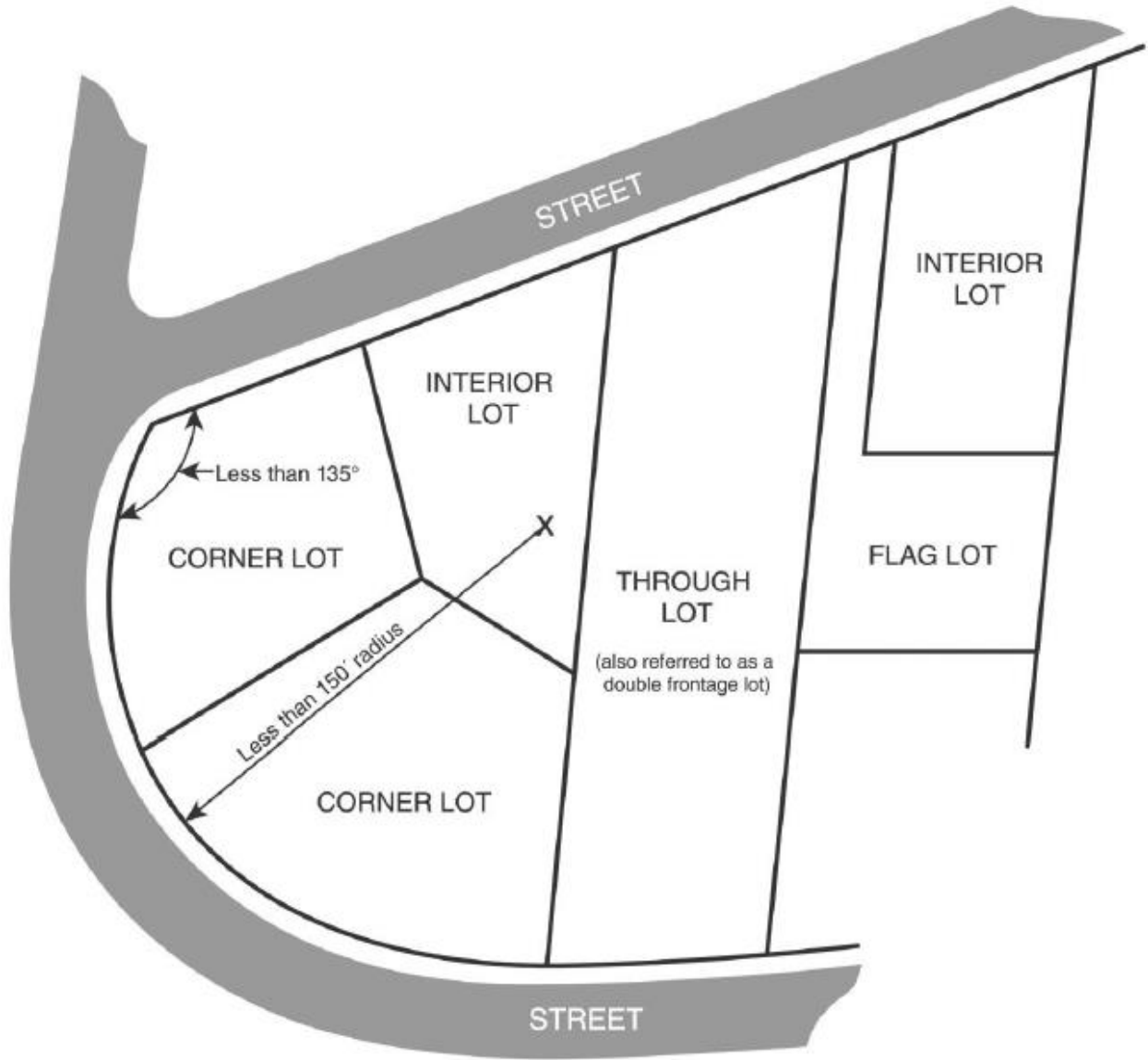
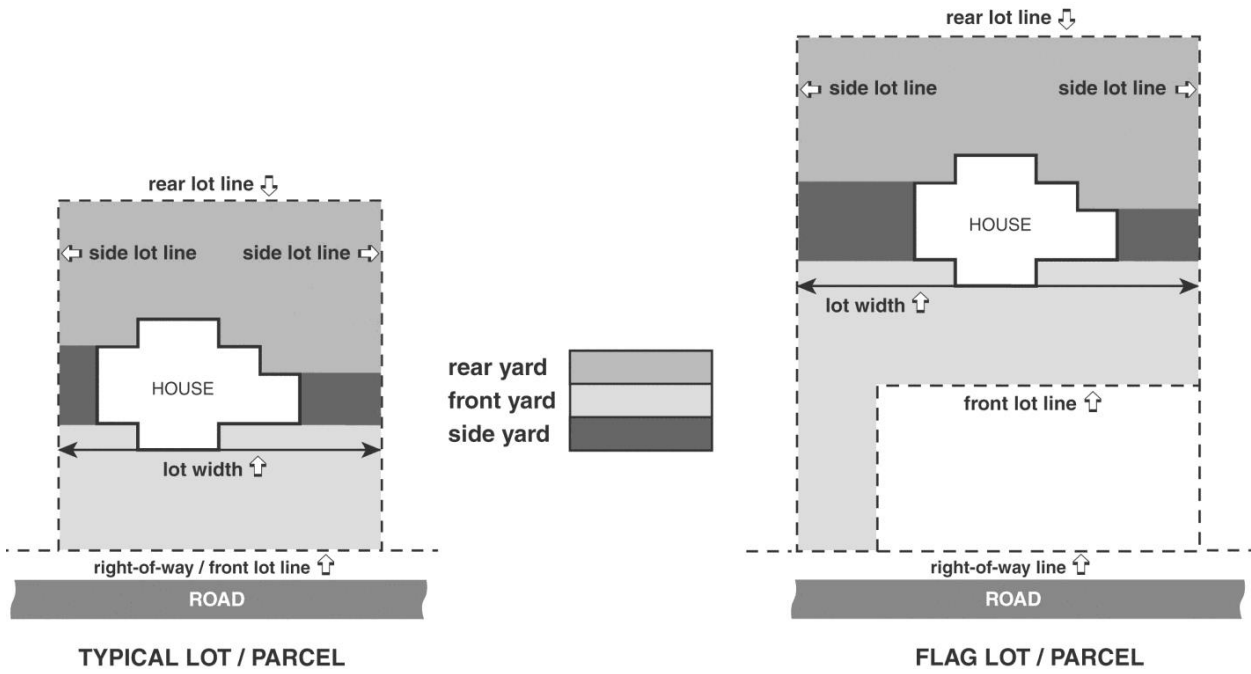
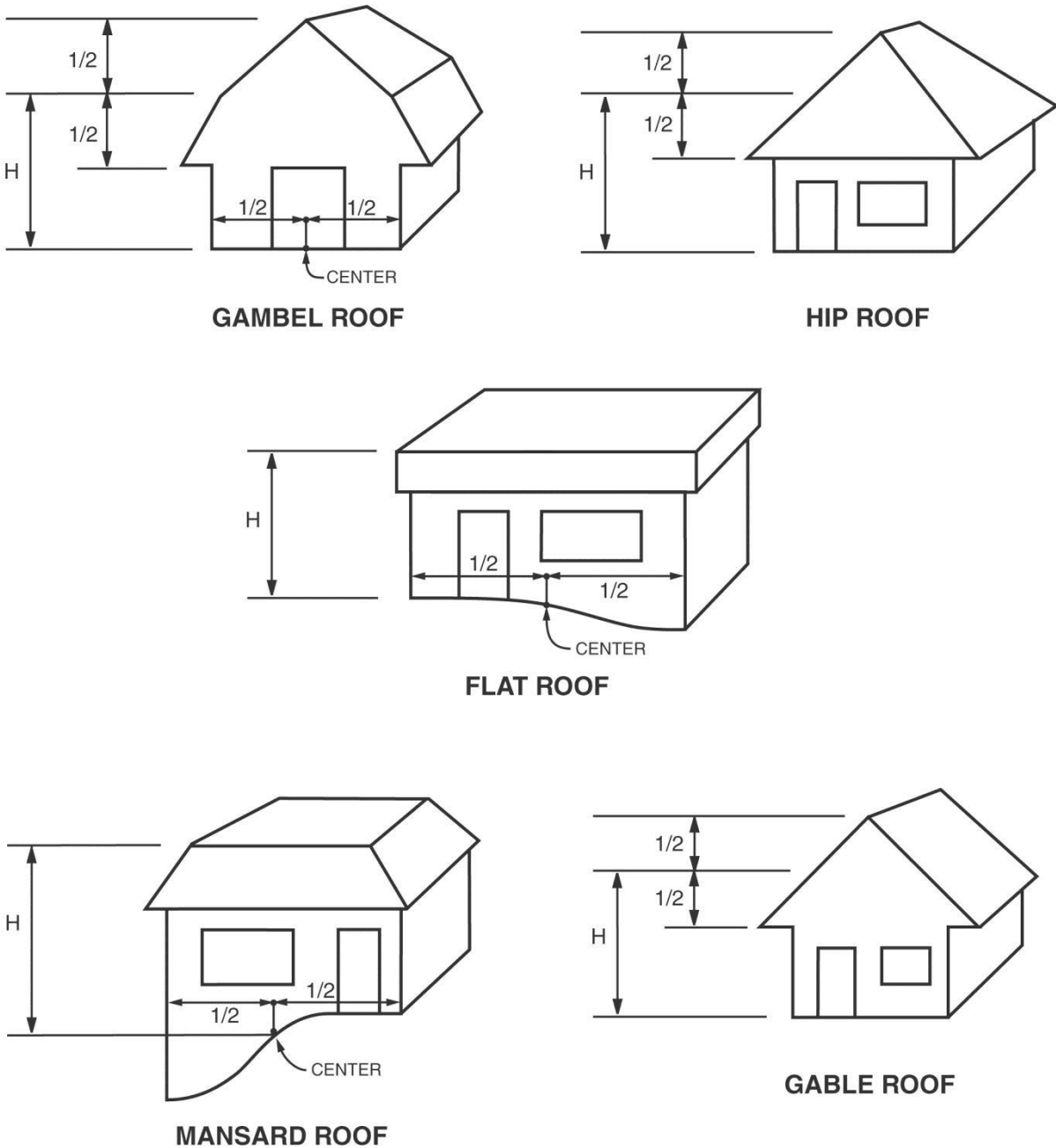


Figure 21-3: LOT LINES and YARDS



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Figure 21-4: BUILDING HEIGHTS



End of Article 21

(6-10-14, Ord. 2014-03, deleted adult entertainment facility and inserted sexually oriented businesses)
(2-12-13, Ord. 2013-04, terms associated with restaurants and wind energy conversion facilities)
(12-13-16, Ord. 2016-04, inserted definition for Outdoor Entertainment and Events)
(5-14-19, Ord. 2019-05, inserted definitions for Solar panels, Solar farms, and Solar panel height (with figure))