

# Berlin Township

13892 Hough Road  
Allenton, MI. 48002



## Zoning Ordinance

**Berlin Township Hall**

**Hours:**

**Monday—Friday 9:00 am to 12:00 and 1:00 pm– 4:00 pm**

**(586) 784-9969**



EFFECTIVE: APRIL 1991

UPDATED THROUGH: 2010

## **ZONING ORDINANCE #25**

# **“BERLIN TOWNSHIP ZONING ORDINANCE”**

SUMMARY: REGULATES AND RESTRICTS THE LOCATIONS AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE AND FOR PUBLIC AND SEMI-PUBLIC OR OTHER SPECIFIED USES: ETC.

PREPARED BY:

BERLIN TOWNSHIP PLANNING COMMISSION



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## **TITLE**

AN ORDINANCE, enacted under Act 110, Public Acts of 2006, as amended, governing the unincorporated portions of Berlin Township, St. Clair County, Michigan, to regulate and restrict the locations and use of buildings, structures and land for trade, industry, residence and for public and semi-public or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and determine the size of yards, courts, and open spaces; to regulate and to limit the density of population; and for said purposes to divide the Township into districts and establish the boundaries thereof; to provide for changes in the regulations, restrictions and boundaries of such districts; to define certain terms used herein; to provide for enforcement; to establish a Board of Appeals; and to impose penalties for the violation of this Ordinance.

## **PREAMBLE**

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case made and provided and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with an adopted comprehensive plan; now, therefore,

## **ENACTING CLAUSE**

The Township of Berlin Ordains:

## **ARTICLE I - SHORT TITLE**

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

## **ARTICLE II - DEFINITIONS**

For the purposes of this Ordinance, certain terms, or words used herein shall be interpreted as follows:

All words used in the present tense shall include the future; all words in the singular number include the plural number and all words in the plural number include the singular number; and the word "building" includes the word "structure", and the word "dwelling" includes "residence", the word "person" includes "corporation", "copartnership", "association", as well as an "individual"; the word "shall" is mandatory and the word "may" is permissive; the word "lot" includes the words "plot" or "parcel"; the words "used" or "occupied" includes the words "intended", "designed" or "arranged" to be used or occupied.

Terms not herein defined shall have the meaning customarily assigned to them.

1. **Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.
2. **Adult Bookstore:** An establishment having 10% or more of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”, or an establishment which exceeds 10% of the floor area dedicated to the display of such material.
3. **Adult Business Establishment:** An establishment with activities including, but not limited to, the following uses: Adult Bookstores, Adult Cabarets, Adult Novelty Stores, Adult Theaters, Massage Parlors, Nude Modeling Studios and Tattoo Parlors.
4. **Adult Novelty Store:** An establishment specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specific sexual conduct or used in connection with specified sexual conduct.
5. **Adult Theater:** An establishment presenting films or videos distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observations by patrons of the building or featuring topless dancers, exotic dancers, strippers or other similar entertainers.
6. **Alterations:** Any change, addition or modification to a structure or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or reconstructed”.
7. **Apartment (Multiple Family Dwelling):** A residential structure containing three (3) or more attached one (1) family dwellings.
8. **Automotive Service Center:** A place where automobile service may be carried out for minor repair and servicing of automobiles, together with the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, only when the location of such Automotive Service Center is architecturally designed and located on the site so as to become an integral part of a larger planned shopping center complex.
9. **Auto Repair Garage:** Is a place where the following activities may be carried out: vehicle body repair, engine rebuilding or repair, under-coating, painting, tire recapping, upholstery work and auto glass work.
10. **Basement:** That portion of a building which is partly, or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the average grade to the ceiling is over five (5) feet, such basement shall be rated as a first story.
11. **Boarding House:** A dwelling where meals, or lodging and meals, are provided for compensation for three (3) or more persons by prearrangement for definite periods. A boarding house shall be distinguished from a hotel.

12. **Building:** A structure, either temporary or permanent, having a roof supported by columns, or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind. (This shall include tents, awnings, or vehicles situated on private property and used for such purposes.)
13. **Buildable Area:** The buildable area of a lot or parcel is the space remaining after yard, parking, or any other requirements of this Ordinance have been met.
14. **Buildable Land Area (For Density Computations and Habitation of Large Animals):** the buildable area of a lot or parcel for the purpose of density calculations, and habitation by large animals such as horses and cows, shall be that area of the lot or parcel exclusive of land which is within the established flood plain, water course, floodway, drainage course, wetland, or any other subaqueous area. In the case of large animals such as horses and cows, building area shall also be excluded from the land area if more than ten (10) percent of the buildable area is in buildings for the purposes of this definition and Ordinance.
15. **Building, Accessory:** A subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land.
16. **Building, Main:** A building in which is conducted the principal use of the lot on which it is situated.
17. **Building Height:** The vertical distance measured from the established grade of the center, of the front of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs; and the average height between the lowest point and the highest point on a shed roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
18. **Building Inspector:** The Building Inspector or Official designated by the Township Board.
19. **Building Line:** A line formed by the face of the building, and for the purpose of this Ordinance, a building line is the same as a front setback line.
20. **Commercial Use:** "Commercial Use" relates to the use of property in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise or personal services and the maintenance or operation thereof of offices, or recreational or amusement enterprises.
21. **Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit.
22. **District:** A portion of the unincorporated part of the Township within which certain regulations and requirements of various combinations thereof apply under the provisions of this Ordinance.
23. **Drive-In:** A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.
24. **Drive-In Restaurant:** A business establishment, for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve patrons while in the motor vehicle, or permit patron self-service so that consumption within motor vehicles may be facilitated, as differentiated from a restaurant with indoor seating only.

25. **Dwelling Unit:** A building or a portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.
26. **Dwelling, One-Family:** A building designed exclusively for and occupied exclusively by one (1) family.
27. **Dwelling, Two-Family:** A building designed exclusively for occupancy by two (2) families, living independently of each other.
28. **Dwelling, Manufactured:** A dwelling unit which is substantially built, constructed, assembled and finished off premises upon which it is intended to be located, and shall include a mobile home as herein defined.
29. **Dwelling, Multiple Family:** A building, or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.
30. **Dwelling, Site Built:** A dwelling unit which is substantially built, constructed, assembled and finished on the premises which are intended to serve as its final location. Site-built dwelling units shall include dwelling units constructed of and including; precut materials, panelized walls and roofs and floor sections when such sections require substantial assembly and finishing on the premises, and are intended to serve as its final location.
31. **Erected:** Any physical operations on the premises required for the construction or moving on and includes construction, reconstruction, alteration, building, excavation, fill, drainage, installation of utilities, and the like.
32. **Essential Services:** The term "essential services" means the erection, construction, alteration, maintenance addition, reconstruction or replacement by public utilities or municipal departments or commissions of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distributing systems, collection, supply or disposal system including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, including buildings reasonably necessary for the furnishing of adequate service to this municipality and immediate surrounding territory by such public utilities or municipal departments or commissions. Such facilities both above and below ground, including storage fields and high pressure mains designated to serve users principally outside of this municipality and immediate surrounding territory, shall not be considered essential services under this definition.
33. **Excavation:** Excavation shall mean any breaking of the ground to hollow out by cutting, digging, or removing any soil or rock matter, except for common household gardening and general farm care.
34. **Family:** One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two persons not so related, living together in the whole or part of the dwelling unit comprising a single housekeeping unit.
35. **Farm:** The carrying on of any agricultural activity or the maintaining or the raising of livestock, or small animals, when conducted on at least five (5) acres or more. The farm operator shall be capable of providing suitable evidence that the farm is active and recognized by the State of Michigan.

36. **Fence:** A structure of definite height and location to serve as an enclosure in carrying out the requirements of this Ordinance.
37. **Fence, Obscuring:** A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.
38. **Filling:** Filling shall mean the depositing or dumping of any matter onto, or into the ground, except common household gardening and general farm care.
39. **Firearm:** An instrument which is capable of hurling a missile by means of exploding or burning powder.
40. **Floor Area:** The floor area of a residential dwelling unit is the sum of the horizontal areas of each story of the building as measured from the exterior walls; exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.
41. **Floor Area, Usable:** For the purposes of computing parking, usable floor area is all ground and non-ground floor area used for, or intended to be used for, the sale of merchandise or services or for use to serve patrons, clients or customers. For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.
42. **Garage, Private:** A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which such building is located and with a capacity of not more than three (3) motor driven vehicles. The foregoing definition shall be construed to permit one commercial vehicle not exceeding a rated capacity of three-fourths (3/4) ton. This shall not include the storage of large tractors, backhoes, bulldozers, other construction-type equipment or similar equipment.
43. **Garbage:** The word "garbage" shall be held to include every refuse, accumulation of all waste, animal, fish, fowl, fruit or vegetable matter incident to the preparation, use, cooking, dealing in or storage of meat, fish fowl, fruit and vegetables, including spoiled food, dead animals, animal manure and fowl manure.
44. **Gasoline Service Station:** A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and the servicing of and minor repair of automobiles.
45. **Grade:** The highest point of ground contacting any portion of the basement or foundation of a dwelling.
46. **Greenbelt:** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.
47. **Gun Club:** Any club, organization, individual, group of individuals, or use, whether operated for profit or not, which caters to or allows the use of firearms.

48. **Home Occupation:** Any use customarily conducted entirely within the dwelling, (not including breezeway or garage, attached or detached), and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, is not offensive and does not change the character thereof. Provided further, that no article or service is sold or offered for sale on the premises, except that such as is produced by such occupation; that such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customary in residential areas. One (1) non-illuminated name plat, not more than two (2) square feet in area, may be attached to the building which shall contain only the name and occupation of the resident of the premises.
49. **Hoofed Animals and the like:** shall be defined as any animal from the Order Artiodactyl or Perissodactyl, including but not limited to horses, cattle, alpaca, llamas, buffalo, pigs, miniature horses, ponies, sheep, goats, or other similar animals.
50. **Hospital:** A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the Health Department and the State of Michigan.
51. **Hotel (Motel):** A series of attached, semi-detached or detached rental units which provide overnight lodging and are offered to the public for compensation.
52. **Junk Yard:** An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes automobile wrecking yards, and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.
53.  **kennel, Commercial:** Any lot or premises on which three (3) or more dogs, six (6) months old or over for sale, breeding, boarding, or training purposes, are either permanently or temporarily boarded for remuneration.
54. **Laboratory:** A place devoted to experimental study such as testing and analyzing, but not devoted to the manufacturing of a product or products.
55. **Loading Space:** An off-street space on the same lot with a building, or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
56. **Lot:** A parcel of land occupied, or which could be occupied, by a main building or group of such buildings and accessory buildings, or utilized for the principal use and used accessory thereto, together with such open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.
57. **Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Township or County Officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.
58. **Lot Area:** The total horizontal area within the lot lines of the lot.



59. **Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one hundred thirty-five (135) degrees.
60. **Lot, Interior:** Any lot other than a corner lot.
61. **Lot Lines:** The lines bounding a lot as defined herein.
- (a) **Front Lot Line:** In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot, the front lot line is that line separating said lot from the street which is designated as the front street in the plat and in the application for a building permit or zoning occupancy permit. In the case of a double frontage lot, both lot lines abutting on streets shall be treated as front lot lines.
- (b) **Rear Lot Line:** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- (c) **Side Lot Line:** Any lot lines other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
62. **Lot Coverage:** The part or percent of the lot occupied by buildings, including accessory buildings.
63. **Lot Depth:** The horizontal distance between the front and rear lot lines measured along the median between side lot lines.
64. **Lot, Double Frontage:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lot adjacent to streets shall be considered frontage, and front yards shall be provided as required.
65. **Lot Width:** The horizontal distance between the side lot lines measured at the two points where the building lines, or setback intersects the side lot lines.
66. **Lot, Zoning:** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract of to be used, developed, or built upon as a unit, under single ownership or control.
- A zoning lot shall satisfy this ordinance with respect to area, size dimensions, setbacks, frontage and environmentally sensitive area requirements as required in the district in which it is located. A zoning lot may or may not coincide with a lot of record as filed with the County Register of Deeds and may also be composed of one or more lots or record.
67. **Massage Parlor:** An establishment where private massage is practiced, used or made available as a principle or secondary use of the premises.
68. **Master Plan:** A comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the Township and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

69. **Mobile Home (Trailer Coach):** Any structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling unit with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.
70. **Mobile Home Park (or Trailer Court):** Any parcel or tract of land under the control of any person or persons upon which provision is made for two (2) or more mobile homes to be occupied as dwelling units; not including sales or services.
71. **Nonconforming Building:** A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the use provisions of the Ordinance, nor to the use regulations of the district in which it is located.
72. **Nonconforming Use:** A use which lawfully occupies a building or land at the time this Ordinance, or amendments thereto, became effective, that does not conform to the use regulations of the district in which it is located.
73. **Occupancy Load:** The number of the individuals normally occupying a building or part thereof, or for which the existing facilities have been designed.
74. **Off-Street Parking Lot:** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering so as to provide access for entrance and exit for the parking of automobiles.
75. **Parking Space:** A parking space is hereby determined to be an area of definite length and width and shall be exclusive of drives, driveways, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.
76. **Public Service:** Public Service Facilities within the context of this Ordinance shall include such uses and services as voting booths, pumping stations, fire halls, police stations, temporary quarters for welfare agencies, public health activities and similar uses including essential services.
77. **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, telegraph, transportation or water.
78. **Roadside Stands or Markets:** A roadside stand or market is the temporary use of property or facilities for the selling of produce.
79. **Rubbish:** Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.
80. **Sanitary Land Fill:** Any operation which involves the piling, placing, storing, dumping or depositing, in a hill, hole or trench, any material in the form of rubbish, garbage and/or waste materials.
81. **Setback:** The distance required to comply with front, side or rear yard open space provisions of this Ordinance.

82. **Sign:** The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known (other than billboards) such as are used to show an individual, firm, profession or business, and are visible to the general public. Accessory signs pertain to uses or activities conducted on the premises where the signs are located.
83. **Specified Anatomical Areas:**
- a. Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
84. **Specified Sexual Activities:**
- a. Human genitals in a state of sexual stimulation or arousal.
  - b. Acts of human masturbation, sexual intercourse or sodomy.
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
85. **Story:** That part of a building included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.
86. **Street:** A street, highway, thoroughfare which provides a principal means of access and required lot frontage to abutting properties. Any such street shall only include those which have been expressly or impliedly accepted by the St. Clair County Road Commission as a public street. Internal circulation drives which are part of: a planned apartment type of development, mobile home park, office complex, shopping center or similar type of land use and provides access to individual units shall not be construed to be or required to be public streets.
87. **Structure:** Anything constructed, or erected and designed for a permanent location on the ground.
88. **Structural Alteration:** Any change in the supporting members of a building such as bearing walls, columns, beams, girders, or any substantial changes in the foundation, roof and exterior walls.
89. **Temporary Building or Use:** A structure or use permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.
90. **Thoroughfares, Major:** An arterial street which is intended to serve as a large volume trafficway for both the immediate Township area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term.
91. **Thoroughfares, Secondary:** An arterial street which is intended to serve as a trafficway serving primarily the immediate Township area and serving to connect with major thoroughfares.
92. **Travel Trailer and/or Motor Home:** A vehicle designed as a travel unit for occupancy as a temporary or seasonal vacation living unit.
93. **Use, Accessory:** A use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.

94. **Yards:** The open spaces on the same lot with a main building or main use, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.
- (a) **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 point of the main building.
  - (b) **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 point of the main building.
  - (c) **Side Yard:** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

**ARTICLE III  
ZONING DISTRICTS AND MAP**

**SEC. 300. DISTRICTS:**

For the purpose of this Ordinance, the Township of Berlin is hereby divided into the following districts:

- A Agricultural
- R One-Family Residential
- RM Multiple-Family Residential
- B-1 Local Business
- B-2 General Business
- I-1 Light Industrial
- I-2 Heavy Industrial

**SEC. 301. BOUNDARIES:**

The boundaries of these districts are hereby established as shown on the Official Zoning Map, Berlin Township Zoning Ordinance, which accompanies this Ordinance, and which, with all notations, references, and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein.

- (a) Unless shown otherwise, the boundaries of the districts are lot lines, section lines, the centerlines of streets, alleys, roads, or such lines extended, and the unincorporated limits of the Township.
- (b) Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries, shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, or upon its own motion, by the Board of Appeals.

**SEC. 302. ZONING OF VACATED AREAS:**

Whenever any street, alley or other public way, within the Township of Berlin shall have been vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of the land formerly within such vacated street, alley or public way, shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach, and the same shall be used for that same use as is permitted under this Ordinance for such adjoining lands.

**SEC. 303. DISTRICT REQUIREMENTS:**

All buildings and uses in any district shall be subject to the provisions of GENERAL PROVISIONS AND GENERAL EXCEPTIONS.



**ARTICLE IV  
A AGRICULTURAL DISTRICTS**

**PREAMBLE:**

The A Agricultural Districts are designed to provide for generally recognized farming and agricultural uses as well as single-family home sites in areas rural in character.

**SEC. 400. PRINCIPAL USES PERMITTED:**

In the A Agricultural Districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. Farms.
- B. One-family Dwellings, Site Built.
- C. All principal uses permitted in the R One-Family District.
- D. Churches, libraries and public community buildings or public recreation centers, and public and parochial schools.
- E. Type I Incidental Home Occupations subject to the provisions of Section 1226.
- F. Accessory buildings and uses customarily incident to any of the above permitted uses.
- G. Manufactured Dwellings (Subject to the requirements of Section 1311).

**SEC. 401. SPECIAL LAND USES:**

The following special land uses shall be permitted in the A district, only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article XIII of this Ordinance.

- A. All special land uses permitted in R Districts.
- B. Airports (Section 1301).
- C. Disposal Areas (Section 1305).
- D. Large Scale Recreation (Section 1309).
- E. Kennels (Section 1308).
- F. Mining & Extraction (Section 1310).
- G. Type II Special Use Home Occupations (Section 1226).

- H. Communication Towers (section 1318).
- I. Accessory buildings and uses customarily incident to the above uses.
- J. Uses similar to the above uses.

**SEC. 402. AREA AND BULK REQUIREMENTS:**

See SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

**SEC. 403 ROOF DESIGN:**

All homes constructed in the agricultural district shall maintain a minimum 4/12 roof pitch.



**ARTICLE V**  
**R ONE-FAMILY RESIDENTIAL DISTRICTS**

**PREAMBLE:**

The R districts are designed to provide for one-family dwelling sites and the residentially related uses in keeping with the Master Plan of residential development in the Township. The uses permitted by right and as special land uses are intended to promote a compatible arrangement of land uses for homes, with the intent to keep neighborhoods relatively quiet and free of unrelated traffic influences.

**SEC. 500. PRINCIPAL USES PERMITTED:**

In the R One-Family Residential Districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

- A. One-family detached dwellings.
- B. One-family Dwellings, Site Built.
- C. Publicly owned and operated parks, parkways and recreational facilities, and public and parochial schools.
- D. Type I Incidental Home Occupations subject to the provisions of Section 1226.
- E. Accessory buildings and uses customarily incident to any of the above permitted uses.
- F. Manufactured Dwellings (Subject to the requirements of Section 1311).

**SEC. 501. SPECIAL LAND USES:**

The following special land uses shall be permitted in the R district, only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article XIII of this Ordinance.

- A. Utility and public service facilities and uses, excluding storage yards, when operating requirements necessitate the locating of said facilities within the district in order to serve the immediate vicinity, subject to review and approval by the Planning Commission. (Section 1316).
- B. Churches and public buildings (excluding public works garages and storage yards). (Section 1303).
- C. Public and private colleges, universities and other such institutions of higher learning. (Section 1314).
- D. Cemeteries when developed on sites of fifty (50) acres or more subject to review and recommended approval of location by the Planning Commission. (Section 1302).

- E. Golf courses, not including driving ranges or miniature golf courses. (Section 1306).
- F. Nursery schools, day nurseries and child care centers. (Section 1312).
- G. An orphanage, or a home for the aged, indigent or physically handicapped, a rest or convalescent home. (Section 1313).
- H. Hospitals. (Section 1307).
- I. Type II Special Use Home Occupations (Section 1226).
- J. Accessory buildings and uses customarily incident to any of the above permitted uses.
- K. Uses similar to the above uses.

**SEC. 502. AREA AND BULK REQUIREMENTS:**

See SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

**SEC. 503. ROOF DESIGN:**

All homes constructed in the residential zoning districts shall maintain a minimum 4/12 roof pitch.

**ARTICLE VI**  
**RM MULTIPLE-FAMILY RESIDENTIAL DISTRICTS**

**PREAMBLE:**

The RM Multiple-Family Residential Districts are designed to provide sites for multiple dwelling structures with height restrictions compatible with single-family residential districts to serve needs for the apartment type of unit in an otherwise single-family residential community. The RM District is intended generally for the development of a planned complex of buildings on acreage parcels.

**SEC. 600. PRINCIPAL USES PERMITTED:**

No building or land shall be erected or used except for one or more of the following specified uses, unless otherwise provided in this Ordinance:

- A. All principal and special land uses permitted and as regulated in the immediately abutting One-Family Residential District.
- B. Multiple-Family dwellings, site built.
- C. Two-Family dwellings, site built.
- D. Type I Incidental Home Occupations subject to the provisions of Section 1226.
- E. Accessory buildings and uses customarily incident to any of the above permitted uses.
- F. Manufactured Dwellings (Subject to the requirements of Section 1311).

**SEC. 601. REQUIRED CONDITIONS:**

In the case of multiple dwelling developments, a site plan shall be submitted to the Planning Commission for its review and approval prior to issuance of a building permit. The site plan shall be prepared according to the requirements of Article XII.

**SEC. 602. SPECIAL LAND USES:**

The following special land uses shall be permitted in the RM district, only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article XIII of this Ordinance.

- A. Mobile Home Parks.
- B. Churches, public libraries, public buildings (excluding public works garages and storage yards). (Section 1303).
- C. Nursery schools, day nurseries and child care centers. (Section 1312).
- D. Hospitals. (Section 1307).

- E. Type II Special Use Home Occupations (Section 1226).
- F. Accessory buildings and uses customarily incident to any of the above permitted uses.
- G. Uses similar to the above uses.

**SEC. 603. AREA AND BULK REQUIREMENTS:**

See SCHEDULE OF REGULATIONS limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

**ARTICLE VII**  
**B-1 LOCAL BUSINESS DISTRICTS**

**PREAMBLE:**

The B-1 Local Business Districts are designed to give the Township a business district that is more selective than a General Business District, and to provide for the establishment of neighborhood shopping areas, personal services and professional office areas that are primarily compatible with, and of service to, Township residential uses. Permitted activities are therefore intended to serve primarily the local market area with smaller scale activities whose basic operations are less likely to create conflicts with neighboring residential use areas. Furthermore it is intended that such activities be located in planned development areas in strategically planned areas as opposed to scattered and/or strip commercial areas. In furtherance of these objectives principal permitted uses shall be limited to those which are more restrictive in nature and conducted wholly within totally enclosed buildings; other uses which involve potentially more intensive uses and/or outside activities shall require review and approval under the terms and conditions of Special Land Uses together with such additional conditions as deemed appropriate.

**SEC. 700. PRINCIPAL USES PERMITTED:**

In a B-1 Local Business District no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this Ordinance. All such activities shall be conducted within totally enclosed buildings.

- A. Office buildings for any of the following occupations: executive, administrative, professional, governmental and sales office (Drive thru window services are excluded)
- B. Medical and dental offices, including clinics.
- C. Banks and financial institutions (excluding drive-thru windows).
- D. Any generally recognized retail business which supplies such commodities as: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods and notions or hardware (supermarket type store facilities providing service to a wider market area are excluded)
- E. Any personal service establishment which performs such services as, but not limited to: shoe repair, tailor shops, beauty parlors, barber shops, interior decorators, photographers, dry cleaners and self -service laundries. Such uses do not include processing facilities providing these services to other locations.
- F. Churches.
- G. Utility and public service facilities (excluding storage yards) and uses when operating requirements necessitate the locating of said facilities within the District in order to serve the immediate vicinity.
- H. Restaurants and eating and drinking establishments, excluding fast food or drive-in restaurants.

- I. Accessory buildings and uses customarily incidental to the above permitted uses.
- J. Other uses similar to the above uses as permitted and intended.
- K. Existing single family residential uses subject to the requirements of the R-1 zoning district.

**SEC. 701. SPECIAL LAND USES:**

In some situations it may be possible to consider certain uses which may possess more intensive use characteristics when it can be found that particular conditions and requirements are established which minimize potential land use conflicts with neighboring uses. Any such uses shall require Special Land Use approval under the terms and conditions set forth in ARTICLE XIII of this ordinance together with such additional conditions as set forth herein or deemed reasonable and necessary after a review of all related information and public hearing input. Uses which may be considered under these provisions are as follows:

- A. Local neighborhood type businesses which possess characteristics involving a larger market area and/or more intensive land use activities shall demonstrate that the use will still represent a significant value to the neighboring residential areas and that there are mitigating circumstances which will properly compensate for any increase in the character or intensity of the use and that neighboring residential areas will not be adversely effected. Factors to be considered in such situations involve, but are not necessarily limited to: transitional considerations which would provide separations from adjacent residential uses by other non-residential zoning districts, legally established and operated semi-public uses, natural features which preclude development and/or a meaningful increase in setbacks to buildings, other use areas and screening devices such as walls, greenbelts, etc. Considerations shall also be given to resulting traffic patterns, turning movements and conflicts, hours of operation, site activities during all hours of the day and week.
- B. Any business which proposes to extend any principal, ancillary and/or accessory activities outside the walls of any building on the site i.e. drive thru operations, open air walk-up window or by providing any outside seating or which permits the assembly of persons on the site outside of buildings shall demonstrate conclusively that the proposed use: does not constitute a fast food or drive-in restaurant; will not adversely effect adjacent residential and/or non-residential uses or the community at large; is buffered from any adjacent residential districts by other non-residential use districts, physical features or other established conforming land use.

**SEC. 702. REQUIRED CONDITIONS:**

Unless otherwise specifically provided for herein all permitted uses within the B-1 Local Business District shall comply with the following requirements and limitations:

- A. All establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- B. All business, servicing or processing, except for required and permitted parking and loading shall be conducted within a completely enclosed building.

- C. Permitted uses are restricted to those which serve primarily the neighboring residential areas and shall not include major facilities in terms of the size and scale of buildings and/or uses which conflict with neighboring residential areas or the community at large.
- D. All materials, supplies, inventories, discards and rubbish shall be stored within totally enclosed buildings or an approved dumpster enclosure. The storage of materials and/or supplies in any vehicle, trailer, tent or other temporary shelter is not permitted.
- E. The on-site parking and/or storage of any vehicles utilized in the business shall be limited to not more than three (3) at any one time during normal; business hours. The overnight parking and/or storage of any car, truck, van, trailer, tractor, etc. shall be limited to not more than one (1) such item and only if that vehicle, etc. is removed from the site on a daily basis during a majority of the normal work day.
- F. The site shall be so designed and improved as to provide for all necessary on-site sewage treatment, storm water management and shall be so operated as to not create any adverse effects on the surrounding areas or the community at large in terms of any harmful and/or toxic environmental impacts.

**SEC. 703. AREA AND BULK REQUIREMENTS:**

In addition to the above requirements also see ARTICLE XI SCHEDULE OF REGULATIONS limiting the height and bulk of building together with other related building size and setback requirements. Also refer to ARTICLE XII GENERAL PROVISIONS and ARTICLE XIII SPECIAL LAND USES for related requirements.





**ARTICLE VIII**  
**B-2 GENERAL BUSINESS DISTRICT**

**PREAMBLE**

The B-2 General Business District is intended to permit a wider range of business activities and services than is permitted in the Local Business District. General business uses generally reflect larger facilities and/or more intensive activities, serve a larger trade area, generate more traffic and therefore require additional considerations with respect to relationships to neighboring residential uses as well as other non-residential uses. Such districts are typically placed in locations easily accessible to several major arterial routes to facilitate serving their larger market areas and minimize conflicts with adjacent residential areas. Primary attention shall be focused upon creating planned developments which encourage and facilitate users being able to conveniently and safely enter the site, park their vehicle, move to the business establishments and subsequently move between establishments before returning to their vehicles and exiting the site. Other larger more intensive uses which may conflict with uses in planned development area may be permitted in this district but only after review and approval under a Special Land Use permit when it is determined that their placement and operation will not adversely effect and/or conflict with adjacent and neighboring uses.

**SEC.800. PRINCIPAL USES PERMITTED**

Uses as permitted shall include retail and service establishments dealing directly with consumers and all such activities shall be conducted wholly within completely enclosed buildings.

- A. All principal permitted uses in the B-1 Local Business District subject to the regulations as setforth in the Schedule of Regulations for the B-2 District.
- B. Retail stores furnishing: clothing, shoes, gifts, appliances, furniture, supermarket type stores, etc. Warehousing of merchandise shall not occupy more than twenty-five (25) percent of the useable floor of the facility.
- C. Service establishments (including areas for showroom/office/workshop facilities) for activities such as; decorator, printer, upholsterer, photo reproduction, home appliance and electronics repair, baker, electrician, plumber, etc. Warehousing, processing and/or repair activities shall be limited to not more than twenty-five (25) percent of the useable floor area.
- D. Other uses similar to the above which conform to the purpose of this district.
- E. Accessory uses customarily incidental to the above.

## SEC. 801 SPECIAL LAND USES

The more intensive use characteristics of this district involves uses serving a wider trade area with greater volumes of vehicular and pedestrian traffic which requires added concern for safe traffic and pedestrian movements as well as proper land use compatibility. There are accessory uses and/or other similar uses to those above which may also be acceptable subject to special review and consideration of their particular characteristics and attributes and as they relate to the neighboring uses and the community at large. The following review criteria and requirements are intended to supplement other provisions of this ordinance, particularly ARTICLE XIII Special Land Use Approval, under which the proposed use will be considered and approved if found to be in conformance with all of the terms and conditions of this ordinance.

- A. The following type uses may be permitted when it can be found that the uses: are conducted/operated within a completely enclosed building; the proposed use will not conflict with safe and convenient vehicular and/or pedestrian movements in adjacent areas and on adjacent roadways; are of such size, scale and so operated as to avoid conflicts with other uses in the area:
1. Theaters, concert halls, assembly halls, etc.
  2. Private clubs and lodge halls.
  3. Restaurants or other places serving food and/or beverages.
  4. Health and athletic clubs.
  5. Business, trade and other commercial schools.
  6. Radio and television studios (without construction yards).
  7. Hotels and motels.
  8. Mortuary establishments.
- B. Open air businesses for the sale of trees, shrubbery, plants, flowers, fruits and vegetables, landscape supplies. Any such business shall be operated in conjunction with permanent buildings utilized for office and/or sales purposes and containing necessary sanitary facilities. Parking shall be provided as required by the township on a hardsurfaced area drained and controlled in such a manner acceptable to the township. Access to this area shall be via a controlled point(s) of ingress and egress which do not interfere with other curb cuts and/or intersections in the area. Any such required parking area shall not be required by any other activity. All plant materials available for sale shall be placed in designated sales areas and maintained in a neat and orderly fashion; setback at least fifty (50) feet from any right-of-way line. All outside display and sales areas shall be maintained in neat and orderly conditions; loose materials such as dirt, gravel or other bulk materials shall be limited to not more than twenty (20) percent of the outside display and sales area shall be located within approved storage bins or other devices. No outside display and/or sales items shall be stacked or stored to a height exceeding six (6) feet and shall be so located as to not restrict proper and safe vehicular and pedestrian visibility and movements. If dual use of parking areas is proposed it shall be demonstrated that sufficient parking is available for all site uses during all authorized periods of outside sales and/or displays.

- C. Out-of-doors recreational facilities such as: miniature golf, golf driving range, waterslides, go-cart tracks, batting cages and similar types of activities. Careful consideration shall be given to the type of use(s) involved, the scale and magnitude of the operation and its potential impacts upon existing and planned uses in the area and the community at large. While recreational uses provide an important element of community living they may also generate abnormal levels of traffic, noise, vibrations, odors and pedestrians in an area which could not reasonably tolerate such intrusions without suffering adverse functional and financial impacts. Therefore specific consideration shall be given to the relationships between active use areas of any such activities and neighboring uses, particularly residential uses and the need for proper transition zones.
- D. The sale of new and/or used: cars, trucks, trailers, motorhomes, mobile homes, motorcycles, boats, other recreational vehicles/craft, etc. All such items shall be fully operable and in a reasonable state of repair which is conducive to their immediate sale. Only minor repairs and cleanup shall be permitted. There shall be no outside storage of new, used or discarded parts or supplies on the site. All such products and/or items displayed for sale shall be setback at least: fifty (50) feet from any public right-of-way line, ten (10) feet from any non-residential district and forty (40) feet from any residential district.
- E. Rental facilities offering: cars, trucks, other vehicles and/or equipment are permitted subject to: outside display areas being setback at least fifty (50) feet from any right-of-way line, ten (10) feet from any non-residential district and not less than forty (40) feet from any residential district. Representative samples of different rental items may be permitted in the front yard, as regulated above, but extensive quantities of duplicate items shall be stored in the side and rear yards. Screening of equipment rental storage areas in side and rear yards shall be required from all residential districts.
- F. Garage, swimming pool and/or yard storage shed sales are permitted subject to any such structure/building meeting the setbacks required in item E above.
- G. Vehicular washing facilities, both full service and self-service are permitted, when such facilities can demonstrate that: points of ingress and egress together with on site stacking lanes are properly coordinated with respect to adjacent and neighboring properties and intersections so as to minimize any unsafe and adverse effects. On site drains shall be provided and so located as to retain as much water draining from vehicles as possible. Adequate stacking lanes shall be provided and conveniently arranged as to avoid vehicles awaiting any phase of cleaning to be stacked or stopped in any public thoroughfare or to create any hinderance to the visibility of other vehicles and pedestrians. The hours of operation shall be so controlled as to minimize conflicts with neighboring uses during late evening and nighttime hours.
- H. Vehicular repair and/or service facilities dealing primarily with family type vehicles are permitted when: such repairs are limited to those which typically can be completed in one day, does not involve partially dismantled vehicles being stored out-of-doors on the site while awaiting parts and/or repairs, not more than one vehicle per service stall is parked out-of-doors and only on the night before it is repaired, no discarded parts and/or supplies shall be stored out-of-doors, the types of services and supplies provided shall not create any environmental hazards or other detrimental effects on neighboring properties or the community at large by virtue of: smoke, odor, dust, fumes, noise, vibrations, intermittent flashing lights, toxic materials, or similar detrimental effects.

- I. Gasoline service and/or filling stations are permitted which comply with the requirements of item H above and can demonstrate that their points of ingress and egress are coordinated on site and so located and arranged in respect to neighboring properties and intersections that no adverse effects will be created in terms of safe and proper vehicular and pedestrian movements.
- J. Veterinary hospitals are permitted when it can be demonstrated that no adverse effects will be generated due to: animal noises outside the building, no objectionable odors and/or fumes are created as the result of any incineration activities and/or the storage of animal wastes.
- K. Drive thru type facilities providing multiple service positions and/or frequent vehicular turnovers are permitted when it can be demonstrated that: proper and safe vehicular stacking, parking, servicing and circulation is provided for vehicles and between vehicles and pedestrians both on site and with respect to adjoining properties; points of ingress and egress to the site shall also be so designed and arranged as to avoid and adverse impacts on adjacent properties, thoroughfares, sides and/or intersections. All communication systems shall be so designed and operated as to avoid creating any adverse effects on adjacent properties.
- L. Drive-thru facilities, including restaurants, banks, dry cleaners and other similar Retail and service facilities subject to the following requirements
  - 1. Points of ingress and egress shall be located at least sixty (60) feet from any street intersections and shall be so located as to avoid conflicts with turning movements to adjoining and neighboring properties.
  - 2. Circulation patterns shall be so arranged on site as to provide for safe and convenient separation between pedestrians and vehicles. Stacking lanes shall not conflict with the movements of vehicles of patrons utilizing interior facilities or a walk-up window.
  - 3. All communication systems on the site shall be so designed, arranged and utilized as to avoid being audible beyond the property line.
  - 4. The hours of operation and control of site activities shall not result in conflicts with adjoining and/or neighboring properties.
  - 5. The site plan shall be so designed and constructed as to minimize conflicts with adjacent properties and shall have particular attention given to transition devices and requirements to neighboring properties, particularly residential districts.
- M. The sales and/or administrative offices of a heating, plumbing, electrical contractor may be considered when it can be demonstrated that the proposed use will not result in the creation of a contractors yard with discarded materials and/or supplies left out-of-doors and/or a fleet of service vehicles is stored on site out-of-doors over night.
- N. A living unit accessory to a use permitted within this district when such is essential to the normal and routine operation of the principal permitted activity.

## **SEC. 802. REQUIRED CONDITIONS**

Unless otherwise modified through a Special Land Use permit the following conditions and requirements are applicable to all permitted uses:

- A. All uses shall occur within a completely enclosed building unless specifically permitted, under no circumstances shall any outside activities constitute any hazards to health, serve to attract or harbor animals, rodents, etc. or otherwise create any undesirable effects which adversely influences any adjacent properties and/or the community at large.
- B. The outside storage of any commercial vehicles, cars, vans, trailers, equipment, etc. shall be limited to those which are fully operable, licensed as required and moved off the site on a regular daily basis. No more than five (5) such vehicles. etc. may be left outside overnight at any one time and then only when left in the side or rear yard.
- C. Unless specifically authorized no items shall be displayed outside for sale, lease, gift and/or promotional purposes.
- D. All activities shall be conducted in such a manner as to avoid being a nuisance and/or otherwise adversely affect adjacent properties and/or the community at large.

## **SEC. 803 AREA AND BULK REQUIREMENTS:**

In addition to the above requirements also see ARTICLE XI SCHEDULE OF REGULATIONS limiting the height and bulk of buildings together with other related building size and setback requirements. Also refer to ARTICLE XII GENERAL PROVISIONS and ARTICLE XIII SPECIAL LAND USES for related requirements.



**ARTICLE IX  
I-1 LIGHT INDUSTRIAL DISTRICT**

**PREAMBLE**

The I-1 Light Industrial Districts are designed to accommodate primarily smaller scale activities of a light (restricted) industrial nature. It is further the intent of this district that these uses serve to create an attractive and functional industrial environment which is an incentive to the development of an ever stronger and more durable economic base for the community. An attractive light industrial park type of environment represents an added value to the community in its improved ability to coexist with other use districts with less concern for land use conflicts. The I-1 District is so structured as to permit, along with other specified uses, the manufacturing, compounding, processing, packaging, assembly or treatment of finished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted. The intent of this district is further defined by the following goals and objectives:

- A. To provide sufficient space, in appropriate locations, to meet the Township's future needs for a diverse yet compatible range of light industrial uses and related activities.
- B. To protect the most desirable use of land in accordance with a well-considered plan. To protect and enhance the character of development in each area, and to conserve and promote the value of land, buildings, other structures, and thereby, create a more viable and durable economic base for the Township.
- C. To restrict light manufacturing and related accessory activities to those which are free from danger of fire, explosion, toxic and noxious matter, radiation, other hazards and from offensive: noise, vibration, smoke, odor, dust, fumes, flashing and/or intermittent lights and other factors which adversely effect adjacent properties and the community at large.
- D. To provide for such activities which are of such size and intensity of use that they are compatible with other light industrial uses and facilitate proper coordination with neighboring uses from the standpoint of both functional and visual considerations.
- E. To be able to better utilize and implement the Township's Master Land Use Plan. This guide to future land use development is intended to provide for a balance of land uses arranged in desirable and compatible patterns which avoids undesirable encroachments and/or conflicts between differing land uses.

**SECTION 900. PRINCIPAL USES PERMITTED:**

In I-1 Light Industrial Districts principal permitted uses are oriented to those which are characterized by less intensive activities of a smaller size and scale than typically found in heavy industrial, general manufacturing areas. Light industrial uses also have a tendency to locate in industrial park types of settings where uses are conducted within totally enclosed buildings with little if any outside activities permitted. More frequently permitted operations are conducted in buildings which are smaller in size (30,000 square feet or less in floor area) and concentrate upon production activities together with administrative functions; truck traffic and service needs are incidental activities. In pursuance of these primary objectives no building or land shall be used and no shall be erected except for one or more of the following specified uses unless otherwise provided for in this ordinance:

- A. Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a totally enclosed building.
- B. Typical production activities involve the assembly and/or processing of articles from previously prepared materials and/or prototype activities whose external effects do not conflict with the basic intent of the district nor adversely effect in any manner adjacent and neighboring uses. Typical types of uses which may be permitted are as follows:
  - (1) Tool, die, gauge and machine shops manufacturing small parts.
  - (2) Plastic molding and extrusion uses.
  - (3) Printing, engraving and binding shops.
  - (4) Manufacture of small toys, novelties, metal or rubber stamps or other small molded products.
  - (5) Manufacture, assemble and/or repair of small appliances, electronic instruments and devices.
  - (6) Experimental or testing laboratories.
  - (7) Manufacture and repair of: signs, light sheet metal products, windows and doors.
  - (8) Office and work shop of electricians, plumbers, and other contractors (excluding outside storage)
  - (9) Mini or self-storage warehouses.
- C. Trade or industrial schools conducted within totally enclosed buildings.
- D. Office and/or laboratory functions related to manufacturing, distribution, technical and developmental services.
- E. Buildings housing the permitted uses contain an aggregate of thirty thousand (30,000) square feet or less in gross floor area for each development.
- F. Other uses similar and no more objectionable than those above.
- G. Accessory structures and uses incidental in size and function to any of the above permitted uses.

**SEC. 901 SPECIAL LAND USES:**

The principal permitted uses as setforth above provide for restricted light industrial activities and reflect the need to promote reasonable and desirable transitions between such districts and adjoining districts and public thoroughfares. In some situations a slightly less restrictive criteria may be utilized provided there is no reduction in the basic regulations governing the types of uses which are involved. In order to most effectively consider the variables such uses are processed under the basic terms and conditions setforth in ARTICLE XIII SPECIAL LAND USES. Uses to be considered under these terms together with supplemental guidelines and/or criteria which will also be utilized in considering such requests are as follows:



- A. Buildings in excess of thirty thousand (30,000) square feet may be considered when it is determined that the anticipated use, and potential subsequent users, is consistent with the basic intent and purpose of the light industrial district and that a subsequent rezoning to a more intensive use district is not likely to be necessary to facilitate the reuse of any such buildings and/or structures in the future. The building and site plan shall be so designed, arranged, landscaped and constructed as to minimize adverse impacts related to its size on neighboring uses and public thoroughfares. Traffic patterns and volumes created by the facility shall not create adverse impacts on neighboring uses or public thoroughfares serving the area or the community at large.
- B. The outside storage of pallets or containers incidental to the principal permitted use may be permitted when the following conditions are met:
  - (1) Any such materials so stored shall be located in the rear yard and shall not be visible to any non industrial use district or any public thoroughfare for any reason.
  - (2) The total amount of land so occupied shall not exceed ten (10) square feet for each one thousand (1,000) square feet of principal building area.
  - (3) The area occupied by any such storage use shall be enclosed by a decorative masonry wall six (6) feet in height and its access opening shall be so located or covered by gates as to prevent visibility of stored materials from adjoining properties and public thoroughfares.
  - (4) Any materials or objects placed within any such enclosure shall not exceed the height of the enclosure.
- C. Commercial kennels and veterinary clinics when such uses are conducted within a completely enclosed building. There shall not be any exterior runs or adverse effects created by the storage and/or disposal of animal wastes or the burning of any materials or carcasses.
- D. Metal buffing and polishing (not including plating)
- E. Major vehicular engine and body repair when the following requirements are met:
  - (1) All repair functions shall be conducted within a completely enclosed building.
  - (2) Any vehicle awaiting completion of repairs may be stored outside for no more than thirty (30) days.
  - (3) There shall be no outside storage of vehicles to be used for parting purposes or parts awaiting installation. Any discarded parts awaiting disposal which are stored outside shall be limited to an area not exceeding ten (10) square feet for each one thousand (1,000) square feet of building devoted to the principal use or one hundred (100) square feet whichever is less.
  - (4) Any outside area devoted to the storage of vehicles awaiting repairs shall be: located in a rear yard; be totally enclosed by a decorative masonry wall, berm or totally obscuring greenbelt or combination thereof; obscured from any public thoroughfare or any neighboring zoning district. The total number of vehicles stored outside shall not exceed two (2) for each repair bay actively used in the repair activities.
  - (5) The sale of any vehicle which has been repaired shall be totally incidental to the repair business and no more than two (2) such vehicles shall be displayed at any one time. Any such vehicle(s) shall observe all setback regulations for required parking spaces and shall not be located within any landscaped area, required parking or service area.

- F. Fraternal lodges and clubs not operated for profit when the following conditions are met:
  - (1) The site is accessed from an Arterial Thoroughfare as designated on the Township's Master Plan.
  - (2) The use shall comply with the I-1 Light Industrial District regulations.
  
- G. Public utility buildings, transformer stations and substations, gas regulator stations necessary to service the area but not including outside construction yards or supply storage. Structures not enclosed within a building shall be screened from view of neighboring uses and thoroughfares by walls, berms or greenbelts.
  
- H. Any activity which involves the outside parking and/or storage of fleet vehicles, trucks, semi-trucks and trailers which exceeds a ratio of one (1) such vehicle for each thirty-four hundred (3,400) square feet of floor area devoted to manufacturing, processing or finishing shall be required to comply with the following requirements: (Employee vehicles utilized for daily commuting are excluded from this limitation)
  - (1) Access routes utilized by these vehicles when entering or leaving the premises shall not adversely affect any neighboring uses.
  - (2) Resulting traffic volumes and turning movements shall be coordinated with traffic and turning movements on abutting streets.
  - (3) Any such parking/storage area shall only be occupied by fully operational vehicles moved off the site on at least a regular weekly basis.
  - (4) Any such area shall not be located closer than (300) feet to any residential zoning district boundary.
  - (5) Any such area shall be located in a rear yard and shall be so located and screened as to effectively obscure the visibility of any such vehicles from neighboring residential districts and/or public thoroughfares.
  
- I. Day care centers may be permitted when the following conditions are met:
  - (1) The center is part of a planned industrial development and use of the facility is derived primarily from serving employees of the planned development.
  - (2) The center shall not provide dormitory living quarters.
  
- J. Communication Towers (Section 1318).
  
- K. Other uses similar and no more objectionable than those above.
  
- L. Accessory structures and uses incidental in size and function to the above regulated uses.
  
- M. Adult Entertainment and Business Uses (Subject to Section 1319)

**SEC. 902. REQUIRED CONDITIONS:**

Unless otherwise specifically approved the following conditions and requirements are applicable to all permitted uses:

- A. All manufacturing, assembling, processing and/or storage of materials, products, equipment, and ancillary activities shall be conducted within completely enclosed building(s) unless otherwise specifically provided for.
- B. All materials and processes involved in any permitted uses shall not represent any hazard or risk to any human, animal or any environmental contamination or impairment due to: dust; odors; smoke; fumes; radiation; other emissions; vibrations; noise; discharges or leaks of any hazardous or toxic materials or gases to the working or living environment.
- C. Any activity which initially or subsequently utilizes any materials regulated by federal or state requirements shall first file all necessary documentation as required by law with the Township Fire Department.
- D. The outside parking and/or storage of trucks, semi-tractors, trailers shall not exceed one (1) such vehicle for each thirty four hundred (3,400) square feet of floor area in principal use buildings. All such vehicles shall be located in the rear yard and shall be screened from the view of any neighboring residential district or public thoroughfare by an obscuring wall, greenbelt, berm or greenbelt and berm in combination. All such vehicles shall be fully operational, moved off the site on at least a weekly basis and shall not be used for storage. Employee vehicles utilized for commuting purposes are excluded from this limitation.
- E. All activities shall be limited to those which do not prevent or inhibit the reasonable use and enjoyment of other neighboring properties.

**SEC. 903. AREA AND BULK REQUIREMENTS:**

In addition to the above requirements also see ARTICLE XI SCHEDULE OF REGULATIONS limiting the height and bulk of buildings together with other related building size and setback requirements. Also refer to ARTICLE XII GENERAL PROVISIONS and ARTICLE XIII SPECIAL LAND USES for related requirements.



**ARTICLE X**  
**I-2 HEAVY INDUSTRIAL DISTRICTS**

**PREAMBLE:**

The I-2 Heavy Industrial Districts are designed to accommodate manufacturing, assembling and fabricating activities where the nature, scale and intensity of activities are more likely to exert external effects on surrounding districts. Manufacturing, processing and compounding of semifinished or finished products from raw material as well as from previously prepared materials is permitted. These activities can involve those which require extensive heavy equipment and/or equipment which require special installation, separation and operational considerations to minimize adverse impacts on surrounding uses and the community at large. This district also accommodates large scale and specialized facilities which have regional importance and therefore require additional consideration of transportation needs and impacts. The more intensive use characteristics of this district indicates a need to regulate operations and locations so as to protect and insulate more restrictive use districts, particularly residential, from adverse impacts. These operational and locational considerations reflect basic physical, functional and environmental concerns. The scale and nature of such activities together with more intensive service functions and the potential need for expanded outdoor activities also indicates a need to consider visual characteristics and impacts. Based upon these basic criteria it is the intent of this district to establish principal permitted uses which are reasonably regulated with more standardized requirements and to require special land use permit review and requirements for the more intensive heavy industrial uses which are more likely to exert adverse impacts on neighboring uses. Utilization of the special land use permit will also permit some degree of latitude in determining appropriate requirements in differing situations.

**SEC. 1000. PRINCIPAL USES PERMITTED:**

While principal permitted uses include heavier types of manufacturing activities whose external effects may extent beyond property lines these uses by right are limited to those whose effects are more predictable and therefore capable of being regulated under more standardized requirements. Principal permitted uses are therefore more restrictive and provide primarily for uses which: do not involve the more extensive use or production of hazardous or toxic materials either as a processing agent, product component or as a by-product; do not involve a total employment on any one shift of more than five hundred (500) persons or uses which require more extensive outside storage. Unless otherwise provided for in this ordinance no land or building shall be used or erected except for one or more of the following specified uses:

- A. All principal permitted uses and uses subject to special land use permits as setforth in the I-1 Light Industrial District, subject to the Schedule of Regulations for this district, unless otherwise provided for in this district.
- B. Manufacturing, processing, compounding, assembling, fabricating and finishing of semifinished or finished products from raw material as well as from previously prepared materials. Permissible activities and uses, unless otherwise regulated, include the following:
  - (1) Machine and tool shops.
  - (2) Hardware and cutlery.
  - (3) Clothing manufacturing.
  - (4) Automotive parts and supplies.

- (5) Stamping, screw machine operations and automotive assembly activities provided there is no evidence beyond the property line by reason of dust, odor, noise, fumes or vibrations.
  - (6) Household goods and furnishings.
  - (7) Electronic equipment and supplies.
  - (8) Similar uses and activities to the above.
- C. Any other production, processing, servicing, repair or other use or activity similar to the above and which complies with all other applicable regulations and requirements.
  - D. Accessory structures and uses customarily incidental to the above uses.

**SEC. 1001. SPECIAL LAND USES:**

The increased intensity of uses which may be considered under I-2 Heavy Industrial usage presents a wider array of activities and facilities which can exert differing impacts on the site, the surrounding area, the community and the environment. For those reasons a variety of more intensive industrial facilities will require review and approval under a Special Land Use Permit. Requirements and procedures are set forth in ARTICLE XIII which are further supplemented by requirements and guidelines as set forth in the following paragraphs:

- A. Manufacturing uses and activities as permitted herein, which provide for five hundred (500) or more employees on any one shift, shall provide a site plan which properly provides for:
  - (1) A coordinated circulation plan which provides for employee and service vehicular movements which will avoid conflicts with traffic movements on abutting public thoroughfares providing access to the site.
  - (2) Ingress and egress to the site shall be from an Arterial Thoroughfares as designated on the Township Master Plan. Any such access points shall be carefully coordinated with street intersections and other driveways in the area.
  - (3) Projected traffic patterns in the area shall not create adverse impacts on minor residential streets in neighboring areas or the community at large.
  - (4) The site plan provides proper relationships and transition areas between proposed uses on the site and existing and potential uses in the surrounding areas. The placement of large building masses or more intensive use areas in closer proximity to more restrictive use districts, particularly residential districts, should be accompanied by some mitigating transitional devices such as enhanced greenbelts, increased setbacks or a combination of these alternatives.
  - (5) Design proposals shall be coordinated with appropriate public agencies and the applicant shall utilize the services of a qualified traffic engineer in the site plan preparation process.
- B. Any uses which involve materials regulated by federal or state agencies shall file necessary documentation with the Township Fire Department.
- C. Uses which utilize materials or operations which may represent increased hazards to employees and/or the environment shall present a written plan for containment and control of these materials on the site and from contact with employees together preventive measures proposed to prohibit their leaking or discharge onto the ground, into drains, wetlands or flood plains. Drawings shall be included as part of the plan when necessary. Activities which are considered more hazardous are as follows:

- (1) Chemical plants.
- (2) Lime, gypsum or plaster manufacturing and/or storage.
- (3) Oil/petroleum refining and/or storage.
- (4) Coal, coke and fuel storage.
- (5) Paint and varnish manufacturing and/or warehousing.
- (6) Dry cleaning plants.
- (7) Corrosive or acid alkali manufacturing and/or storage.
- (8) Corrosive gases manufacturing and/or storage.
- (9) Food processing plants.
- (10) Animal feeding and/or processing facilities.
- (11) Lumber and planing mills.
- (12) Paper and cardboard manufacturing/processing plants.
- (13) Brewing and/or distillation facilities.
- (14) Metal cleaning, polishing and plating facilities.
- (15) Junk and scrap yards.
- (16) Power generating plants.
- (17) Composting operations.
- (18) Incinerators.
- (19) Blast furnaces, steel furnaces, blooming or rolling mills or smelting operations.
- (20) Radio-active material production.
- (21) Tire manufacturing or processing facilities.
- (22) Other uses similar to the above which utilize or produce any hazardous or toxic material or emissions in any manufacturing, servicing, processing, warehousing or repair activities.

D. Junkyards and places so-called, for the dismantling, wrecking, storage and disposing of junk and/or refuse materials subject to the following additional requirements:

- (1) Any such area shall be located at least three hundred (300) feet from the boundary of any I-2 Heavy Industrial District.
- (2) Any such out-of-doors area shall be located at least one hundred (100) feet from any public road right-of-way and shall be so situated and screened that any materials located within any such an area is not visible from any neighboring residential districts or from any passing vehicles on adjacent or neighboring thoroughfares, bridges or overpasses.
- (3) Any of the junk material located at such a facility shall be placed within a building or within an area enclosed by an: eight (8) foot high decorative masonry wall, a totally obscuring greenbelt or a totally obscuring berm and greenbelt in combination.
- (4) No junk or material located within any outdoor area shall be stacked higher than the enclosing device or eight (8) feet whichever is less.
- (5) All junk shall be stored in such a fashion as to prevent the burrowing of rodents and other vermin under or within the junk.
- (6) All junk shall be so arranged as to provide and maintain necessary year-around emergency access routes throughout all storage area(s) as determined by the Township Fire Department.
- (7) No hazardous or toxic materials shall be discharged, allowed to leak or otherwise be released to the ground or air. The storage and disposal of all such materials shall be full accord with all federal, state and local requirements. Any area(s) occupied by parts containing hazardous materials shall be so designed and constructed as to preclude any such material from penetrating into the soil or otherwise entering the environment.



- E. Communication Towers (Section 1318).
- F. Uses such as truck terminals, contractors yards, heavy equipment sales and service, major auto and truck repair facilities, lumber yards or service industries which involve open storage/loading and service areas which exceeds twenty (20) square feet for each one thousand (1,000) square feet of principal building area shall be subject to the following additional standards and guidelines:
  - (1) Any such areas shall be located in the rear yard and shall be located at least three hundred (300) feet from any residential district boundary or one hundred (100) feet to any public thoroughfare right-of-way line.
  - (2) Any such area shall be obscured from view from public thoroughfares and neighboring non-industrial districts by an eight (8) foot high decorative masonry wall, a totally obscuring greenbelt or a totally obscuring berm and greenbelt in combination.
  - (3) Materials stored within any such area shall be limited to the height of the obscuring device; this excludes trucks or equipment which is typically manufacturer to a greater height. In the case of equipment such as cranes or lift devices which maybe extended to a greater height they shall be stored in the lowest possible configuration.
  - (4) When considering outside storage areas which contain larger quantities or volumes of large manufactured equipment (higher than eight feet in height) or is extensive in size, locations should be sought which minimizes their visibility from public thoroughfares and neighboring residential districts. Sites which are readily visible from roadway over passes shall be avoided or extensive greenbelt plantings should be distributed about the site to reduce the visual impact of a vast paved industrial area.
  - (5) Points of ingress and egress shall be coordinated with traffic and turning movements in the area. There shall not be any displays of any items in required front yard greenbelts.
- G. Uses similar to the above subject to the establishment of appropriate standards and requirements.
- H. Accessory structures and uses incidental in size and function to the above regulated uses.

**SEC. 1002 REQUIRED CONDITIONS:**

Unless otherwise specifically modified the following conditions and requirements are applicable to all permitted uses:

- A. All manufacturing and other permitted uses shall be conducted within a completely enclosed building unless otherwise provided for.
- B. The outside storage of pallets or containers incidental to the principal permitted use shall be permitted when the following conditions are met:
  - (1) Any such area shall be located within the rear yard and shall not be visible from any residential district or public thoroughfare.



- (2) The total amount of land occupied by such storage use shall not exceed fifty (50) square feet for each one thousand square feet of principal building area.
  - (3) The area occupied by such storage shall be enclosed by at least a chain link fence on those sides abutting other heavy industrial uses. On those sides visible to a public thoroughfare or a residential zoning district a decorative masonry screen wall, totally obscuring greenbelt, berm or greenbelt and berm in combination shall be provided which is between six (6) and eight (8) feet in height.
  - (4) Any materials placed within the required screening shall be limited to the height of the screen device.
- C. All uses and activities as provided for herein shall comply with all provisions relative to hazardous and toxic materials.
  - D. The outside parking and/or storage of trucks, semi-tractors, and trailers shall not exceed one (1) such vehicle for each thirty four hundred (3,400) square feet of floor area in principal use buildings when such areas are visible from public thoroughfares or residential use districts. Any such area shall be screened by a decorative masonry wall, greenbelt, berm or berm and greenbelt in combination.
  - E. All activities shall be limited to those which do not prevent or inhibit the reasonable use and enjoyment of other properties in the area.

**SEC. 1003. AREA AND BULK REQUIREMENTS:**

In addition to the above requirements also see ARTICLE XI SCHEDULE OF REGULATIONS limiting the height and bulk of buildings together with other related building size and setback requirements. Also refer to ARTICLE XII GENERAL PROVISIONS and ARTICLE XIII SPECIAL LAND USES for related requirements.



**ARTICLE XI SCHEDULE OF REGULATIONS**

**SECTION 1100. LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT**

Zoning District	Minimum Zoning Lot Size for Each Unit		Maximum Height of Structures	Minimum Yard Setback (per lot in feet) Each			Open Space and Min Pkg. Setback (per lot in feet) Each			Minimum Floor Area per Unit (sq. ft.)	Maximum % of Lot Area Covered (by all buildings)	
	Area in Acres	Width in Feet		Stories	Feet	Front	Side	Rear	Front			Side
A Agricultural	2 (a,b)	220 (e)	2 (f)	30 (f)	See u. (g, h, i, t)	25 (g,i,t)	75 (g,i,t)	75 (g,i,t)	-	-	1,150	20% (b)
R One-Family Residential	1 (b,c)	150 (c,e)	2	30	See u. (g, h, i, t)	15 (g,i,t)	75 (g,i,t)	50 (g,i,t)	-	-	1,150	25% (b)
RM Multiple-Family Residential	2 (b,d)	200 (e)	2	30	See u. (g, h, i, j)	40 (g,i,j)	40 (g,i,j)	50 (g,i,j)	-	-	1 BR=600 2 BR=750 3 BR=900	25% (b)
B-1 Local Business	- (b)	100 (e)	-	30 (g)	See u. (k)	10 (k,m)	40 (k,m,p)	15 (r)	-	-	(r)	- (b)
B-2 General Business	- (b)	100 (e)	-	30 (g)	See u. (k)	10 (k,m)	40 (k,m,p)	15 (r)	-	-	(r)	- (b)
I-1 Light Industrial	- (b)	100 (e)	-	40 (g)	See u. (l)	10 (l,m,g)	50 (l,n,p,g)	15 (s)	-	-	(s)	- (b)
I-2 Heavy Industrial	- (b)	100 (e)	-	50 (g)	See u. (l)	10 (l,o,g)	60 (l,o,p,g)	15 (s)	-	-	(s)	- (b)

footnotes to Section 1100 SCHEDULE OF REGULATIONS.

- a. The minimum acreage for a farm shall be five (5) acres.
- b. The minimum lot area requirements and maximum lot coverage shall also be determined by compliance with all setback, parking, loading, greenbelt, stormwater retention, environmental preservation requirements, and on-site sewage treatment and disposal field needs (including a back-up disposal field area). Non-buildable soils shall not constitute more than ten (10) percent of a minimum required lot area.
- c. When building sites are served by an approved public sewage treatment facility, the minimum lot area may be reduced to one-half (1/2) acre and the minimum width to one hundred (100) feet.
- d. The following minimum land area per dwelling unit type shall be met in RM Multiple-Family Residential Districts:

<u>Minimum Land Area per Dwelling Unit</u>		
<u>Type of Dwelling Unit</u>	Dwellings Served by	Dwellings Served by
	<u>Septic Tanks</u>	<u>Public Sewer</u>
One-Bedroom & Efficiency	20,000 sq. ft.	6,000 sq. ft.
Two-Bedroom	28,000 sq. ft.	7,000 sq. ft.
Three-Bedroom	43,500 sq. ft.	8,000 sq. ft.
Four-Bedroom	48,500 sq. ft.	10,000 sq. ft.

Plans presented which include a den, library, or extra room shall have such extra room counted as a bedroom for purposes of this Ordinance.

- e. See Section 1224.
- f. Agricultural structures and/or buildings may exceed the height limitation provided they are located at least seventy-five (75) feet from any exterior property line.
- g. For all uses permitted other than residential, the setback shall equal the minimum required or one and one-half (1 1/2) times the height of the building, whichever is greater.
- h. The required front yard shall be maintained as an open landscaped area and shall not be utilized to provide required parking, nor to store materials, vehicles, trailers, etc. Also see Section 1406.
- i. The side yard setback requirement for any main or accessory building abutting upon a street shall not be less than the minimum side yard requirement of the district when there is a common rear yard relationship in said block and a common side yard relationship with the block directly across the common separating street. In the case of a rear yard abutting a side yard of an adjacent lot, or when said side yard abuts on frontage across a common street, the side yard requirement for any main or accessory building abutting upon a street shall not be less than the required front yard of the district.

- j. For the purpose of yard regulations, multiple-family dwellings shall be considered as one (1) building, occupying one (1) lot. Front, side and rear yards relating to the spacing between buildings within RM Districts shall have the following minimum overall dimensions:

Building Relationship	Overall Distance Between Buildings (Exclusive or Parking Area)
Front-to-Side	45 feet
Front-to-Front	50 feet
Front-to-Rear	*60 feet
Rear-to-Rear	*60 feet
Rear-to-Side	45 feet
Side-to-Side	20 feet
Corner-to-Corner	15 feet

\* Parking may be permitted in fifty (50%) percent of the required rear yard, provided that there shall be at least fifteen (15) feet of yard space between said parking area and the multiple-family building.

- k. Off-street parking shall be permitted to occupy a front, side or rear yard, excluding any minimum parking setbacks, after approval of the parking plan layout and points of ingress by the Planning Commission. If the review determines that points of ingress and egress represent a particular problem, then the Planning Commission shall schedule a public hearing to determine appropriate design solutions. Design alternatives may include, but not be limited to, the restriction of access points from a thoroughfare, or portion thereof, or a marginal access drive.

- l. Parking shall not be permitted in a required front yard. Parking shall be permitted in a side or rear yard and non-required front yard, excluding any minimum parking setbacks, after approval of the parking plan layout and points of access by the Planning Commission. If the Planning Commission determines that points of ingress and egress represent a particular problem, then a public hearing shall be held to determine appropriate design solutions. Design alternatives may include, but not be limited to, the restriction of access points from a thoroughfare, or portion thereof, or a marginal access drive.

Guest parking may be approved in the minimum front yard, provided it does not exceed ten (10) percent of the required parking or six (6) spaces, whichever is less.

- m. Any yard abutting any residential district, including those across a street, shall have a minimum building setback of at least forty (40) feet.

- n. A side yard of at least twenty (20) feet and a rear yard of at least forty (40) feet shall be provided when such yards abut business districts. However, when such yards abut an agricultural or any residential district, a minimum setback of at least fifty (50) feet shall be provided for buildings up to fifteen (15) feet in height; for buildings between fifteen (15) feet and the maximum height permitted, the setback shall be increased five (5) feet in horizontal distance for each one (1) foot of vertical height above the fifteen (15) feet.

- o. A side yard of at least thirty (30) feet and a rear yard of at least fifty (50) feet shall be provided when such yards abut business districts. However, when such yards abut an agricultural or any residential district, a minimum setback of at least seventy-five (75) feet shall be provided for buildings up to fifteen (15) feet in height; for buildings between fifteen (15) feet and the maximum height permitted, the setback shall be increased five (5) feet in horizontal distance for each one (1) foot of vertical height above the fifteen (15) feet.
  
- p. All loading space(s) and dumpster area(s) shall be provided in the rear yard. See Section 1206.
  
- q. Any open storage permitted by this Ordinance shall be located in the rear yard. Such areas shall be permitted only when enclosed by a decorative masonry wall, berm or greenbelt (as provided in Section 1207) on those sides abutting any residential, office and commercial district or any other public thoroughfare serving general vehicular movements in the Township. In no instance shall any open storage areas be located closer than three hundred (300) feet to any residential district.  
 The height of such walls, berms or greenbelts shall not be less than six (6) feet and may, depending on land usage, be required to be eight (8) feet in height.  
  
 The height of such outdoor storage shall be limited to the height of the screening device(s). Construction equipment storage or other similar machinery, when permitted, which exceeds eight (8) feet in height, shall be set back at least fifty (50) feet from any exterior property line abutting any non-residential zoning district.
  
- r. In the case of any yard abutting any yard of an agricultural or any residential district, a minimum twenty (20) foot greenbelt shall be provided. See Section 1208. Parking setbacks and greenbelts are not required on side or rear yards abutting non-residential districts. All setback areas shall be landscaped in trees and lawns and maintained in a healthy and growing condition, properly cut and manicured.
  
- s. In the case of any yard abutting an agricultural or any residential district, a minimum twenty (20) foot greenbelt shall be provided, unless such parking area abuts a public thoroughfare, in which case the minimum setback shall not be less than the required front yard of the district. All setback areas shall be landscaped in trees and lawns and maintained in a healthy and growing condition, properly cut and manicured. See Section 1208.
  
- t. Yard setback requirements in the AG Agricultural and R One Family Residential Districts on substandard lots and parcels of land that had been legally established prior to January 1, 2002 may be reduced subject to compliance with the following requirements:
  - (1) The owner shall furnish written documentation that proper on-site septic and water facilities are acceptable to the public agency responsible for such approvals;
  - (2) On such lots that have a depth of less than two hundred (200') feet, the front and rear yard setbacks for principal structures may be reduced to not less than twenty-five (25') feet.
  - (3) On such lots that have a width of less than eighty (80') feet, the side yard setback for the principal structure may be reduced to not less than six (6') feet.

- (4) Any side or rear yard setback(s) that qualifies for a reduction of the principal structure setback(s) is also eligible to reduce the setback for an accessory building to not less than six (6') feet in an effected side or rear yard.

u. Front yard setbacks shall be measured from the centerline of each road right-of-way in accordance with the Township's Master Plan designation and the St. Clair County Road Commission as follows:

<i>Road Designation</i>	<i>Distance from Centerline*</i>
Major	150 feet
Minor	135 feet
Collector	118 feet
Local	115 feet

\* For the existing private road, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

**Sec. 1101 OPEN SPACE COMMUNITIES.**

The intent of this section is to permit one-family developments in arrangements that seek to minimize unnecessary intrusions into agricultural areas and/or environmental areas that may be preserved in their natural state. Such developments would be accomplished with no increase in density over that resulting from conventional development. It will also be necessary that any such development shall comply with all requirements of the County Health Department in regards to proper on-site septic and water facilities. The following provisions are applicable in the AG Agricultural District and the R One-Family Residential District, subject to the approval of a Special Land Use Approval permit. This latter district will be carefully reviewed in terms of potential adverse effects due to poor drainage and percolation.

**1. Statement of Intent.**

The purpose of this Section of the Zoning Ordinance is to allow and encourage an alternative to a single-family subdivision. These communities are designed to preserve environmentally sensitive elements, while providing housing developments that are desired by the community and the general public.

Open Space Communities shall promote the following objectives:

- . Maintain the rural character of the Township.
- . Preserve open space within the Township.
- . Preserve natural resources.
- . Assist in preserving agriculture and farming.

**2. Open Space Criteria.**

In all open space communities, at least two of the following items must be present. These areas shall be accessible or open to all residents within the open space community, with the exception of farmland.

- **Preservation of Natural Amenities** - sites preserving a significant quantity of any of the following:
  - a. Mature woodlands.
  - b. Wetland or lowland areas.
  - c. Significant views or vistas.
  - d. Prairie.
  - e. Bodies of open water (such as lakes, ponds, streams, natural drainage ways).
  - f. Wildlife habitat or corridors.
  - g. Significant size trees (six to eight inches or more, measured five feet above the grade).
  - h. Farmhouses (viable for restoration and/or preservation).
  - i. Fence lines (stone or wood).
  - j. Archeological sites.
  
- **Provisions for Recreational Facilities** - Path way systems, common green areas, and open/preserved natural amenity areas, or other areas or uses consistent in nature shall be provided. Active recreation areas shall include areas such as play sets, sports fields and other fitness areas.
  
- **Creation of Natural Amenities** - These areas are to be constructed in a manner that replicates a natural setting. A percentage of these areas should remain “unmanicured,” allowing natural growth and processes to occur. These areas can include woodlands, wildflower or grass meadows, constructed wetlands or other areas consistent in nature.
  
- **Preservation of Agriculture** - Land uses such as orchards, horse stables, active farms, or other similar agricultural uses. In no way shall any intensive animal raising, slaughterhouse, or similar use be allowed within an open space community.

### 3. Submission Requirements.

- a. The open space community shall have direct access to an approved public roadway.
  
- b. Under the open space community provision, the net density shall be no greater than that normally permitted within the zoning district. The maximum “density” shall be the maximum number of lots permitted by the approved Yield Plan. Density does not guarantee any specific number of lots from an individual parcel or group of parcels. Rather, density refers to the number of lots which can actually be platted on the subject parcel.
  
- c. Yield Plan - A “yield plan” (a conventional subdivision not utilizing the open space option) shall be prepared by the developer showing a feasible subdivision plat meeting the requirements of the specific zoning district in which it is located and the requirements of any and all State, County and Township Subdivision regulations. All lots, roads and other improvements shall be designed so that they do not adversely impact wetlands, floodplains or drainage ways, as regulated by Federal, State, County or local agencies.

It must be determined by the Planning Commission that this yield plan or conventional subdivision is able to be physically constructed and meet all current subdivision regulations, should the Open Space Community be denied or not constructed. If there is a question regarding water, septic, wetlands or floodplains, the Planning Commission may request validation from the proper regulatory authority. If it is determined, through these responses, that the number of lots proposed is unfeasible, the yield plan shall be revised and resubmitted, minus that number of lots. Detailed engineering is not required at this stage.



The Planning Commission may waive the submission of a yield plan if it is determined that the number of housing units proposed for open space development is, without question, well below what would be feasible for the site. Such waivers must be detailed in writing and recorded as part of the motion in the minutes of the Planning Commission. Waivers may only be granted if it is determined by the Planning Commission that the proposed open space design will be a major benefit to the Township and achieve all the goals and objectives set forth in the Township Master Plan.

d. Site Analysis - A Site Analysis Plan shall be submitted, showing the following applicable) site features:

- . Wetlands, suspected or as determined by the Michigan Department of Environmental Quality.
- . Water areas, such as streams, lakes, and ponds.
- . Woodlands and farmlands.
- . Soils and topography.
- . Drainage patterns and County drains.
- . Historic and cultural features.
- . Wildlife habitat corridors.
- . View sheds and view corridors or scenic overlooks.
- . Existing easements of record.
- . Existing and proposed rights of way.
- . Existing infrastructure.
- . Adjacent development within 200 feet.

e. Conservation Areas Plan - The combination of the site analysis elements noted above shall be used to outline the primary and/or secondary conservation areas. The primary conservation areas include areas where no development is to occur. The secondary conservation areas are areas where development can occur, but special care must be taken to minimize adverse impacts.

- . Primary Conservation Areas - floodplains, wetlands, drainage ways, easements, 150' exterior road buffer, or other exceptional elements.
- . Secondary Conservation Areas - farmlands, woodlands, tree lines, soils sensitive to development, soils prone to flooding, aesthetic views, etc.
- . Buildable Areas - areas that are not dedicated to primary conservation areas may be treated as buildable areas. Housing sites should be located so as to complement the conservation areas.

f. Open Space Plan - An Open Space Plan with the proposed housing layout shall not exceed the maximum number of housing units determined by the yield plan. The roads shall also be shown to provide interior access to all homes. At this stage, the drawings need not be engineered, only drawn to scale.

#### **4. The Review Process.**

a. The Planning Commission shall determine that the yield plan submitted meets all applicable regulations of the State Land Division Act, and the Township and County development requirement.

- b. The Planning Commission shall confirm the accuracy and feasibility of the open space plan noted above and determine that all provisions of this section have been met.
- c. Planning Commission Determination.
  - Upon approval of the Planning Commission, the proprietor may undertake the process for Subdivision or Site Condominium approval, or Parcel Division per State Law and Township Ordinance.
  - Upon denial of the Planning Commission, the proprietor may either submit the yield plan or parallel plan for approval under the Subdivision or Site Condominium review process, or submit a new application for an open space community.

**5. Site Design Requirements** - Unless otherwise provided for in this Section, all other applicable Zoning Ordinance provisions shall apply:

- a. Minimum Lot Size - Lot sizes shall be determined by the State and County Health Departments' regulations or standards and the following:
  - A - Agricultural District - Area of 60,000 square feet.  
Lot width of 150 feet.
  - R - Residential District - Area of 16,000 square feet.  
Lot width of 80 feet.  
Approved sewer treatment facility.
- b. Minimum Yard Setbacks:
  - Front Yard 25 feet.
  - Side Yard 15 feet each side.
  - Rear Yard 30 feet.
- c. Minimum Exterior Road Buffer - The developer shall preserve a minimum of a 150 foot setback to the centerline to any exterior public road servicing the open space development.
- d. Development Layout - The development is encouraged to include roads that are single loaded, referring to homes along only one side of the street. This type of development will allow for a greater number of vistas onto the open space or farmland.
- e. Minimum Open Space - A minimum of fifty (50%) percent of the gross land area shall be set aside for common open space uses.

Open Space shall be defined as follows: All areas within the open space development, not individually owned or part of a limited common area, which are designed and intended to preserve environmental features for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forestry and/or open space conservation, community gardens, or agricultural uses. The open space requirements shall not be met by land uses such as golf courses or other exclusionary commercial recreational uses, lot area within setbacks for each specific lot, or land area dedicated as limited commons.

- f. Maximum Amount of Non-Buildable Land Used as Open Space - A maximum of fifty (50%) percent of the total open space allotment may be non-buildable land. Non-buildable land is considered to be land that is regulated by Michigan Department of Environmental Quality, the Environmental Protection Agency, Army Corps of Engineers, or any other regulatory body which has jurisdiction over land which cannot be used for the construction of housing.
- g. Houses abutting the Open Space - A minimum of fifty (50%) percent of all dwelling units within the development shall abut, overlook or be closely and conveniently located to the dedicated open space.
- h. Access to Open Space - Access points or paths shall be provided to afford access to open space and common areas. These access points shall link the open space to the roadway, sidewalks, or the remainder of the development.
- i. General Lot Character - Flag lots or panhandle lots shall not be permitted within an open space community.
- j. Pedestrian Circulation - Adequate pedestrian circulation shall be provided by the applicant for onsite circulation. Adequate access shall be provided to all open space/recreational spaces from the residential areas. "Nature paths or bike\_paths" are encouraged within the development. Paths provided within the development shall be constructed of paving, gravel, woodchip, or other similar material as approved by the Planning Commission.
- k. Garages - A minimum of fifty (50%) percent of all dwelling units shall not have vehicular doors that open towards the street. Garages that face the roadway shall not extend beyond the front plane of the house.
- l. Overall Architectural Character - A diversity of single family housing styles, colors, and configurations are encouraged throughout the development.

**6. Roadways.**

- a. Roadway Widths - Road rights-of-way, surface and base standards shall conform to St. Clair County Road Commission standards.
- b. Cul-de-sac Design - Cul-de-sacs shall be designed to allow for trees and landscaping within the interior area of the cul-de-sac. These areas may be planted with vegetation that is compatible with the plantings within the remainder of the development and shall be properly maintained by the homeowner association.

**7. Dedication of Open Space** - The dedicated open space shall be set aside in an irrevocable conveyance that is acceptable to the Township Attorney and approved by the Township Board, such as the following:

- a. A Conservation Easement as established by the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
- b. Master Deed as established by the State of Michigan Condominium Act, Public Act 59 of 1978, as amended.

- c. Distribution, gift or sale of the development rights to all property owners within the Open Space Community.

The above conveyance shall indicate all proposed uses of the dedicated open space, which shall also be shown on the approved open space or farmland community. The Township Attorney shall review the conveyance and assure the Township that such lands shall remain as open space in perpetuity. The conveyance shall also detail a maintenance schedule and funding for operation, maintenance and insurances for all common areas, facilities, projects and programs of the Open Space Community, and shall include methods of payment and collection.

## **8. Farmland Community.**

- a. Intent and Purpose - A major objective of Open Space development. The intent of this type of Open Space District is to preserve farmland and open space, while permitting the farmer to develop a part of his property for residential housing. It is also recognized that some families wish to live in areas where they can be assured that farming and open space will remain as their neighbors. There are also farmers who wish to maintain farming on the more suitable parts of their land for themselves and future generations. This district is designed to accomplish these goals.
- b. Requirements - All requirements for an open space community shall be met, except as modified below:
  - All lands not dedicated for residential dwelling units or their accessory uses, roadways, drainage, utility easements or common open space for the use of the residents shall be perpetually preserved and maintained as farmland, forestry, woodlots, meadows or open space.
  - The owner of the subject site, as part of this Farming Community, shall deliver and record the development rights for the farmland portion of the overall project equally to all the owners of the residential lots.
  - The Township may require the developer to preserve a minimum of a 50-foot buffer from croplands or active pastures.
  - The Township may require the developer to preserve a minimum of a 100-foot buffer from any area housing animals.

## **9. Subdivision Plat, Site Condominiums, or Lot Division.**

After, or in conjunction with, the Open Space or Farmland Community Approval noted in the previous sections, the petitioner must follow the regulations and procedures set forth in the Berlin Township development requirements together with all other State and County applicable standards, Subdivision Regulations, Site Condominium Ordinance or Lot Division Ordinance, and all applicable engineering standards.

**ARTICLE XII  
GENERAL PROVISIONS**

**SEC. 1200. CONFLICTING REGULATIONS:**

Wherever any provision of this 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 ordinance shall govern.

**SEC. 1201. SCOPE:**

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

**SEC. 1202. NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES, AND NONCONFORMING USES OF STRUCTURES AND PREMISES:**

A. Intent:

It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed.

It is recognized that there exist within the districts established by this Ordinance uses which were lawful before this Ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible permitted uses in the Districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

## B. Nonconforming Lots

- 1) 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 at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area, or width or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Appeals.
- 2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or occupied which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

## C. Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer per-missible 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 such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- 2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- 3) If such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

## D. Nonconforming Structures

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

- 1) No such structure may be enlarged or altered in a way which increases its nonconformity; for example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
- 2) Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- 3) Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

E. Nonconforming Uses of Structures and Land

If a lawful use of a structure, or of structures and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- 2) Any 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.
- 3) In any district, if no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification 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 equally appropriate or 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 Ordinance. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.
- 4) Any structure, or structure and land combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

- 5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
- 6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

F. Repairs and Maintenance

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 non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

G. Uses Allowed as Special Land Uses not Nonconforming Uses

Any use which is permitted as a special land use as provided in this Ordinance shall not be deemed a nonconforming use in such district.

H. Change of Tenancy or Ownership

There may be a change of tenancy, or ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.

**SEC. 1203. ACCESSORY BUILDINGS:**

Accessory buildings, except as otherwise specifically permitted in this Ordinance, shall be subject to the following regulations:

A. Basic requirements for all accessory buildings:

1. Where the accessory building is structurally attached to a main building, it shall be subject to, and shall conform to all regulations of this Ordinance applicable to main buildings.
2. Unless otherwise provided for detached accessory buildings shall be located in rear yards only.
3. Accessory buildings shall not be used for any uses which are not specifically permitted within the district in which they are located.
4. Agricultural buildings utilized in bona-fide farm operations are excluded from size and height restrictions as set forth herein.



5. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the minimum front yard required on the lot to the rear.
6. The aggregate amount of land covered by all buildings on a parcel or lot shall not exceed any limitations set forth in ARTICLE XI Schedule of Regulations.
7. Accessory buildings shall not be located in any easements established for purposes of construction, access and/or maintenance or other restrictive requirements.

B. Accessory buildings in agricultural and/or residential districts shall also comply with the following requirements which are in addition to Item A above.

1. Detached accessory buildings to residential use buildings:
  - a. Shall not be located closer than ten (10) feet to any main building; the minimum setback to side and rear lot lines is the minimum side yard setback required for the main building unless otherwise provided for.
  - b. Shall not cover more than twenty-five (25) percent of the rear yard in which it is located or the following standards, whichever is less:

<u>Lot/Parcel Size</u>	<u>Max. Bldg. Size</u>
Less than .50 ac.	480 s.f.
0.50 to 0.99 ac.	960 s.f.
1.00 to 1.99 ac.	1,200 s.f.
2.00 to 4.99 ac.	2,600 s.f.
5.00 to 10.00 ac.	3,600 s.f.
Over 10.00 ac.	5,000 s.f.

- c. In the case of multiple family developments accessory buildings shall not exceed an average of 500 square feet per dwelling unit; upon approval of the site plan, accessory parking buildings may be located in an interior side yard when such buildings are located not less than twenty-five (25) feet from the side lot line and when their vehicular entrances are not facing the side lot line.
  - d. On parcels/lots of less than two (2) acres, accessory buildings shall not exceed fourteen (14) feet in height; on two (2) acre or larger sites the height may be increased to eighteen (18) feet provided the setback to any property line is not less than thirty (30) feet.

2. Detached accessory buildings to permitted non-residential use buildings:
  - a. Shall be setback at least ten (10) feet from any main building; the minimum setback to side and rear property lines is the minimum side yard setback required.
  - b. Accessory buildings shall be limited to fourteen (14) feet in height unless they comply with the setback requirements of the main building at which point they may be built to the height limit of the district in which they are located.
  - c. The aggregate amount of land covered by all accessory buildings shall not exceed that covered by the main use building.

3. On parcels/lots of five (5) acres or more in size a permitted accessory building may be located in a non-required side or non-required front yard provided any such building complies with all setback requirements of a main building.
- C. Accessory buildings in Commercial and Industrial Districts shall also comply with the following requirements which are in addition to Item A above:
1. Accessory buildings shall comply with the setback requirements of the main building when abutting agricultural and residential zoning districts. When accessory buildings abut non-residential districts such buildings may be placed not closer than ten (10) feet to such line.
  2. Subject to approval of required site plans accessory buildings may be located in side yards when it is found such placements will not restrict reasonable and proper circulation and access by vehicles, pedestrians, service and emergency vehicles.
  3. The placement of small buildings in the front yard shall be limited to gate houses, parking attendant structures, other types of control structures and utility regulator facilities. Any such building shall not exceed ten (10) feet in height.
  4. The aggregate amount of land covered by all accessory buildings shall not exceed that covered by the principal permitted use.
  5. Accessory buildings which exceed one story in height or fourteen (14) feet shall comply with setback requirements of a main building.

#### **SEC. 1204. OFF-STREET PARKING REQUIREMENTS:**

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

- A. Off-street parking may be located within any nonrequired yard and within the rear yard setback unless otherwise provided in this Ordinance. Off-street parking shall not be permitted in a required front or side yard setback unless otherwise provided in this Ordinance.
- B. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for uses as parking by the applicant.
- C. Residential off-street parking shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of SEC. 1203. ACCESSORY BUILDINGS, of this Ordinance.
- D. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.

- E. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- F. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- G. In the instance of dual function of off-street parking spaces where operating hours of buildings to not overlap, the Board of Appeals may grant an exception.
- H. The storage of merchandise, motor vehicles for sale, trucks, or repair of vehicles is prohibited within or on any off-street parking area.
- I. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers as similar in type.
- J. When units or measurements determining the number of required parking spaces result in the requirements of a fractional space, the fraction shall require one parking space.
- K. For the purpose of computing the number of parking spaces required, the definition of USABLE FLOOR AREA shall govern.
- L. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
1) RESIDENTIAL	
a. Residential, One-Family & Two-Family	Two for each dwelling unit.
b. Residential, Multiple-Family:	
Efficiency Unit	Two and one-half (2½) for dwelling unit.
1 Bedroom Unit	Two and one-half (2½) for each dwelling unit.
2 Bedroom Unit	Two and one-half (2½) for each dwelling unit.
3 or more Bedroom Unit	Three and one-half (3½) for each dwelling unit.
c. Housing for the Elderly	One (1) for each two (2) units and one (1) for each employee. Should units revert to general occupancy then one and one-half (1½) spaces per unit shall be provided.
d. Mobile Home Park	Two (2) for each mobile home plus one (1) for each employee of the mobile home park plus one (1) for each three (3) mobile home sites for visitor parking.

## 2) INSTITUTIONAL

- a. Churches or temples One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
- b. Hospitals One (1) for each one (1) bed.
- c. Homes for the Aged and Convalescent Homes One (1) for each two beds
- d. Elementary and Junior High Schools One (1) for each one (1) teacher, employee, or administrator, in addition to the requirements of the auditorium.
- e. Senior High Schools One (1) for each one (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
- f. Private clubs or lodge halls One (1) for each three (3) allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
- g. Private golf clubs, tennis clubs, or other similar uses One (1) for each two (2) member families or individuals.
- h. Golf courses open to the general public, except miniature or "par-3" courses Six (6) for each one (1) golf hole and one (1) for each one (1) employee.
- i. Fraternity or sorority One (1) for each five (5) permitted active members, or one for each two (2) beds, whichever is greater.
- j. Stadium, sports arenas, or similar place of outdoor assembly One (1) for each three (3) seats or six (6) feet of benches.
- k. Theaters and auditoriums One (1) for each three (3) seats plus one (1) for each two (2) employees.

## 3) BUSINESS AND COMMERCIAL

- a. Planned Commercial or Shopping Center located in a B District One (1) for each one hundred twenty-five (125) square feet of usable floor area.
- b. Auto wash One (1) for each one (1) employee. In addition, reservoir parking spaces equal in number to five (5) times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided. Maximum capacity of the auto wash for the purpose of determining the required parking shall be determined by dividing the length in feet of each wash line by twenty (20).
- c. Beauty parlor or barber shop Three (3) spaces for each of the first two (2) beauty or chairs, and one and one-half (1½) spaces for each additional chair.
- d. Bowling alleys Five (5) for each one (1) bowling lane.

- e. Dance, halls, pool or billiard parlors, pinball arcades and similar game rooms, roller or skating rinks, exhibition halls, and assembly halls without fixed seats. One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes
- f. Establishments for sale and consumption on the premises of beverage, food, or refreshments One (1) for each two (2) persons allowed within the maximum occupancy load, as established by local, county or state fire, building or health codes.
- g. Food and appliance, household equipment repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses. One (1) for each one hundred (100) square feet of retail sales space plus one (1) for eight hundred (800) square feet of warehouse or storage area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.
- h. Automobile service stations Two (2) for each lubrication stall, rack, or pit; and one (1) for each gasoline pump.
- i. Laundromats and coin operated dry cleaners One (1) for each two (2) machines.
- j. Miniature "par-3" golf courses Three (3) for each one (1) hole plus one (1) for each employee.
- k. Mortuary establishments One (1) for each fifty (50) square feet of usable floor space in assembly rooms, parlors and slumber rooms.
- l. Motel, hotel or other commercial lodging establishment One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee.
- m. Motor vehicle sales and service establishments One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room. This shall be exclusive of parking areas used for the display of vehicles for sale.
- n. Retail stores except as specified herein One (1) for each one hundred otherwise fifty (150) square feet of usable floor space.
- o. Drive-in restaurants One (1) for each twenty-five (25) square feet of floor area plus one (1) for each employee.

#### 4) OFFICES

- a. Banks One (1) for each one hundred (100) square feet of gross floor space.
- b. Business offices or professional offices One (1) for each two hundred square feet of usable floor except as space. Indicated in the following item (c)

- c. Professional offices of doctors, dentists or similar professions      One (1) for each thirty (30) square feet of usable floor space in waiting rooms, and one (1) for each examining room, dental chair, or similar use area.

5) INDUSTRIAL

- a. Industrial or research establishments      Five (5) plus one (1) for every one and one-half (1½) employees in the largest working shift, or one (1) for every five hundred fifty (550) square feet of usable floor space, whichever is determined to be the greater. Space on site shall also be provided for all construction workers during periods of plant construction.
- b. Wholesale establishments      Five (5) plus one (1) for every one (1) employee in the largest working shift, or one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater.

**SEC. 1205. OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE:**

Wherever the off-street parking requirements in SEC. 1204. above require the building of an off-street parking facility, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- A. No parking lot shall be constructed unless and until a permit there-fore is issued by the Building Inspector or Official. Applications for a permit shall be submitted in such form as may be determined by the Building Inspector or Official, and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing that the provisions of this Section will be fully complied with.
- B. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

<i>Parking Pattern</i>	<i>Maneuvering Lane Width</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>	<i>Total Width of One Tier of Spaces Plus Maneuvering Lane</i>	<i>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</i>
<i>0 Degrees Parallel</i>	12 feet	8 feet	23 feet	20 feet	28 feet
<i>30 to 53 Degrees</i>	12 feet	8 feet six inches	20 feet	32 feet	52 feet
<i>54 to 74 Degrees</i>	25 feet	8 feet six inches	20 feet	36 feet 6 inches	58 feet
<i>75 to 90 Degrees</i>	24 feet	9 feet	20 feet	44 feet	64 feet

- C. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- D. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

- E. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.
- F. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distance from any adjacent property located in any single-family residential district.
- G. The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches (4'6") in height, measured from the surface of the parking area, on all sides where the next zoning district is designated as a residential district. Variations from the requirement of a masonry wall may be permitted by the Planning Commission in accordance with Section 1212.

When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

- H. The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the Township Board. The parking area shall be surfaced within one (1) year of the date the permit is issued.

Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings, and plans shall meet the approval of the Township Board.

- I. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- J. In all cases where a wall extends to any alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area and improved driver visibility.
- K. The Board of Appeals, after recommendation of the Planning Commission, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.

**SEC. 1206. OFF-STREET LOADING AND UNLOADING:**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated right-of-way. Such space shall be provided as follows:

- A. All spaces shall be provided as required in ARTICLE XI, SCHEDULE OF REGULATIONS, noted after minimum rear yards, except as hereinafter provided for “I” Districts.
- B. All spaces shall be laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with clearance of at least fourteen (14) feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface. All spaces in “I” Districts shall be provided in the following ratio of spaces to floor area:

<u>GROSS FLOOR AREA REQUIRED (IN SQUARE FEET)</u>	<u>LOADING AND UNLOADING SPACE IN TERMS OF SQUARE FEET OF USABLE FLOOR AREA</u>
0 - 1,400	None
1,401 - 20,000	One (1) space
20,001 - 100,000	One (1) space for each 20,000 square feet
100,001 and over	Five (5) spaces

**SEC. 1207. PERFORMANCE STANDARDS:**

No use otherwise allowed shall be permitted within any District which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area.

- A. Smoke, Dust, Dirt and Fly Ash.  
It shall be unlawful for any person, firm or corporation to engage in any use or operation which causes the emission of smoke, fumes, air-borne solids and the like in excess of the maximum allowable limit as regulated by all applicable State and Federal laws.
- B. Open Storage.  
The open storage of any industrial or commercial equipment, industrial or commercial vehicles and all industrial or commercial materials including wastes, except new merchandise for sale and/or display, shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of an obscuring wall or obscuring fence not less than the height of the equipment, vehicles and all materials to be stored. Whenever such open storage is adjacent to a residential zone or mobile home park in either a front, side or rear lot line relationship, whether immediately abutting or across a right of way from such zone, there shall be provided an obscuring wall or obscuring fence of at least six (6) feet in height.



- C. **Glare and Radioactive Materials.**  
Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electro-magnetic radiation such as x-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- D. **Fire and Explosive Hazards.**  
The storage and handling of flammable liquids, liquified petroleum, gases, and explosives shall comply with all applicable State laws.
- E. **Noise.**  
Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.
- F. **Odors.**  
Creation of offensive odors shall be prohibited.
- G. **Wastes.**  
No waste shall be discharged in the public sewer system or any public or private storm drainage facilities or upon any lands in Berlin Township which is dangerous to the public health and safety.

**SEC. 1208. PLANT MATERIALS:**

Whenever in this Ordinance a greenbelt or planting is required, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. All required greenbelts shall be at least ten (10) feet in width and no plant materials shall be located closer than four (4) feet to the property line. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.

- A. **Plant Material Spacing**
  - 1) Plant materials shall not be placed closer than four (4) feet from the fence line or property line.
  - 2) Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
  - 3) Evergreen trees shall be planted not more than thirty (30) feet on centers.
  - 4) Narrow evergreens shall be planted not more than six (6) feet on centers.
  - 5) Deciduous trees shall be planted not more than thirty (30) feet on centers.
  - 6) Tree-like shrubs shall be planted not more than ten (10) feet on centers.
  - 7) Large deciduous shrubs shall be planted not more than four (4) feet on centers.

B. Suggested Plant Materials

Minimum Size

- 1) Evergreen trees            Five (5) feet in height
  - a. Juniper
  - b. Hemlock
  - c. Fir
  - d. Pine
  - e. Spruce
  - f. Douglas Fir
  
- 2) Narrow Evergreens            Three (3) feet in height
  - a. Column Hinoki Cypress
  - b. Blue Columnar Chinese Juniper
  - c. Pyramidal Red Cedar
  - d. Swiss Stone Pine
  - e. Pyramidal White Pine
  - f. Irish Yew
  - g. Douglas Arbor Vitae
  - h. Columnar Giant Arbor Vitae
  
- 3) Tree-like Shrubs            Four (4) feet in height
  - a. Flowering Crabs
  - b. Russian Olives
  - c. Mountain Ash
  - d. Dogwood
  - e. Redbud
  - f. Rose of Sharon
  - g. Hornbeam
  - h. Hawthorn
  - i. Magnolia
  
- 4) Large Deciduous Shrubs    Six (6) feet in height
  - a. Honeysuckle
  - b. Viburnum
  - c. Mock Orange
  - d. Forsythia
  - e. Lilac
  - f. Ninebark
  - g. Cotoneaster
  - h. Hazelnuts
  - i. Evonymus
  - j. Privet
  - k. Buckthorn
  - l. Sumac

- 5) Large Deciduous Trees                      Eight (8) feet in height
  - a. Oaks
  - b. Hard Maples
  - c. Hackberry
  - d. Planetree (Sycamore)
  - e. Birch
  - f. Beech
  - g. Ginko
  - h. Honeylocust
  - i. Hop Hornbeam
  - j. Sweet Gum
  - k. Linden

C. Trees Not Permitted

- 1) Box Elder
- 2) Soft Maple (Red, Silver)
- 3) Elms
- 4) Poplars
- 5) Willows
- 6) Horse Chestnut (Nut Bearing)
- 7) Tree of Heaven
- 8) Catalpa

**SEC. 1209. SIGNS:**

- A. The following conditions shall apply to all signs erected or located in any use district.
  - 1) All signs shall conform to all codes and ordinances of the Township, and where required, shall be approved by the Building Inspector or Official and a permit issued.
  - 2) No sign, except those established and maintained by the Township, County, State or Federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.
  - 3) No signs otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located, except that for a planned commercial or shopping center develop-ment involving three (3) acres or more under one (1) ownership, the Board of Appeals may modify the height limitation.
  - 4) All directional signs required for the purpose of orientation, when established by the Township, County, State, or Federal government, shall be permitted in all use districts.
  - 5) Accessory signs shall be permitted in any use district.

- 6) Non-accessory signs shall be permitted only in I Districts; except that non-accessory signs pertaining to real estate development located within the Township and designed to promote the sale of lots or homes within a subdivision located within the Township may be permitted on a temporary basis in any district, but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale and shall be subject to the requirements and conditions of all codes and ordinances of the Township and approved by the Building Inspector.
- 7) Signs used for advertising land or building for rent, lease, and/or for sale shall be permitted when located on the land or building intended to be rented, leased, and/or sold.
- 8) Accessory freestanding signs may be located in the required front yard except as otherwise provided herein.
- 9) No flashing or intermittent illumination of any kind shall be used on any sign in order to eliminate possible hazard for drivers of motor vehicles.

B. In addition to the above, the following requirements shall apply to signs in the various use districts as follows:

USE DISTRICTS	REQUIREMENTS
R Districts	For each dwelling unit, one nameplate not exceeding two (2) square feet in area, indicating name of occupant.
R and RM Districts	For structures other than dwelling units, one (1) identification sign not exceeding ten (10) square feet, except a church bulletin board, not exceeding eighteen (18) square feet.
R and RM Districts	For rental and/or management offices, one (1) identification sign not exceeding six (6) square feet.
RM Districts	Signs indicating the name of multiple housing projects shall be permitted provided that no such sign shall be located closer than one hundred (100) feet to any property line in any adjacent single-family district.
B Districts	No sign shall project beyond or overhang the wall, or any permanent architectural features, by more than one (1) foot, and shall not project above or beyond the highest point of the roof or parapet.
B Districts	Freestanding, accessory signs or advertising pylons shall not be placed closer than one hundred (100) feet to any adjacent residential district.

B Districts	Freestanding, accessory signs or advertising pylons shall not be over one hundred (100) square feet in area.
B and I Districts	Freestanding, accessory signs may be located in the required front yard.
I Districts	Freestanding, accessory signs or advertising pylons shall not be placed closer than two hundred (200) feet to any adjacent residential district.
I Districts	Non-accessory signs shall be permitted but shall be spaced no closer than one thousand (1,000) feet between signs on the same side of the right-of-way.
I Districts	Freestanding, non-accessory signs, not to exceed three hundred (300) square feet in area, are allowed but shall comply with all requirements of ARTICLE XV, "SCHEDULE OF REGULATIONS" of this Ordinance.

**SEC. 1210. EXTERIOR LIGHTING:**

Outdoor lighting in conjunction with any site plan or special land use approval in all use districts shall conform to the following requirements as to type, location and intensity.

1. All outdoor lighting used to light a specific site shall be shielded downward or below horizontal (maximum of 85 degrees from vertical) to reduce glare and shall be so arranged and designed to reflect light away from all adjacent residential districts or existing adjacent residences and public right of ways. No light shall cast a glare onto adjacent roadways.
2. Artificial light shall be stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination. In addition, there shall be no bare bulb illumination of any kind exposed to public view.
3. There shall be no lights which tend to be harmful to natural forms of vegetation in any use district. Lighting shall utilize high pressure sodium bulbs.
4. The lighting sources (bulbs or lenses) for non-residential properties, shall not be visible from adjoining properties or rights-of-way. In addition, the height of the non-residential lighting fixture, including the base, measured from the established grade shall not exceed twenty (20) feet.
5. Decorative street lighting may be utilized along roadways or within designated parking areas. Such lighting fixture shall be directed downward minimizing the visibility of the lighting source, shall contain internal shielding or refractors to minimize glare, and shall not exceed 100 watts. The height of such lights shall not exceed twelve (12) feet.
6. No light measured (at eye level) at the property line between any use and any other use shall be greater than one-tenth (0.1) foot candle at the side and rear property line. Lighting along roadways shall not have an average maintained illuminance greater than 0.5 footcandles.

7. Lighting at any nonresidential drive and street intersection may be required upon Planning Commission determination. Fixtures located at an intersection shall be full cut-off fixtures. Such lighting shall not exceed an average of one (1) foot candle. Lighting at major intersections shall not exceed an average of one and four tenths (1.4) footcandles.
8. Ground lighting (up-lighting) used for the purpose of illuminating signs, landscaping and architectural details shall be shielded away from public view, directed solely at the object to be lit and landscaped as necessary.
9. A ground level illumination plan (in footcandles) which demonstrates compliance with the standards of this ordinance shall be required for each site or development at the time of site plan submittal. Upon completion of the project, an as-built ground level illumination plan shall be provided to the Township and verified by the Township Engineer.
10. The intensity of outdoor lighting in all use districts shall be limited to the following amounts, unless otherwise noted above:

**Schedule of Illumination**  
(in foot candles measured at the surface)

Use	Average Illumination Level (Foot candles)	Uniformity Ratio
<i>Residential, Church, School, and Child Care Facility</i>		
All parking, drive or maneuvering areas	0.8	4:1
Nonresidential		
Small (5-15 spaces)	0.8	4:1
Large (16-above)	2.4	4:1

**SEC. 1211. CORNER CLEARANCE:**

In all districts, no fence, wall shrubbery, sign or other obstruction to vision above a height of thirty (30) inches from the established street grades shall be permitted within the triangular area formed by the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

**SEC. 1212. WALLS:**

- A. Those use districts and uses listed below shall be required by this Ordinance, upon the review and approval of the Planning Commission, to construct and maintain on those sides abutting or adjacent to a residential district as specified below one (1) or a combination of the following:

- An obscuring masonry wall
- An obscuring fence
- Fence together with a landscaped greenbelt
- An obscuring landscaped greenbelt
- Fencing

USES	MINIMUM DIMENSION REQUIREMENTS
1) Off-Street Parking Areas	
2) B-1, B-2 and RM Districts	Walls: 4'6" high
3) I-1 and I-2 Districts	Fences: 4'6" high  Obscuring Fences: 4'6" high
4) Utility buildings, stations and/or substations, except that in cases where all equipment is contained within a building or structure constructed so as to be similar in appearance to the residential building in the surrounding area, the Board of Appeals may waive the wall requirement.	Fence and Greenbelt: 4'6" high & 10' wide  Landscaped Greenbelt: 4'6" high & 10' wide

B. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting Residential Districts. Required walls may, upon approval of the Board of Appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Board of Appeals in reviewing such request.

C. Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Building Inspector. All walls herein required shall be constructed of materials approved by the Building Inspector to be durable, weather resistant, rust proof and easily maintained.

Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of forty-two (42) inches below a grade approved by the Building Inspector and shall not be less than four (4) inches wider than the wall to be erected.

D. The Board of Appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet six inches (4'6") in height.

**SEC. 1213. USE RESTRICTION:**

No portion of a lot or parcel once used in complying with the provisions of this Ordinance for yards, lot area per family, density as for a development in the multiple-family district, or percentage of lot occupancy, in connection with an existing or proposed building or structure, shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

**SEC. 1214. LOT LIMITATIONS:**

No lot or parcel shall be occupied by more than one principal building unless proof is provided that the lot area, lot width and all setback requirements of this ordinance can be complied with by each principal building and its asso-ciated accessory buildings.

**SEC. 1215. SITE PLAN REVIEW:**

All permitted uses in RM, B-1, B-2, I-1, an I-2 districts and all special land uses in all districts shall require site plan approval by the Planning Commission prior to issuance of a building permit and shall comply with the following requirements and standards. Approval will be based upon the Articles of this Ordinance, the following requirements and such other conditions as may be imposed pursuant to Article XIII of this Ordinance.

A. Approval by the Planning Commission shall be contingent upon a finding that:

- 1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and
- 2) All the development features including the principal building or buildings and any accessory buildings, or uses, open trash or refuse containers, and any service road, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located as to interfere with police or fire equipment access. Public streets adjacent or through the proposed development shall be required upon a finding that it is essential to promoting and protecting public health, safety and general welfare through continuation of the public street system.
- 3) The site plans and elevations of the buildings (principal and accessory) shall be in harmony with the general character of the area.

The required number of copies of the Site Plan Review and/or Special Land Use application together with the same number of copies of all the required drawings and illustrations shall be presented to the Township Clerk 14 days prior to the next regular meeting of the Commission to be forwarded to the Planning Commission, Community Planner and Township Engineer and/or Township Attorney where necessary. All of the following detailed information must be submitted.

B. Application Form (obtainable from the Township Clerk)

- 1) Applicant's name and address
- 2) Name of the proposed development
- 3) Common description of the property
- 4) Complete legal description
- 5) Dimensions of land, width, length and acreage
- 6) Existing zoning and zoning of adjacent properties
- 7) Proposed use of land
- 8) Name, address, city and phone number of the firm or individual who prepared site plan
- 9) Name and address of applicant if not the legal owner
- 10) Signature of the legal owner, if not the applicant



- C. Site Plan (Drawing(s) and Illustration(s) fully dimensioned)
- 1) Location map drawn at scale of 4"=1 mile (show nearest major intersection).
  - 2) Location of all existing and proposed structures and uses.
  - 3) All aisles, drives and parking areas (include the number of spaces in each).
  - 4) Screening and/or protective walls.
  - 5) Principal and accessory buildings.
  - 6) Location of existing and proposed rights-of-way, widths of all abutting streets, alleys and easements.
  - 7) Types of facing materials to be used on structures.
  - 8) Elevations (front, sides and rear views) of all sides of the building(s).
  - 9) Typical floor plan(s).
  - 10) Seal of registered Architect, Landscape Architect, Land Surveyor, Professional Planner or Engineer who prepared the plan. In cases of minor structural alterations where professional services are not required, the Planning Commission may waive this requirement.
  - 11) Density calculations.
  - 12) Existing buildings or improvements on the site and all land adjacent to the site within 100 feet.
  - 13) Designation of units by type of buildings.
  - 14) Interior sidewalks and sidewalks within right-of-way.
  - 15) Exterior lighting locations and methods of shielding.
  - 16) Trash receptacle location and method of screening.
  - 17) Landscape plan.
  - 18) Drive or street approaches including acceleration, deceleration and passing lanes, if appropriate.
  - 19) All utilities located on or serving the site.
  - 20) Loading and unloading area.
  - 21) Total floor area.
  - 22) Designation of fire lanes.
  - 23) Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimension, noise, vibration and emission levels and other data of such equipment or machinery.
  - 24) Location and extent of development of recreation areas, where necessary.
  - 25) Every site plan submitted to the planning commission, shall contain such information and be in such form as the planning commission may prescribe in its rules. No site plan shall be approved until same has been reviewed by the planning commission for compliance with all applicable ordinances and regulations of Berlin Township. Any use which handles materials regulated by state or federal agencies, due to their hazardous nature, shall file all required information with the Township Fire Department as prescribed by law.

In any situation where a proposed development involves a site which has been occupied or is believed to be affected by an activity involving materials which are regulated by the federal or state governments, due to their hazardous nature, an Environmental Site Assessment, Phase I will be required to be filed with the site plan. This assessment shall be prepared by experienced and qualified professionals. Should the Phase I report or any subsequent required report indicate any site contamination, improvement of any portion of the site adversely impacted or effected by the contamination shall be delayed until the applicant can furnish proof that: the problem is corrected or that a mitigation plan has been approved MDNR, or other regulating agency, and that said plan is satisfactorily underway and that the proposed site improvements will not adversely effect the mitigation operation.

D. Sign Information

Separate drawings of the proposed sign(s) to be erected on the site may be submitted at the time of site plan review or at a later date. The location of all signs shall be shown on the site plan but the following detailed information may be deferred until later.

- 1) Height of the sign above the ground.
- 2) Surface of the sign (material and dimensions).
- 3) Area of sign surface.
- 4) Lettering of sign drawn as it will appear on the erected sign need not be in the style of the finished sign but must be neatly printed in the size and of a weight approximating that of the final constructed sign.
- 5) Method of illumination, if any.

E. Procedures

The application will be placed on the agenda of a regular meeting of the Planning Commission and consideration for acceptance, revision or disapproval will be given.

**SEC. 1216. ACCESS REQUIREMENTS:**

All uses in every use district shall abut and have direct access to a public street with a minimum right-of-way width of sixty-six (66) feet. In cases of a dead-end street, shall provide a turn-around or cul-de-sac to conform with applicable St. Clair County Road Commission specifications.

**SEC. 1217. SWIMMING POOLS, PRIVATE:**

Private swimming pools may be permitted provided a building permit is obtained. Plans and construction shall meet the requirements of the State Health Department. Swimming pools shall not be constructed or placed nearer to the street than the established front building line. In-ground pools and above ground pools less than 48 inches high shall be securely fenced with a chain link or other non-climbable fence and have self-closing fence gates which shall be kept locked when the pool is not in use. Above-ground pools shall have swing-up steps or a similar method of controlling entry to the pool which shall be kept locked when the pool is not in use.

All electrical installation or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code or applicable Township electrical code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. No portion of a swimming pool or associated structure shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.

**SEC. 1218. PERFORMANCE GUARANTEE.**

Whenever improvements such as paving of parking areas, greenbelts, screen walls, or other improvements are required by this Ordinance they shall be shown on a site plan for the proposed use. In addition, the owner of the subject property shall deposit with the Township Clerk a performance guarantee, in the form of cash or bank letter of credit in the amount of 10% of the estimated cost of the required improvements. The entire sum shall be returned to the owner upon satisfactory completion of the required improvements within the time limits specified herein.

## **SEC. 1219. BASEMENT AND/OR GARAGE DWELLINGS PROHIBITED.**

Buildings erected after the effective date of this Ordinance as garages or accessory buildings, shall not be occupied for dwelling purposes. No basement or cellar shall be used or occupied for dwelling purposes at any time.

## **SEC. 1220. TEMPORARY DWELLINGS**

The following nature of temporary dwellings may be permitted subject to the terms and conditions set forth herein.

- A. During the construction of a permanent home one (1) mobile home may be permitted on said site for a period of one (1) year with one (1) six (6) month extension. The permit would be issued by the building inspector following acceptance of a satisfactory financial guarantee by the Township Board which provides for the removal of the mobile home upon completion of the permanent dwelling or the violation of any of the requirements set forth herein. Basic required conditions prior to moving any mobile home on to a site require the applicant to:

1. Furnish adequate proof of ownership of the property.
2. Submit a complete and satisfactory application for a building permit including a site plan and construction drawings for the permanent home.
3. Submit copies of approved permits for septic tank, well and curb cut from appropriate St. Clair County agencies.
4. Install permanent septic tank and well and furnish documentation of any necessary inspections and approvals.
5. Provide an explanation and timetable regarding the proposed construction program for the permanent home.
6. Obtain approval from the Township Board regarding the establishment of a five hundred (\$500.00) dollar financial guarantee to the Township which provides for the removal of the mobile home in the event the applicant defaults in meeting any of the Township requirements. The building inspector shall submit a report to the Township Board prior to their consideration of the request indicating whether the plans for the permanent structure comply with township requirements and are therefore eligible for a building permit.

Subsequent to obtaining Township Board approval the applicant may move the temporary mobile home on to the site and complete the mobile home setup pursuant to township requirements; this includes obtaining all necessary building, electrical and plumbing permits and inspections. A Occupancy Permit is required from the building inspector before the mobile may be lived in. The applicant shall initiate and carry on construction of the permanent home in a due and diligent manner and shall remove the mobile home within thirty (30) days of issuance of the occupancy certificate of the permanent home or expiration of the permit period whichever is less.

- B. Temporary housing, including mobile homes, for seasonal agricultural workers may be permitted subject to the following conditions:
1. Any such housing shall comply with all applicable housing codes.

2. All such dwellings shall be connected to water and sewage disposal systems approved by the St. Clair County Health Department and/or any other applicable authorizing agency.
3. A minimum of twelve thousand (12,000) square feet of land area shall be provided for the exclusive use of each temporary dwelling unit.
4. Any such temporary living unit shall only be occupied between March 31 and October 31. Occupancy shall also be limited to farm hands and/or laborers providing agricultural services to the farm upon which they are living.
5. The owner of the property upon which the temporary dwellings are located shall apply to the Township Building Inspector not less than forty-five (45) days prior to occupancy each year. The application shall include current certificates of approval on the well, septic tank and any other approvals which are required at that time.
6. The Building Inspector shall provide a written report, verifying compliance with any other local requirements, to the Township Board who shall establish the five hundred (\$500) dollar financial guarantee providing for the vacation of residence in the fall and thereby granting annual approval of the temporary farm hand dwellings.

## **SEC. 1221. PONDS.**

Ponds for agricultural and/or private accessory residential purposes shall comply with the following requirements:

- A. All such ponds shall be located on sites containing at least five (5) acres of land. A site plan shall be submitted to the Building Inspector and building permit obtained prior to the construction of all ponds, enlargement of an existing pond or cleaning of a pond that results in the removal of over thirty (30) cubic yards of material.
- B. Only excavated ponds are permitted. No embankment ponds shall be constructed.
- C. Ponds created by damming of rivers or streams must have prior documented approval from all applicable agencies such as: Michigan DNR and/or DEQ, St. Clair County Drain Commission and/or the Corp of Engineers. If applicable, ponds constructed within a control zone of any natural waterway shall also obtain prior approval of all other required agencies.
- D. In addition, ponds shall be so constructed that natural drainage patterns from adjacent parcels are not disrupted and that any increased water run-off, overflow, spillage or seepage shall not encroach upon adjacent properties owned by others. Any ponds involving an overflow outlet shall obtain necessary approval(s) for such an outlet and shall furnish any additional data deemed necessary by the Building Inspector.
- E. All ponds shall be constructed according to the standards of the USDA Soil Conservation Service Technical Guide 378, Design Criteria for Excavated Ponds, that is hereby made part of this ordinance, and shall also comply with the following additional requirements:
  1. There shall be no slope in excess of 5:1 (five feet horizontal to one foot vertical) until the water reaches a depth of five (5') feet.
  2. Excavated materials, in excess of one thousand (1,000) cubic yards, shall not be hauled off the site unless a Special Land Use Approval permit is obtained pursuant to this ordinance.

3. No pond shall be within fifty (50') feet of any domestic water supply.
4. There shall be a minimum setback of fifty (50') feet from the water's edge to all adjacent property lines and one hundred (100') feet from any street right-of-way or residential dwelling.
5. There shall be a minimum setback from a septic tank and/or tile disposal field of not less than seventy-five (75') feet.
6. Plans submitted shall show the location and approximate depth of any domestic water supply well.

All ponds other than those for private residential and agricultural purposes as regulated above, shall require site plan approval by the Planning Commission prior to making application for a building permit.

**SEC. 1222. UTILITY TRANSMISSION LINE APPROVAL.**

Except as provided elsewhere in this Ordinance the erection, construction, alteration, addition, reconstruction, or replacement by public utilities of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distributing systems, collection, supply or disposal system including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection therewith shall require Township Board approval after a public hearing is held by the Planning Commission, the application has been reviewed and a recommendation made to the Township Board based on the following requirements:

A. Requirements For All Utility Uses

1. All such utility lines shall follow existing utility corridors where possible.
2. No such utility use shall remove from active agricultural use any property shown as Prime or Unique Farmland on the Soil Conservation Service's Important Farmland Map of St. Clair County.
3. Existing vegetation shall be maintained throughout the corridor except for installation of towers, pipelines, service roads and similar facilities.
4. Noise levels at the property line, that is the pressure level of sounds, shall not exceed the following decibel levels when adjacent to the following types of uses:

<u>Sound Level</u>	<u>Adjacent Use</u>	<u>Where Measured</u>
50 dBA	Open Space/Recreation	Common Property Line
50 dBA	Residential	Common Property Line
50 dBA	Agricultural	Common Property Line
65 dBA	Commercial	Common Property Line
75 dBA	Industrial	Common Property Line

The sound levels shall be measured using a weighted decibel measurement (referenced to 20 micropascals) and with a type of audio output meter approved by the U.S. Bureau of Standards. Where noise levels will exceed the above standards for the corridor width proposed, a widening of the corridor, consistent with these requirements, will be necessary.

B. Requirements For High Voltage Electric Transmission Lines.

1. High voltage electric transmission lines of more than 345 kv shall not be located closer than five hundred (500) feet to occupied residences.
2. Corridor width shall be a minimum of two times the proposed tower height for all voltages so that accidental collapse of any tower will be confined to the utility right-of-way.
3. Only single pole-type towers shall be used for all operating voltages except where installation of heavy angle lattice towers is required in order to change the direction of the line.
4. The electric field strength for all voltage levels shall not exceed 0.8 kv per meter, as measured at the edge of the corridor right-of-way.

**SEC. 1223. FRONTAGE.**

Every dwelling or principal building shall be located on a lot or parcel which shall front upon a public street for the full width of the lot. Modification of this requirement may be permitted by the Zoning Board of Appeals in cases where unusual topographic or geographic conditions exist, or by the Planning Commission in the case of development on permitted internal circulation drives, such as but not limited to, apartment complexes, office and commercial developments, and the like.

**SEC. 1224. GRADING AND DRAINAGE REQUIREMENTS.**

- A. Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. There shall be a sloping grade beginning at the finished grade line at the front of the building to the front lot line. This requirement, however, shall not prevent the maintenance of natural existing grades or the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the run-off of surface water from flowing onto adjacent properties.
- B. When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing grades and not to permit run-off of surface water to flow onto the adjacent properties. A minimum grade of eighteen (18") inches shall be established above the crown of the road for all dwellings, unless otherwise determined by the Building Inspector, due to topography of site.
- C. Final grades shall be approved by the Building Inspector. The Building Inspector may require the developer to submit a plan for proper drainage prepared by a Registered Civil Engineer or a Registered Land Surveyor.

## SEC. 1225. CREATION OF BUILDING SITES.

In addition to lot/parcel requirements and frontage on a public street, the Township shall also consider the size and shape of potential building sites and/or potential landlocking of remaining properties. Lot lines created to form building sites shall be designed and aligned in reasonable arrangements. Any such lot lines shall be as straight as possible and shall not include irregularly shaped lot lines arranged in unconventional alignments in order to comply with minimum lot width and/or depth requirements. In order to avoid future problems regarding the usability of excessively deep and narrow parcels, the Township shall not allow the creation of parcels with a depth which exceeds five (5) times the width of the lot/parcel. This requirement may, however, be waived when it is demonstrated that one or more of the following conditions exist:

- A. The portion of the lot/parcel which exceeds the depth-to-width ratio is unbuildable due to wetland, floodplain, etc., conditions.
- B. That the width of the parcel is actually of sufficient width to allow construction of an acceptable public street down the center of the parcel with standard and usable lots being created along both sides of the roadway. It shall also be demonstrated that such a development would not result in an excessively deep cul-de-sac roadway without reasonable connections to adjoining properties.
- C. That two or more makers of excessively deep parcels submit a legally binding document(s) which establishes in perpetuity all necessary cross easements, construction and maintenance agreements necessary to ensure timely and proper access to rear portions of the properties. The proposed roadway shall also comply with all Township requirements regarding public streets.
- D. The creation of any lots along an established road shall also be viewed in terms of potential landlocking of remaining portions of the overall site to the rear of the new parcels/lots. To avoid that eventuality, the Township may require the reservation of a street stub at least every one-quarter ( $\frac{1}{4}$ ) mile.
- E. The process of creating lots involves at least two governmental agencies, Berlin Township and St. Clair County. In order to avoid confusion and minimize any unnecessary expenditures of time and monies any person desiring to create a building site (lot/parcel) shall first apply to the Township Planning Commission with the following information:
  1. At least a preliminary sketch plan of the desired property split or subdivision. The plan shall be in sufficient detail as to permit establishing the location of the proposed building site/lots together with size and shape of each site/lot. In any situation where a new public road(s) is proposed the location and alignment of such road(s) shall be indicated along with any proposed road connections to adjoining properties.
  2. The Planning Commission shall check the proposed development for conformance with applicable zoning requirements. In the event a public road or stub street connector is proposed the potential continuity of a public road system in the area shall also be considered. After the Planning Commission finds that the proposal conforms with local requirements and needs the applicant shall then proceed with preparing proper plans and obtaining all additional reviews and approvals required by the Township, County and any other designated agency.

3. No site work shall be initiated on any development and/or roadway prior to receiving required reviews and approvals by all designated agencies. The applicant shall furnish evidence, to the Township, of performance bonds to guarantee completion and maintenance of proposed improvements; the guarantee shall cover repairs and maintenance of any improvement for not less than two years following their completion and acceptance.

## **SEC. 1226. HOME OCCUPATIONS**

Home occupations may be permitted in residential dwelling units when the applicant demonstrates that such uses are secondary and incidental to the principal use of the dwelling as a residential living unit. In addition, no such use shall adversely effect neighboring residential uses nor detract from a desirable residential environment in neighborhood area. The basic criteria for evaluating home occupation are set forth herein and involves: general condition, Type I (Incidental) and Type II (Special Land Use) home occupations. Basic standards and procedures are as follows:

### **A. Basic Requirements for All Home Occupations.**

1. No outside storage of materials, goods, supplies, displays or other items is permitted.
2. Only full time residents of the premises shall be involved in home occupation activities occurring on the premises. Other persons who may be involved in off-site activities related to the home occupation shall not park on the premises while so involved.
3. No structural modifications or exterior changes in the appearance of the building shall be made, including the provision of separate means of entrance and exit, no visual evidence of the activity shall be possible from outside the building.
4. No equipment, materials or processes which are incompatible with the use of the dwelling for residential purposes shall be used or stored upon the site.
5. No such use or activity shall create any noise, dust, odors, fumes, vibration, electrical or electromagnetic interference, flashing lights, glares or other objectionable influences which are detectable to the normal senses of persons or equipment located off the premises.
6. The activity shall be in full conformity with all local, state and federal laws and requirements.
7. No signs relating to the home occupation shall be permitted other than the street address and name of the resident as provided for in this ordinance.

### **B. Type I - Incidental Home Occupations.** Such activities shall be minor in physical and functional characteristics and shall be strictly incidental to the principal use and occupancy of the dwelling for residential purposes. Type I uses shall be deemed as permitted accessory uses in single family, two family multiple family and mobile home dwellings when they fully and continuously comply with the preceding basic requirements and the following additional requirements:

1. Shall only involve those activities, processes, products and/or services which are provided to a user, buyer or subscriber primarily through telephone, fax, modem and off-site contacts.



2. Client pick-ups shall only be by appointment only, within a limited number of hours, which do not interfere with adjacent or neighboring properties. Acceptable levels of vehicular trips, generated by other than residents of the premises, shall not exceed five (5) visitations per week by clients and/or delivery/pickups. All such trips shall involve only personal type vehicles or delivery type vans.
3. Home occupations shall only involve equipment and/or processes characteristic of a home office, home workshop or home handicraft activity.
4. All home occupation activities shall be conducted entirely within the main residential dwelling, including related storage, and not more than fifteen (15) percent of the floor area within said dwelling shall be devoted to such home occupation. Freestanding accessory building together with attached garages, patio areas and breezeways are excluded from such use and computation.
5. The Building Department shall issue a violation notice for anyone who violates required conditions and shall obtain full compliance or cause the activity to be terminated. If applicable, the operator of any activity in violation of Type I requirements may seek approval of the use under the terms and conditions of a Type II home occupation as set forth herein.

C. **Type II - Special Land Use Home Occupations.** In limited situations home occupations may be considered which involve a higher intensity use characteristic than the Incidental Home Occupation. Any such consideration shall provide for the protection and maintenance of a reasonable and desirable residential environment expected by residents in a residential area, as determined by Planning Commission review and approval. Such home occupation shall be considered under the basic procedures and requirements established under Article XIII Special Land Use Approval Requirements and according to the following additional requirements:

1. That the proposed use is located within a detached single family dwelling and attached accessory structure unless otherwise provided for in this Section. No more than twenty (20) percent of the dwelling and attached accessory building shall be devoted to such home occupation. Further, the home occupation shall not reduce the amount of garage parking to a point where on-street parking is required.
2. The use shall not involve products, services and/or activities resulting in traffic patterns inconsistent with those normally experienced in a residential neighborhood area. Vehicular visitations generated by clients and pick-up/deliveries related to the home occupation shall not exceed ten (10) such visitations during any weekly period.
3. The applicant shall agree, in writing, that all activities related to the home occupation, which result in visits to the premises by nonresidents, shall be provided in such a manner as to avoid conflicts with adjacent and neighboring properties. Any such agreement shall specifically set forth the number of hours and days during which these contacts will take place and such contacts shall be substantially less than those provided in a conventional business or office setting.
4. Home occupations involving periodic sales gatherings in the home shall indicate in writing as to the frequency of and volume of such gatherings. The applicant shall provide a drawing indicating available off-street and on street parking. Pursuant to these requirements a home may involve periodic instructions in crafts and fine arts.

**SEC. 1227. GEOTHERMAL HEAT PUMPS AND DRAINAGE.**

When a use in the Township utilizes a geothermal heat pump system improvement, consideration shall be given to the potential adverse effects that may result to adjacent land uses. Such systems if not properly designed and installed may result in increased water runoff, excess wetness or flooding of neighboring properties, or the community at large. Therefore, any such system shall consist only of a closed loop[ system and use of properties within the Township that utilize a heat pump, or similar heating/cooling system, shall conform with the following requirements:

- A. Install and operate a closed loop system that recirculates geothermal heat pump water rather than discharging such water on to the surface area of the property.
- B. In the event of an emergency situation that temporarily precludes recirculation of water, provisions shall have been made to contain such water upon the host property or recharge the aquifer with such water.

**SEC. 1228. SITE CONDOMINIUM SUBDIVISION.**

The intent of these requirements is to ensure that all site condominium subdivisions are developed in compliance with accepted planning and engineering standards applicable to similar forms of development, as reflected in the Township=s ordinances and requirements.

Single-family detached condominiums may be allowed as a permitted use in any single-family zoning district, subject to site plan review by the Planning Commission. Commercial and industrial condominiums shall also be regulated by this Section.

**1. Submission Requirements.**

All site condominium subdivision plans shall be submitted for review, as required by Article XXII, Sec. 1215 of this Ordinance and Section 66 of the Condominium Act, PA 59 of 1978 as amended, and include the following additional information:

- a. A boundary survey of the site condominium subdivision site.
- b. A plan delineating all natural and man-made features on the site, including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
- c. The location, size, shape, area and width of all condominium units and common areas and the location of all proposed streets.
- d. A copy of the Master Deed and a copy of all restrictive covenants to be applied to the project. Such deeds shall include an acceptable means of converting the project to a platted subdivision, under the provisions of Act 288 of 1967, at some future date.
- e. A utility plan showing all sanitary sewer, water and storm drainage improvements, plus all easements granted to the Township for installation, repair and maintenance of all utilities.
- f. A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision plan.
- g. A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities.

2. **Review Procedures.**

Pursuant to authority conferred by Section 141 of the Condominium Act, all site condominium subdivision plans shall require approval by the Planning Commission before units may be sold or site improvement initiated. In determining whether to approve a site condominium subdivision plan, the Planning Commission shall consult with the Township Attorney, Planner and Engineer regarding the adequacy of the submission as it relates to the Berlin Township Zoning Ordinance and requirements of the Condominium Act. The review process shall consist of the following two steps:

a. **Preliminary Plan Review.**

In the preliminary review phase, the Planning Commission shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans, with all applicable provisions of the Berlin Township Zoning Ordinance. Plans submitted for preliminary review shall include information specified in items a., b. and c. of the Submission Requirements in subsection 1 above.

b. **Final Plan Review.**

Upon receipt of Preliminary Plan Approval, the applicant shall prepare the appropriate engineering plans and apply for Final Review by the Planning Commission. Final plans shall include information as required by the Submission Requirements in subsection a. through g. above. Such plans and information shall be reviewed by the Township Attorney, Engineer and Planner. Further, such plans shall be submitted for review and comment to all applicable local, County and State agencies. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.

3. **District Requirements.**

The development of all site condominium subdivisions shall observe the applicable yard setback and minimum floor area requirements of the zoning district within which the project is located. The density of development of the project shall be no greater and spacing no less than would be permitted if the property were a platted subdivision.

4. **Design Standards.**

All streets and roads in a condominium subdivision shall conform to the standards of the Berlin Township Land Division Ordinance. Public streets shall be required to provide continuity to the public road system. All other improvements in condominium subdivisions shall meet the standards of the Berlin Township Land Division Ordinance.

5. **Utility Easements.**

The condominium subdivision plan shall include all necessary public utility easements granted to Berlin Township to enable the installation, repair, and maintenance of all necessary public utilities to be installed. Appropriate dedications for sanitary sewers, lines and storm drainage improvements shall be provided.

6. **Final Acceptance.**

The Township shall also require all the appropriate inspections. After construction of the site condominium subdivision, an as-built reproducible mylar of the completed site improvements (excluding dwelling units) is to be submitted to the Township for review by the Township Engineer. A final certificate of occupancy and any construction bonds or letter of credit will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the Township.

**SEC. 1229. KEEPING OF HOOFED ANIMALS AND THE LIKE:**

A. The keeping of hoofed animals and the like solely for the private or domestic use of persons residing on the property and not for commercial purposes, shall be subject to the following conditions:

1. In the "A" Agricultural District, the minimum required area for the keeping of any hoofed animals shall be five (5) acres and shall be accessory to the primary residence. The maximum number of hoofed animals kept on a single property shall be as follows: One (1) animal for the first five (5) acres of property. One (1) additional animal shall be permitted for each whole (1) acre (43,560 square feet) above and beyond the initial five (5) acres. Nothing in this Ordinance shall prohibit a family from raising livestock or small animals in an "A" district for the consumption of the family.
2. All animals kept on residential properties shall be afforded adequate shelter and shall also be fenced. The refuse and waste resulting from the maintenance of animals shall be controlled upon the premises and shall be cared for or disposed of within a reasonable time so as to minimize hazards of health and offensive effects. Each animal shall be maintained in a good, healthy condition in a manner not causing injury to the health of any animal or the health and safety of any person

B. The above regulations shall not apply to any property that is keeping animals for non-domestic/commercial purposes as an operating farm as recognized by the State of Michigan. Proof of the existence of the active farm and the use of such animals as part of the farm must be provided to the Township and verifiable through the Michigan Department of Agriculture, the Farm Service Agency of the United States Department of Agriculture, Farm Profit and Loss Statement (Schedule F) or other appropriate farm regulatory agency. The farm operator shall also provide the Township with the necessary information to verify that the farm operator is following Generally Accepted Agricultural Management Practices (GAAMPs) in the keeping of said farm animals.

**SEC. 1230. PRIVATE ROADS:**

The construction of a private road shall be specifically prohibited in Berlin Township. All roads constructed within the Township, including roads constructed within a site condominium subdivision, shall be dedicated to the public.

**SEC. 12.31. WIND ENERGY CONVERSION SYSTEMS (Windmills):**

A. Definitions.

1. Wind Energy Conversion Systems (hereinafter referred to as WECS): Any device that converts wind energy to mechanical or electrical energy.
2. Wind Rotor: The blades plus hub to which the blades are attached used to capture wind for purposes of energy conversion.
3. Tower Height: The height of the actual tower, plus one-half the rotor diameter on horizontal axis installations, and on vertical axis installations, the distance from the base of the tower to the top of the unit.
4. Survival Wind Speed: The maximum wind speed a WECS in automatic, unattended operation (not necessarily producing power) can sustain without damage to structural components or loss of the ability to function normally.

B. Applicable Zones. WECS may be permitted in any zoning district subject to Special Land Use Approval Requirements with the following exception:

1. The erection of one (1) windmill on a single parcel of land at a height equal to or less than fifty (50) feet shall be considered a permitted use in the Agricultural Residential Zoning District and shall not require special land use and Planning Commission approval. The approval of a windmill under this requirement shall be subject to administrative approval through the Building Department, as well as all other applicable provisions of this Section of the Zoning Ordinance.
2. Wind energy conversion systems mounted on a principal or accessory structure shall be considered a permitted use in any zoning district and shall be subject to building department review and approval. In no instance shall the height of a structure mounted WECS be permitted to exceed fifteen (15) feet above the maximum height requirement of the district in which it is located.

C. Applicability of Ordinance. The standards that follow shall apply to systems intended for the provision of the electrical or mechanical power needs of the owner/operator of the system; also, such a system shall be for one main building and its accessory buildings only. For systems intended for uses other than the above, Planning Commission approval shall be required. Said approval shall cover the location of the system (shown on a survey of the property) on the site, the noise generated by the system, assurances as to the safety features of the system, and compliance with all applicable state and federal statutes and regulations. Planning Commission approval shall specifically be required for arrays of more than one wind energy conversion system and for systems wherein one wind energy conversion system is intended to provide the electric power for more than one main building.

D. Standards for and Regulation of WECS.

1. Construction: Tower construction shall be in accordance with the latest edition of the Michigan Building Code, and any future amendments and/or revisions to it.
2. Electric-Magnetic Interference (EMI): Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio frequency energy which would cause harmful interference with radio and/or television broadcasting or reception, and shall comply with the provisions of Title 47, Chapter 1, Part 15 of the Code of Federal Regulations, as amended from time to time.

3. **Setbacks:** The structural design shall be signed and sealed by a professional engineer, registered in the State of Michigan, certifying that the structural design complies with all of the standards set forth for safety and stability in all applicable codes then in effect in the State of Michigan and all sections referred to herein above. The minimum setbacks for such towers from all abutting streets or adjacent property shall be a distance equal to one and one-half (1½) times the height of the tower, except that no tower shall be located within the front yard.
  - (a) The WECS shall be located a sufficient distance from any overhead utility lines, excluding service drops, such that a structural failure of any portion of the WECS or its supporting structure will not cause any portion of it to fall within five (5') feet of utility lines.
4. **Maximum Height:** The maximum height permitted as a special land use shall be one hundred and fifty (150') feet, unless otherwise prohibited by any state or federal statutes or regulations.
5. **Minimum Blade Height:** The minimum distance between the ground and any protruding blades utilized on a WECS shall be fifteen (15') feet, as measured at the lowest point of the arc of the blades.
6. **Labeling Requirements:** A minimum of two signs shall be posted between 4.5' and 6' above ground level on the tower structure, facing 180 degrees opposite of one another, warning of high voltage. In addition, the following information shall be posted on a label or labels on the generator or alternator of the WECS.
  - (a) The maximum power output of the system and the wind speed at which it is achieved.
  - (b) Nominal voltage and maximum current.
  - (c) Manufacturer's name and address, serial number and model number.
  - (d) Maximum survival wind speed and the emergency and normal shut down procedures.
7. **Utility Company Notification:** The Detroit Edison Company shall be notified in writing of any proposed interface with that company's grid prior to installing such interface and shall conform with any legislated requirements governing installations of WECS so as to comply with the Utility Tariff specifications.
8. **Safety:** The WECS' manufacturers shall document that the WECS model has been tested and certified by Underwriter's Laboratory, or other such applicable independent accrediting agency, and that when installed in accordance with recommended specifications shall have a maximum survival wind speed of not less than eighty (80) miles per hour.
9. **Noise:** The maximum level of noise to be generated by a WECS shall be fifty (50) decibels, as measured on the dBA scale, measured at each property line at any time.

E. **Submission Requirements.**

1. For a WECS that requires Building Department review only, the following information shall be submitted with an application:
  - a. Name of property owner, address and parcel number.
  - b. A plot plan or mortgage survey showing the proposed location of the WECS.
  - c. Detailed specifications of the WECS proposed, including the type, model number, dimensions of tower and rotor, and noise generated from the unit.
  - d. Other relevant information as may be reasonably requested.
2. For all other WECS applications, site plan approval and special land use approval shall be required from the Planning Commission and all submission requirements of the Zoning Ordinance shall be met.

F. Miscellaneous.

1. All electric line/utility wires shall be buried under ground except in A/R, Agricultural/Residential Districts.
2. No tower shall be permitted to maintain lighting of any kind, unless otherwise required under applicable law or regulations.
3. When towers are supported by guy wires, the wires shall be clearly visible to a height of at least six (6) feet above the guy wire anchors.
4. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed one hundred forty (140) square feet in area nor twelve (12') feet in height, and must be located at least the number of feet equal to the height of the tower from any property line.
5. The tower and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the tower and related structure shall be dismantled and removed from the property within sixty (60) days.
6. Shadow Flicker. The WECS shall be designed in such a manner as to minimize shadow flicker on a roadway and any existing structure. The Planning Commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
  - a. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.
7. Any mechanical equipment associated with and necessary for operation, including a building for batteries and storage cells shall be enclosed with a six (6') foot fence. The supporting tower shall also be enclosed with a six- (6') foot fence unless the base of the tower is not climbable for a distance of twelve (12') feet.
8. Decommissioning. An operator shall remove any and all parts associated with a WECS within twelve (12) months once the device has become inoperable. The applicant shall submit a plan describing the intended disposition of the WECS at the end of its useful life, and, if the property is not owned by the applicant, shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.
9. A building permit shall be required for the installation of any WECS.





**ARTICLE XIII**  
**SPECIAL LAND USE APPROVAL REQUIREMENTS**

**SEC. 1300. GENERAL REQUIREMENTS AND PROCEDURES:**

- A. For all special land uses, a site plan shall be submitted to the Berlin Township Planning Commission and conform to the Requirements and Procedures for Site Plan Review set forth in Section 1215. If the plans meet the required standards of this ordinance, Article and applicable section and indicate no adverse effects, which in the opinion of the Planning Commission, cause injury to the residents, users or adjoining property, or the Township as a whole, the Planning Commission shall approve the use. The Planning Commission shall have sole power to approve or disapprove all special land uses. In consideration of all applications for special land use approval, the Planning Commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed special land use if it is to be approved. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary within the scope of the law as set forth below.
1. The proposed special land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
  2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to route of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
  3. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
  4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
  5. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.
  6. The proposed use is necessary for the public convenience at the proposed location.
  7. The proposed use is so designed, located, planned and to be operated that the public health, safety and welfare will be protected.

8. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other per-mitted land uses in the zoning district.
- B. Hearing. In hearing any request for special land uses, the Planning Commission shall conduct a public hearing as provided for by State law (Section 103 of PA.110 of 2006, as amended).
- C. Approval. If the Planning Commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which have been allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special land use so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the Township not later than one hundred twenty (120) days thereafter, or such approval shall automatically be revoked, provided, however, the Planning Commission may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not exceeding six (6) months as it shall determine to be necessary and appropriate.
- D. Denial. If the Planning Commission shall determine that the particular special land use(s) requested does not meet the standards of this Ordinance or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the Township, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.
- E. Record. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.
- F. Conditions. The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State law and this ordinance which it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following.
  1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use 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 regulations; be related to the standards established in this ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

**SEC. 1301. AIRPORTS:**

Airports, airfields, runways, hangars, beacons and other facilities involved with aircraft operations may be permitted in the A District subject to the provisions of this ordinance and the following special standards:

- A. Airports, airfields, runways, hangars, beacons and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aviation Administration, which agency shall approve the preliminary plans submitted to the Township. All aircraft approach lanes, as established by appropriate aviation authorities, shall be so developed as to not endanger the permitted land use. Permitted height of buildings, structures, telephone and electrical lines and appurtenances thereto shall be considered factors in consultations with the appropriate aeronautical agencies, in considering an airport use.
  
- B. Yard and Placement Requirements
  - 1. No building or structure or part thereof, shall be erected closer than sixty (60) feet from any property line.
  
  - 2. Those buildings to be used for servicing or maintenance shall not be located closer than 200 feet to the outer perimeter of the site where abutting property is zoned residential.
  
- C. Performance Requirements

All lights, used for landing strips and other lighting facilities, shall be so arranged as not to reflect towards adjoining non-airport uses.
  
- D. Prohibited Uses

The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted, except that wrecked aircraft may be stored in the open for not more than thirty (30) days from the date of the accident.
  
- E. Off-street Parking Requirements
  - 1. One (1) parking space shall be required for every three (3) airplanes stored on the site.
  
  - 2. All off-street parking shall be paved and constructed to the standards of this ordinance.

**SEC. 1302. CEMETERIES:**

Cemeteries are a permitted use in the A District subject to the requirements of this ordinance and the following special standards:

- A. The area to be occupied by the cemetery shall not have more than sixty (60) percent of its land area in recorded plots.
- B. The continuity of all roads present or planned for adjacent areas shall be satisfactorily resolved to provide safe and prompt access to and egress from such areas.
- C. All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.
- D. All sides of the cemetery shall be screened from any residential view by providing a continuous and completely obscuring wall or fence, four feet six inches (4'6") in height, measured from the surface of the ground. The Planning Commission may permit a "chain-link" type fence adequately screened with deciduous and evergreen material.
- E. Approval shall be given contingent on a satisfactory drainage plan approved by the Township Engineer and the St. Clair County Health Department.

**SEC. 1303. CHURCHES AND PUBLIC BUILDINGS:**

Churches and public buildings are permitted in the A, R and RM Districts subject to the requirements of this ordinance and the following special standards:

- A. Site Requirements
  - 1. Minimum site shall be two (2) acres in a single parcel.
  - 2. The site shall abut a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.
- B. Yard and Placement Requirements
  - 1. Front and rear yard - same as those listed for the district in which the special land use is requested.
  - 2. Side yard - same as those listed in the requested district for permitted nonresidential uses.
  - 3. Maximum lot coverage: same as for the district in which the special land use is requested.
- C. Off-street parking
  - 1. A facility without fixed seats or pews shall have one (1) parking space for every fifty (50) square feet of usable floor area.

2. No off-street parking shall be permitted in the front yard space.
3. All off-street parking shall be paved and constructed to the standards of this ordinance.

**SEC. 1304. COMMERCIAL, OUTDOOR RECREATION:**

Commercially used outdoor recreational space for adult or children's amusement parks, carnivals, rebound tumbling facilities, miniature golf courses, and golf driving ranges are permitted in the B-2 District subject to the following special standards:

- A. All lighting shall be shielded from projecting into adjacent residential districts.
- B. Parking areas shall be provided off the road right-of-way and shall be fenced with a four foot, six inch (4'6") wall or fence where adjacent to a residential district or existing residential use.
- C. Children's amusement parks must be fenced on all sides with a four foot, six inch (4'6") wall or fence.
- D. No loud speaker or public address system shall be used except by the written consent of the Township Board wherein it is deemed that no public nuisance or disturbance will be established.

**SEC. 1305. DISPOSAL AREAS:**

Disposal areas and landfills are permitted in A districts subject to the requirements of this ordinance and the following special standards:

- A. The location of all disposal areas within said districts shall be sufficiently distant from existing development so as not to be injurious to public health, safety and welfare, and in no instance shall the operation of the landfill be set back less than five hundred (500) feet from the road right-of-way and from any residential home, and the side line set back shall be a minimum of one hundred (100) feet from the property line of said licensee for the operation of said landfill.
- B. Disposal area activity shall only be allowed as a special land use activity within zoning districts specified in this Ordinance and subject to the provisions of this article.

The purpose of these procedures is to provide for the use of lands as disposal areas and to regulate and control said use for the preservation of public health, safety and welfare. Disposal areas are considered to be a temporary use of land only, therefore, the further intent of these provisions is to assure that such operations are conducive to and result in the reclamation of the land for other purposes. The requirements of this section shall be in addition to the requirement of all applicable State Laws.

1. Licensing Procedures:

- a) An application for the approval of a disposal area license shall be made by an owner of an interest in the land on which the disposal area is to be located to the Township Clerk. The Berlin Township Board is the final authority to issue the license applied for hereunder after receiving the approval of the Berlin Township Planning Commission for the special land use. The application shall be accompanied by information and documents identical to that presented to the Michigan Department of Public Health as required by State Law, and the regulations promulgated pursuant thereto. Further, each application shall include a description of existing development within a one-half (?) mile radius of the proposed disposal area. All applications shall be accompanied by a fee to be established by the Township Board to defray the costs of processing the same and to cover engineering and legal expenses.
- b) All licenses issued hereunder shall expire December 31st of each year but may be renewed upon payment of an annual fee of Twelve Hundred (\$1,200.00) Dollars if the licensee has complied with all of the requirements of the license issued. The Berlin Township Board may revoke any license upon breach of any condition, safeguard or requirement provided for here in this ordinance or in the license issued and the licensee's bond would be forfeited. A license shall not be assignable.
- c) Each licensee shall submit a cash performance bond or irrevocable bank letter of credit for a sanitary landfill in an amount equal to Five Hundred (\$500.00) Dollars per acre of disposal area, but not less than Five Thousand (\$5,000.00) Dollars to be submitted as assurance for the maintenance of finished landfill site for a period of five (5) years after the landfill is completed. Surety bonds for other disposal areas shall be in an amount equal to one quarter of one percent of the construction cost of the facility but shall not be less than Five Thousand (\$5,000.00) Dollars.
- d) This ordinance does not prohibit an individual from disposing of refuse from his own household upon his own land as long as such disposal does not create a nuisance or hazard to health.

Rubbish accumulated as a part of the improvement or the planting of privately owned farmland may be disposed of on the property provided the method used is not injurious to human life or property or unreasonably interferes with the enjoyment of life and property.
- e) No license shall be issued until a certification of insurance is filed with the Township Clerk indemnifying the Township of Berlin in the amount of Two Hundred Fifty Thousand (\$250,000.00) Dollars each person and Five Hundred Thousand (\$500,000.00) Dollars each occurrence, from any claim or loss incurred by the Township of Berlin as a result of the issuance of this license in the operation of the landfill pursuant to said license.

2. General Requirements for Licensing:

Where refuse is removed from premises, to a location other than its point of origin, for disposal or where refuse is not removed from the premises but disposed at the point of origin in such quantities as to become of public health concern:

- a) Eligibility. Only those sites designated as landfills on the adopted Solid Waste Management Plan for St. Clair County are eligible for issuance of a permit under this Section.
- b) Plans and Specifications. Refuse disposal facilities shall be designed in accordance with this Article by a registered professional engineer. Detailed plans, specifications, and necessary reports shall be submitted in triplicate to the Berlin Township Planning Commission and the Berlin Township Board for review, approval and file. Alterations or deviations from these plans shall also be submitted for approval and file.
- c) Inspections and Evaluation. The Township's Engineer shall make routine inspections and evaluations of solid waste disposal operations. A written notice of deficiencies, together with recommendations for their correction, shall be provided to the operator for the appropriate individual, firm or corporation thereof responsible for the solid waste disposal operation.

C. Sanitary landfills shall be governed by the following requirements:

1. Design. The design and engineering of all sanitary landfills shall be in compliance with all rules and regulations of the Michigan Department of Natural Resources promulgated under Act 641 of the Public Acts of 1978, as amended.
2. Reuse Plan. A Reuse Plan, prepared at a scale of not less than 1"= 50', shall be submitted showing proposed final contours at a 2 foot contour interval and indicating that the site can feasibly be restored after operations are complete in a manner suitable for a permitted use or uses in the A District.
3. On-site Roads. On-site roads shall be designed and constructed so that traffic will flow smoothly and will not be interrupted by ordinary inclement weather. On-site roads shall be maintained and kept dust free at all times.
4. Adjacent Public Roads. Public roads adjacent to said premises, used for haul routes, must also be maintained and kept dust free. Stop signs must be posted at the egress road for traffic safety. Street address for the parcel shall be posted on a sign which can be readily seen and read from the public right-of-way.
5. Fire Protection. Suitable measures shall be available to extinguish accidental fires.
6. Supervision of Operation. A landfill operation shall be under the direction of a responsible individual at all times.



7. Limited Access. Access to a sanitary landfill shall be limited to those times when an attendant is on duty and only to those authorized to use the site for the disposal of refuse, except as otherwise approved in writing by the Berlin Township Board. Access to the site shall be controlled by a suitable barrier.
8. Site Maintenance. Measures shall be provided to control dust and blowing paper. The entire area shall be kept clean and orderly.
9. Site Restoration. Restoration of the site shall begin immediately upon termination of filling operations and the final cover shall be maintained with healthy, growing plant materials for a period of five (5) years after completion.
10. Hours of Operation. Disposal areas shall not conduct operations between the hours of 5:00 p.m. and 7:00 a.m. nor on Sundays or legal holidays. Other reasonable restriction on hours of operation may be included in or added to the conditions of individual licenses.
11. Fencing. The entire site shall be completely fenced with a fence of not less than six (6) feet in height nor squares larger than two (2) inches, preferably a chain link type fence.

#### **SEC. 1306. GOLF COURSES:**

Golf courses are permitted in the A and R districts subject to the requirements of this ordinance and the following special standards:

- A. Major accessory uses such as a restaurant and bar shall be housed in a single building with the club house. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures. No structure shall be located closer than seventy-five (75) feet from the lot line of any adjacent residential land and from any existing or proposed public right-of-way.
- B. All parking areas shall be paved and constructed in accordance with the standards of this ordinance.
- C. All ingress and egress from the site shall be directly onto a major or secondary thoroughfare.
- D. All outdoor lighting shall be shielded to reduce glare and arranged so as to reflect the light away from abutting residential areas.
- E. Whenever included, swimming pools shall be provided with a protective fence not less than six (6) feet in height, and entry shall be provided by means of a controlled gate or turnstile.



## **SEC. 1307. GENERAL HOSPITALS:**

General hospitals are permitted in the A, R and RM districts subject to the requirements of this ordinance and the following special standards:

- A. All such hospitals shall be developed on sites consisting of at least five (5) acres in area for the first one hundred (100) beds or less plus one (1) acre for each additional twenty-five (25) beds.
- B. The proposed site shall have at least one property line abutting a major thoroughfare and vehicular ingress and egress to the site shall be directly onto said thoroughfare.
- C. The site plan shall show that a proper relationship exists between the abutting thoroughfare and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.
- D. All buildings of two (2) stories or less in height shall be set back one hundred (100) feet from all property lines. An additional set-back of twenty (20) feet shall be provided for each story above the first two.
- E. Ambulance and delivery areas shall be screened from view by a masonry wall of at least six (6) feet in height.
- F. All the development features including the principal building and any accessory buildings, open spaces, and all service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property.

## **SEC. 1308. KENNELS, RAISING OF FUR BEARING ANIMALS:**

The raising of fur bearing animals, including commercial dog kennels, offices of a veterinarian and animal clinic, mink, rabbit, cat, and canine establishment uses are permitted in the A District subject to the requirements of this ordinance and the following special standards.

- A. Site Requirements
  - 1. Minimum site size: 10 acres.
  - 2. The site shall abut a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or a proposed right-of-way of major thoroughfare on the Township's adopted Thoroughfare Plan.
- B. Yard and Placement Requirements

No building or runs shall be closer than one hundred (100) feet from any abutting property line and all runs or breeding areas shall be enclosed.
- C. Off-street Parking Requirements:
  - 1. Kennels: One (1) parking space shall be provided for every five (5) kennel runs.

2. Other uses shall provide parking to accommodate the maximum number of visitors using the facility at any one time.
3. All off-street parking shall be paved and constructed to the standards of this ordinance.

#### **SEC. 1309. LARGE SCALE RECREATION:**

Large scale recreation uses, including golf driving ranges, riding stables, gun clubs, parks, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type rides and the like, (but not including circuses, outdoor drive-in theaters, motorcycle and auto racetracks, and horse or dog tracks) are permitted in the A District subject to the requirements of this ordinance and the following special standards:

##### **A. Site Requirements**

1. All approved uses shall be on a contiguous parcel of twenty (20) acres or more in area.
2. All vehicular ingress and egress from the site shall be directly onto a major thoroughfare, having a designated right-of-way of 120 feet on the Township's adopted Thoroughfare Plan, or a secondary thoroughfare with a right-of-way of 86 feet.
3. Review of the proposed site plan shows that a proper relationship exists between the major or secondary thoroughfare and all proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.

##### **B. Yard and Placement Requirements:**

1. All development features including the principal building related to minimize the possibility of any adverse effect upon adjacent property. This shall mean a minimum distance of two hundred (200) feet to the property line of abutting residentially zoned lands and public rights-of-way; provided where topography conditions are such that the building would be screened from view, this requirement may be modified by the Planning Commission.
2. No activity shall take place within thirty (30) feet of the perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property by means of a protective wall or greenbelt as describe in Article XII of this ordinance.
3. Related accessory commercial uses may be permitted in conjunction with the recreation use when it is clearly incidental to the main recreational character of the use and such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site except that owned by the proprietor.
4. Permitted accessory uses which are generally of a commercial nature, shall be housed in a single building. Minor accessory uses which are strictly related to the operation of the recreation use itself, such as a maintenance garage, may be located in separate building.

5. No buildings shall be located in a flood plain area.
- C. Other Requirements:
1. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six (6) feet in height, and entry shall be by means of a controlled gate or turnstile.
  2. When a gun club is proposed it shall be clearly established that the activities shall in no way endanger the health, safety or welfare of any persons and will not become a nuisance in any manner whatsoever.
- D. Off-street Parking:
1. There shall be one (1) parking space for every two (2) member families or individuals in private pools and/or one (1) parking space for every two users at maximum capacity plus one (1) space for each employee in public parks.
  2. All off-street parking shall be constructed to the standards of this ordinance.

#### **SEC. 1310. MINING AND EXTRACTION:**

Soil, sand, clay, gravel, topsoil or similar removal operations are permitted in the A District subject to the requirements of this ordinance and the following special standards:

- A. Where sand, gravel, topsoil or other substances are proposed to be removed from the site where found to another site, an annual operating permit is required to be obtained from the Township Board, after approval of the special use by the Planning Commission.
1. Application For Permit. The following information must be submitted as a part of the special land use request, for use by the Township Board in determining whether an operating permit should be issued.
    - a) Names and addresses of parties of interest in said premises setting forth their legal interest in said premises.
    - b) Full legal description of the premises wherein operations are proposed.
    - c) Detailed statement as to method of operation, such as wet or dry method, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
    - d) Detailed statement as to exactly what type of deposit is proposed to be extracted.
    - e) Proposed method of filling excavation where quarrying results in extensive under-surface excavation.

- f) Map prepared by a registered civil engineer or surveyor, at a scale of not more than two hundred (200) feet to the inch of the excavation area, and real property within ½ mile of such area with the names of the owners of record of such property, all residences and commercial establishments within such area and contour lines at not more than five (5) foot intervals. Such owner shall also present a map showing the proposed contours to which the excavation area would be established upon completion of the excavation operations.
- g) A Reuse Plan, drawn at a scale of not more than one hundred (100) feet to the inch, shall be submitted, showing final contours at a 2 foot interval. The Reuse Plan shall clearly show that the site will be fully rehabilitated by replacement of topsoil and vegetation and shall indicate that the site can be utilized for one or more permitted or special land uses in the A District.

- 2. Permit Fees. The sum established by resolution of the Township Board shall accompany the application for a mining and extraction permit. Said sum is to be used to defray the cost of engineering services, investigation, publication charges, and other miscellaneous administrative expenses occasioned by processing such application. Permits issued by the Township Board shall be for a period of one year expiring December 31st each year, and such permits may be renewed by the payment of an annual inspection fee established by resolution of the Township Board. Such permits shall be renewed as herein provided for so long as the permittee complies with all of the provisions of this ordinance or other conditions of this permit.
- 3. Permits. After reviewing all of the information submitted by the applicant and such other information as may be in the hands of the Township Board, said Board shall at a regular meeting determine whether or not a permit will be issued. The permit shall be issued in the event the Township Board shall determine that the issuance of the permit would not detrimentally affect the public health, safety, morals and general welfare of citizens of Berlin Township.

B. Required Conditions. The following requirements shall be mandatory:

- 1. Pit Operations
  - a) Where an excavation in excess of five (5) feet deep will result from such operations, the applicant shall erect a fence completely surrounding the portion of the site where the excavation extends, said fence to be not less than five (5) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on.
  - b) All interior roads used in connection with said excavation site shall be kept dust free by hardtopping with cement or bituminous substance or by chemical treatment. All ingress and egress to the site shall be directly onto a public road designated as a major or secondary thoroughfare on the Township's adopted Thoroughfare Plan and having a paved surface suitable for carrying Class A loadings on a year round basis. Weights for Class A loadings shall be as defined by the St. Clair County Weighmaster.

- c) The slopes of the banks of the excavation shall in no event exceed a minimum of seven (7) feet to one (1) foot (seven feet horizontal to one foot vertical) and where ponded water results from the operation, this slope must be maintained and extended into the water to a depth of five (5) feet.
- d) Where quarrying operations result in a body of water, the owner or operator shall place appropriate "Keep Out" - "Danger" signs around said premises not more than two hundred (200) feet apart. In order to protect water wells and the water supply of the Township, the pumping or draining of water from such quarrying operations is absolutely prohibited. A drag line or other method of quarrying approved by the Township Board shall be followed.
- e) No cut or excavation shall be made closer than one hundred (100) feet from the nearest street or highway right-of-way line nor nearer than one hundred (100) feet to the nearest property line; provided however, that the Planning Commission may prescribe more strict requirements in order to give sublater support to surrounding property where soil or geographic conditions warrant it.

## 2. Regulations for Stripping

- a) No soil, sand, gravel, clay or similar materials shall be removed below a point six inches above the mean elevation of the center line of the nearest existing or proposed street or road established or approved by the St. Clair County Road Commission, except as required for the installation of utilities and payments.
- b) No soil, sand, clay, gravel or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with.
- c) That sufficient topsoil shall be stockpiled on said site so that the entire site, when stripping operations are completed, may be recovered with a minimum of four (4) inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the stripping operations. In the event, however, that such stripping operations continue over a period of time greater than thirty (30) days, the operator shall replace the stored topsoil over the stripped areas as he progresses. In order to stabilize the replaced topsoil, the areas shall be seeded with an appropriate grass cover as replacement of topsoil progresses.

- C. Surety Bond. The Township Board shall, to insure strict compliance with any regulations contained in this Section or required as a condition of the issuance of a permit either for mining or topsoil stripping, require the permittee to furnish a surety bond executed by reputable surety company authorized to do business in the State of Michigan in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder. In fixing the amount of such surety bond the Township Board shall take into account the size and scope of the proposed quarry, probable cost of rehabili-tating the premises upon default of the operator, estimated expense to compel operator to comply by Court Decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

### **SEC. 1311. MANUFACTURED DWELLING UNITS (EXCLUDING MOBILE HOME PARK DWELLINGS).**

Manufactured dwelling units erected on building sites located outside of a mobile home park shall comply with the following requirements:

- A. All such dwelling units shall comply with all applicable building code requirements and shall furnish documentation of such compliance when seeking a building permit. In addition, any accessory structures to the dwelling shall comply with all applicable codes and ordinances.
- B. Any addition to a manufactured dwelling shall be designed and constructed to be compatible with the original structure. If the Building Inspector has any questions regarding the compatibility of an addition the plans shall be submitted to the Planning Commission for review and approval.
- C. All such dwellings shall be permanently attached to a frost-free perimeter foundation conforming to all applicable Berlin Township building code requirements. If the applicant elects to set the dwelling on piers or another acceptable foundation which is not at the perimeter of the dwelling, then a perimeter foundation shall also be constructed. Any such wall shall be of such design, materials and construction as to conform with local building requirements and shall be similar in appearance to other foundation walls in the area. In addition, steps with porches shall be provided at all entry/exit doorways and shall conform with all applicable building code requirements with respect to materials, foundations, construction and shall be similar in appearance with steps and porches in the area.
- D. Such dwellings shall be provided with exterior siding, windows and doors which are similar to site built homes in the area.
- E. Such dwelling shall be provided with roof designs and materials which are similar to site built homes in the area and shall provide roof overhangs of at least twelve (12") inches. A minimum roof pitch of 4/12 is required.
- F. Such dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio that does not exceed three (3) to one (1), or is in reasonable conformity to site built homes in the area. In addition, each one-family dwelling unit shall provide a minimum width and depth of twenty-two (22') feet over seventy-five (75%) of the length of the dwelling. Two- family and multiple dwelling units shall conform to a similar width to depth ratio, however, the minimum width of the dwelling may be reduced to eighteen (18') feet.

- G. All portions of any hitches or other transporting devices shall be removed and any remnants shall be obscured by the perimeter foundation.

The Township, in reviewing any such proposed dwelling(s) shall not seek to discourage reasonable architectural variations but shall seek to promote the reasonable compatibility of the character of dwelling units and thereby protect the economic welfare and value of all dwellings in the area. In order to assist the Township in making such determinations any applications for approval shall be accompanied by plans, elevations and listings of exterior building materials. As used in this section the term "site built dwellings in the area" shall be construed to require comparison to dwellings within three hundred (300') feet in the R, One-Family District, and one quarter mile from the proposed dwelling on lands zoned A, Agricultural. If there are no homes within the above radius than the nearest twenty-five (25) site built dwellings shall be considered.

**SEC. 1312. NURSERY SCHOOLS:**

Nursery schools, day nurseries and child care centers are permitted in the A, R and RM Districts subject to the requirements of this Ordinance and the following special standards:

A. Site Requirements

- 1. The site shall contain a minimum of one hundred fifty (150) square feet of outdoor play area for each child and shall not be less than five thousand (5,000) square feet in total.
- 2. Any such use shall not be permitted in the interior of any single family residential district but shall be located adjacent to a multiple or nonresidential district.

B. Yard and Placement Requirements

- 1. No building, use, or activity shall be located closer than 30 feet to any property line.
- 2. The recreation area shall be completely enclosed by a masonry wall or chain link fence of not less than four (4) feet in height.

C. Off-street Parking Requirements

- 1. One parking space shall be required for each employee.
- 2. All off-street parking shall be paved and constructed to the standards shown in ARTICLE 12.
- 3. Sufficient area shall be provided for automobiles waiting to pick up children so that they are not forced to wait or stand on a public street. This shall mean at least one (1) off-street waiting space for each three (3) children enrolled in the school, nursery or child care center.



**SEC. 1313. ORPHANAGE, HOME FOR THE AGED, CONVALESCENT OR REST HOME:**

A convalescent or rest home, or a home for the aged, indigent or physically handicapped or an orphanage is permitted in the A, R, and RM Districts subject to requirements of this Ordinance and the following special standards:

A. Site Requirements

1. All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.
2. The maximum extent of development shall not exceed thirty (30) children or patients per acre.

B. Yard and Placement Requirements

No building other than a structure for strictly residential purposes shall be closer than sixty (60) feet to any property line.

C. Off-street Parking Requirements

1. There shall be one (1) parking space provided for each two beds and one (1) parking space for every two staff members.
2. All off-street parking shall be paved and constructed to the standards shown in ARTICLE 12.

**SEC. 1314. PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES:**

Public and private colleges and universities and other similar institutions are permitted in the A and R Districts subject to the requirements of this ordinance and the following special standards:

A. Site Requirements

All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of major thoroughfare on the Township's adopted Thoroughfare Plan.

B. Yard and Placement Requirements

1. No building other than a structure for residential purposes shall be closer than seventy-five (75) feet to any property line.
2. Height of residential buildings in excess of the minimum requirements may be allowed provided minimum yard setbacks where yards abut land zoned for residential purposes, are increased by two(2) times the height by which said building exceeds the maximum height requirements of the zone.
3. Those buildings to be used for servicing or maintenance, such as heating plants, garages, storage structures and the like shall not be located on the outer perimeter of the site where abutting property is zoned for residential purposes.



C. Off-street Parking Requirements

1. The quantity of parking spaces shall be such as to adequately service the faculty, students and maintenance staff of the institution and provide property for access to the public streets.
2. All off-street parking shall be paved and constructed to the standards of this ordinance.

**SEC. 1315. USED AUTOMOBILE SALES, MOBILE HOME SALES, TRAVEL TRAILER RENTAL:**

The above uses are permitted in the B-2 district subject to the requirements of this ordinance and the following special standards:

- A. All lighting shall be shielded from adjacent uses in such a manner that it does not project beyond the property line.
- B. Ingress and egress to the site shall be at least fifty (50) feet from a street intersection or adjacent residential district.
- C. When adjacent to districts zoned for residential use, there shall be provided a completely obscuring masonry wall four feet six inches (4'6") in height along the abutting residential district.
- D. There shall be no strings of flags or bare light bulbs, or flashing illumination of any kind anywhere on the site.

**SEC. 1316. UTILITY AND PUBLIC SERVICE FACILITIES:**

Public utilities buildings including telephone exchange buildings and repeater stations, electric transformer substations and stations and gas regulator stations (all without storage yards) when operations requirements necessitate the locating within the district in order to serve the immediate area are permitted in the A, R, and RM districts subject to the requirements of this ordinance and the following special conditions:

- A. All such uses shall be completely enclosed and the site fenced with a suitable chain link fence not less than four (4) feet in height.
- B. The entire site shall be landscaped according to the standards of Article XII and the plant materials properly maintained in a healthy and growing condition.
- C. All buildings constructed shall be so designed that they are architecturally compatible with surrounding buildings and dwellings.
- D. All parking and driveway areas shall be paved and constructed according to the standards of Article XII.

**SEC. 1317. USES NOT OTHERWISE SPECIFIED:**

The Planning Commission may also consider under the terms and conditions set forth herein for Special Uses, including a public hearing, other uses representing unique and/or innovative development characteristics. Any such use shall be evaluated upon its particular characteristics, and no such use shall involve any improvements and/or operations which are incompatible with existing and future land uses in the area. To ensure that end, the Planning Commission may impose limitations and/or conditions which depart from established requirements in the district in which the proposed use is to be located. The receipt and consideration of any use(s) under this condition do not mandate approval if adequate and proper safeguards cannot be reasonably established.

**SEC. 1318. COMMUNICATION TOWERS:**

Wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication and similar communication services and facilities shall be permitted as Special Land Uses in agricultural and industrial zoning districts when found to be essential or desirable to the public convenience or welfare, as well as in conformance with the following requirements:

- A. The applicant shall submit a written statement and technical verification regarding the nature of any transmission, electromagnetic fields, or any other radiation emitted from the facility and any potential hazards to humans, animals and/or any other materials or property in the area.
- B. A written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted. This information shall also address the potential for the tower or other mounting structure and/or antennae to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Monopole (stealth or equivalent type) antenna structure shall be required where such are technologically feasible.
- C. In order to maximize the efficiency of providing such services, while minimizing the impact of such facilities on the Township, co-location of such facilities on existing tower or other existing structures is required, when feasible. The applicant shall furnish a graphic illustration of the nearest communication towers, in all directions, which could accommodate the proposed communication device together with a description of what service area they were seeking to establish. An applicant shall furnish written documentation as to why a co-location at another site is not feasible, and whether they have in fact contacted the owners of existing facilities to determine if co-location is possible. If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to construct any mounting structure to accommodate additional users, and that they will lease excess space on a tower facility and commit itself to:
  - 1. Promptly respond to any requests for information from a potential co-user of their tower/antenna;
  - 2. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and

3. Make no more than a reasonable charge for a shared use lease. If the application involves co-location on an existing tower or structure the public hearing requirements are waived provided that the applicant provides a letter of agreement confirming their adherence to the terms and conditions required of the tower owner in obtaining their facility approval. The Planning Commission may, in such situations, grant approval of a revised site plan if they find the proposed facility is in full compliance with the original terms and conditions of approval. In the event such conformance is not evidenced, than a new public hearing shall be held and conformance to required conditions fulfilled. Co-location on high tension power line transmission towers may also be granted by the Planning Commission in any zoning district provided they find the proposed improvements are compatible with the surrounding area.
- D. The development of any such facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning districts in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at large. Furthermore, the location and improvement of facilities, as provided for herein, shall also be subject the following additional requirements:
1. Towers may be located in the A Agricultural, I-1 Light Industrial and I-2 Heavy Industrial Districts after Special Land Use public hearing provided the location of such facilities does not represent a hazard to the use and/or development of other uses on the site and in the area. The development of new towers is specifically prohibited in all other zoning districts in the Township unless otherwise specifically provided for. The Township strongly encourages the development of required towers on suitably owned Township property. Consult with the Township Planning Commission, or its designee, with regard to Township property locations prior to submitting an application.
  2. The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the Township, and any such tower shall not exceed one hundred seventy-five (175') feet in height above the average grade around the structure it is mounted upon.
  3. The tower site shall be landscaped in an aesthetically pleasing and functional manner. Such landscaping shall provide screening of the accessory building at the base of the tower.
  4. Setback requirements shall be determined in relation to the tower/antenna design and collapse data previously required in this section. Minimum setback requirements, unless otherwise provided for, are as follows:
    - a. When adjacent to non-residential zoning districts, the setback shall not be less than the overall height of the tower/antenna. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a non-residential zoning district may be reduced to one-half the overall height of the tower. In no instance shall any tower facility be located within a front yard. Accessory buildings shall be screened from view by an obscuring greenbelt.

- b. When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas, plus fifty (50) feet. This setback shall also apply to all accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirement to any side or rear yard property line abutting any residential district may be reduced to the overall height of the tower/antennas. In no instance shall any tower be located within a front yard. Accessory buildings and uses shall be screened from the view of any public right-of-way and residential zoning district by an obscuring greenbelt.
  - c. Further modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is non-buildable due to wetlands, floodplains or other significant limitations. It shall also be found that no adverse effects on reasonable development patterns in the area would be created by developing the tower.
- E. In addition to site plan review, the Commission, by a majority vote, may require an independent third party review of an application. Such shall be conducted by a professional engineer specializing in this type of communication technology and will be paid for by the applicant. The requirement for such a review shall be based on one (1) or more of the following findings:
- 1. The applicant has not substantiated a need for a proposed tower to the satisfaction of the Commission.
  - 2. The applicant has been unable to disprove the ability to co-locate on an existing tower or structure to the satisfaction of the Commission.
  - 3. The applicant has not substantiated the structural safety of a structure to be commensurate with the requested setback.
  - 4. The data supplied by the applicant is determined to be disorganized, confusing or misleading by the Commission.
  - 5. The applicant has not substantiated that alternative technology cannot be utilized as a substitute to the proposed tower construction.
- F. All structures, buildings and required improvements shall comply with all other applicable codes and ordinances and shall be continuously maintained in a safe, healthful and complying condition. The permit may include a requirement for periodic structural and safety inspections and reports, as deemed necessary by the Township Board.
- G. The applicant shall submit a letter agreeing that should any tower/antenna facility, approved under this Section, cease to be used for its approved use, it shall be removed from the site within one hundred eighty (180) days of such cessation. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3') feet of the caisson upon which the tower is located and covering the remaining portion with top soil. The letter of agreement may include a financial guarantee, if deemed appropriate by the Township Planning Commission, to insure removal of any or all of the facilities approved under the Special Land Use. Any such agreement, including any financial guarantee, shall be in a form acceptable to the Township Board. The financial guarantee may also include a provision for periodic adjustments to the guarantee in reflection to changes in the Consumers Price Index or similarly established and accepted price indexes.

**SEC. 1319. ADULT ENTERTAINMENT AND BUSINESS USES:**

- A. In the development and execution of this Ordinance, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. In addition to the review standards of this Article, additional special regulations are itemized in this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area (i.e., not more than two (2) such uses within one thousand (1,000') feet of each other) which would create such adverse effects.
- B. The Planning Commission may waive the locational requirement established in subsection A. herein for adult entertainment and business establishments if the following findings are made:
  - 1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Ordinance will be observed.
  - 2. That the proposed use will not enlarge or encourage the development of a "skid row" area.
  - 3. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation.
  - 4. That all applicable regulations of this Ordinance will be observed.
- C. For adult use establishments for the sale of beer or intoxicating liquor for consumption on the premises, the Township Board may waive the locational requirements if the findings required in subsection B. can be made and after receiving a report and recommendation from the Planning Commission.
- D. The provisions of this Section regarding massage parlors shall not apply to hospitals, nursing homes, medical clinics or the offices of a medical professional who is licensed to practice their profession in the State of Michigan, or who is permitted to practice under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergyman, certified member of the American Massage and Therapy Association or certified member of the International Myomassethics Federation.
- E.
  - 1. It shall be unlawful to hereafter establish any adult bookstore, adult theater, adult novelty store, or class "C" cabaret within one thousand (1,000) feet of any building containing a residential dwelling or rooming unit, private or public school, park, church or similar place of worship. This prohibition may be waived if the person applying for the waiver shall file with the Township Planning Commission a petition which indicates approval of the proposed regulated use by fifty-one (51) percent of the persons owning, residing or doing business within a radius of one thousand (1,000') feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius and must maintain a list of all addresses where no contact was made.

2. The Township Clerk shall adopt rules and regulations governing the procedure for securing the petition of consent provided for in this Section of the Ordinance. The rules shall provide that the circulator of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the petition was circulated in accordance with the rules of the Township Clerk and that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the person whose name appeared thereon.
3. The Township Planning Commission shall not consider the waiver of locational requirements set forth in subsections A., B. and C. until the above-described petition shall have been filed and verified.

**ARTICLE XIV  
GENERAL EXCEPTIONS AS TO AREA, HEIGHT AND USE**

The regulations in this Ordinance shall be subject to the following interpretations and exceptions.

**SEC. 1400. 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 which primarily serve Berlin Township from the application of this Ordinance.

**SEC. 1401. VOTING PLACE:**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of property as a voting place in connection with a Township or other public election.

**SEC. 1402. HEIGHT LIMIT:**

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided however, that the Planning Commission may specify a height limit for any structure when such a structure requires authorization as a special land use.

**SEC. 1403. LOT AREA:**

Any lot existing and of record at the time this Ordinance becomes effective may be used for any principal use permitted, other than special land uses for which special lot area requirements are specified in this Ordinance, in the district in which such lot is located whether or not such lot complies with the lot area requirements of this Ordinance, except as provided in SEC. 1202, B "NONCONFORMING LOTS" of this Ordinance. Such use may be made provided that all requirements other than lot area requirements prescribed in this Ordinance are complied with, and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit.

**SEC. 1404. YARD REGULATIONS:**

When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the Board of Appeals.

**SEC. 1405. RESIDENTIAL YARD FENCES:**

Fences or walls of not more that six (6) feet in height may be constructed in residential districts within a required rear or side yard, and not more than thirty (30) inches in height with a required front yard, e.g., along the property line.

**SEC. 1406. ACCESS THROUGH YARDS:**

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace, or other pavement servicing the like function, and not in excess of nine (9) inches above grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard.



## ARTICLE XV - ADMINISTRATION AND ENFORCEMENT

### SEC. 1500. ENFORCEMENT:

The provisions of this Ordinance shall be administered and enforced by the Building Inspector or by such other enforcement officer as the Berlin Township Board may delegate to enforce the provisions of this Ordinance.

### SEC. 1501. DUTIES OF BUILDING INSPECTOR:

The Building Inspector shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Inspector to approve any plans or issue any permits or Certificates of Occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance.

Under no circumstances is the Building Inspector permitted to make changes in this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Building Inspector.

The Building Inspector shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

### SEC. 1502. PLOT PLAN:

The Building Inspector shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- A. The actual shape, location, and dimensions of the lot.
- B. The shape, size, and location of all buildings or other structures, to be erected, altered, or moved and of any building or other structures already on the lot.
- C. The existing and intended use of the lot and of all structures upon, including, in residential areas, the number of dwelling units the building in intended to accommodate.
- D. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

### SEC. 1503. PERMITS:

The following shall apply in the issuance of any permit:

- A. Permits Not to be Issued.

No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this and other Ordinances.

B. Permits Required:

No building or structure, or part thereof, shall be hereinafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress, and ingress, or other changes affecting or regulated by the Township Building Code, Housing Law of Michigan, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

Construction plans for water mains, sanitary sewers, paving, storm drainage facilities and site grading, approved by the Township Engineer, shall also accompany an application for a building permit, where necessary.

**SEC. 1504. CERTIFICATES:**

No land, building, or part thereof, shall hereafter be occupied by, or for, any use unless and until a Certificate of Occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate.

A. Certificate for New Use of Land

No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a Certificate of Occupancy is first obtained for the new or different use.

B. Certificate for New Use of Buildings

No Building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a Certificate of Occupancy is first obtained for the new or different use.

C. Certificates Not to be Issued

No Certificate of Occupancy shall be issued for any building, structure, or part thereof, or for the use of any land which is not in accordance with all the provisions of this Ordinance.

D. Certificates Required

No building or structure or parts thereof, which is hereafter erected or altered, shall be occupied or used, or the same caused to be done, unless and until a Certificate of Occupancy shall have been issued for such building or structure.

E. Certificates Including Zoning

Certificates of Occupancy as required by the Township Building Code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute Certificates of Occupancy as required by this Ordinance.

F. Certificates for Existing Buildings

Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such building structures, or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance.

G. Records of Certificates

A record of all certificates issued shall be kept on file in the office of the Building Inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

H. Certificates for Dwelling Accessory Buildings.

Buildings or structures accessory to dwellings shall not require separate Certificates of Occupancy but may be included in the Certificate of Occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

I. Application for Certificates

Application for Certificates of Occupancy shall be made in writing to the Building Inspector on forms furnished by him, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structures of part thereof, or the use of land is in accordance with the provisions of this Ordinance.

If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.

**SEC. 1505. FINAL INSPECTION:**

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure or part thereof, shall notify the Building Inspector immediately upon the completion of the work authorized by such permit, for a final inspection.

**SEC. 1506. FEES:**

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Building Inspector in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

**SEC. 1507. INTERPRETATION:**

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of Law or Ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits; the provisions of this Ordinance shall control.

**SEC. 1508. ZONING COMMISSION:**

The Township Planning Commission is hereby designated as the Commission specified in Section 301, of Act 110 of the Public Acts of 2006, and shall perform the duties of said commission as provided in the statute in connection with the amendment of this Ordinance.

**SEC. 1509. PLANNING COMMISSION APPROVAL:**

In cases where the Planning Commission is empowered to approve certain uses of premises under the provisions of the Ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may be affected thereby, as required by State Law.

**SEC. 1510. CHANGES AND AMENDMENTS:**

The Township Board may from time to time, on recommendation from the Planning Commission, on its own motion, or on petition, amend, supplement or change this Ordinance in accordance with the procedure established by State Law.

**SEC. 1511. FEES - PETITION FOR AMENDMENT;**

Upon presentation of petition for amendment of the Zoning Ordinance by the owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the Township Board and shall be paid to the Township Clerk to defray the expense of publishing the required notices of public hearings and the expenses of said public hearing.

**SEC. 1512. VIOLATIONS:**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred (\$500) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.

**SEC. 1513. PUBLIC NUISANCE PER SE:**

Any building or structure which is erected, altered or converted, or any use of premises of land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

**SEC. 1514. FINES, IMPRISONMENT:**

The owner of any building, structure or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

**SEC. 1515. EACH DAY A SEPARATE OFFENSE:**

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

**SEC. 1516. RIGHTS AND REMEDIES ARE CUMULATIVE:**

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**SEC. 1517 VARIANCE:**

A zoning variance is a modification of the literal provisions of the Zoning Ordinance granted when strict enforcement would cause practical difficulty due to circumstances unique to the individual property on which the variance is granted. A variance may only be granted by the Zoning Board of Appeals.



**ARTICLE XVI  
BOARD OF APPEALS**

**SEC. 1600. CREATION AND MEMBERSHIP:**

There is hereby established a Board of Appeals, hereinafter called the "Board", which shall perform its duties and exercise its powers as provided in Act 110, of the Public Acts of 2006, as amended, and in such way that the objectives of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. The membership of the Board shall be in accordance with the requirements of Act 110 of 2006, as amended.

**SEC. 1601. MEETINGS:**

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it.

**SEC. 1602. APPEAL:**

An appeal may be taken to the Board of Appeals by any person, firm or corporation or by any officer, Department, Board or Bureau affected by a decision of the Building Inspector. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Building Inspector and with the Board of Appeals, a notice of appeal, specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Board of Appeals after notice of appeal has been filed with that by reason of facts stated in the certificates a stay would, in his 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 a court of record.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appeal and testify at the hearing, either in person or by duly authorized agent or attorney.

A fee shall be paid to the Township Clerk at the time the notice of appeal is filed, which the Clerk shall forthwith pay over to the Township Treasurer to the credit of the general revenue fund of the Township. The fees to be charged for appeals shall be set by resolution of the Township Board.

**SEC. 1603. JURISDICTION:**

The Board of Appeals shall have the following powers and it shall be its duty:

- A. To hear and decide on all matters referred to it upon which it is required to pass under this Ordinance.

- B. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Building Inspector in the enforcement Ordinance.
- C. In hearing and deciding appeals, the Board of Appeals shall have the authority to grant such variance therefrom as may be in harmony with their general purpose and intent so that the function of this Ordinance be observed, public safety and welfare secured and substantial justice done, including the following:
- 1) May interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of the Plan, as shown upon the Zoning Map fixing the use districts, accompanying and made part of this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
  - 2) May permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
  - 3) May permit modification of wall requirements only when such modification will not adversely affect or be detrimental to surrounding or adjacent development.
  - 4) May permit upon proper application, temporary uses not otherwise permitted, in any district, not to exceed twelve (12) months with the granting of twelve (12) month extensions being permissible, and uses which do not require the erection of any capital improvement of a structural nature.

The Board in granting permits for the above temporary uses, shall do so as near as possible to the following conditions:

- a. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
- b. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
- c. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the Township, shall be made at the discretion of the Board of Appeals.
- d. In classifying uses as not requiring capital improvements, the Board of Appeals shall determine that they are either demountable structures related to the permitted use of the land or structures which do not require foundations, heating systems or sanitary connections.
- e. The use shall be in harmony with the general character of the district.



- f. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to held as further provided for SEC. 1605 of this Ordinance.
  
- D. Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties or cause unnecessary hardship, within the meaning of this Ordinance, the Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:
  - 1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
  - 2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
  - 3) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
  - 4) That the granting of such variance will not adversely affect the purpose or objectives of the Comprehensive Plan of the Township.
  
- E. In consideration of all appeals and all proposed variations to this Ordinance, the Board of Appeals shall, before making any variations from the Ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Building Inspector, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.

Nothing herein contained shall be construed to give or grant to the Board of Appeals the power or authority to alter or change the Zoning Ordinance or the Official Zoning Map, such power and authority being reserved to the Township Board in the manner hereinafter provided by law.

**SEC. 1604. EXERCISING POWER:**

In exercising the above powers, the Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.

**SEC. 1605. NOTICE:**

The Board of Appeals shall make no recommendation except in a specific case and after a hearing conducted by said Board. A written notice of the time and place of such hearing shall be mailed to the owners of all lots or parcels of land, or portions thereof, lying within five hundred (500) feet of the property in question. Such notice shall be served at least seven (7) days prior to the date of the hearing.

**SEC. 1606 MISCELLANEOUS:**

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**ARTICLE XVII  
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 modifications as may be necessary to the preservation or protection of public health, safety and welfare.

**ARTICLE XVIII  
SEVERANCE CLAUSE**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof 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 part thereof, other than the part so declared to be unconstitutional or invalid.

**ARTICLE XIX  
CONFLICTING PROVISIONS REPEALED**

All other ordinances and parts of ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed. The Zoning Ordinance for the Township of Berlin, St. Clair County, Michigan, being Ordinance #1, effective and as amended, is specifically repealed in its entirety.

**ARTICLE XX**  
**ENACTMENT AND EFFECTIVE DATE**

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, welfare and morals of the people of the Township of Berlin, and are hereby ordered to be given effect from and after the date of its passage by the Township Board and subsequent publication as required by law.

I, \_\_\_\_\_, the Township Clerk of the Township of Berlin, do hereby certify that this Ordinance was adopted by the Berlin Township Board, by authority of Act 184 of the Public Acts of 1943, as amended, at a meeting of the Berlin Township Board held on the \_\_\_ day of \_\_\_\_\_, 1991, effective on the \_\_\_ day of \_\_\_\_\_, 1991.

