

Township of Paw Paw, MI
Tuesday, July 12, 2022

Chapter 42. Zoning

[HISTORY: Adopted by the Township Board of the Township of Paw Paw 9-9-2019 by Ord. No. 266.^[1] Amendments noted where applicable.]


[The Introduction and User Guide is included as an attachment to this chapter.]

ATTACHMENTS

Attachment 1 - Introduction and User Guide 

Attachment 2 - Table of Uses Allowed by District 

Attachment 3 - Table of Dimensions 

Attachment 4 - Zoning Map 

[1] *Editor's Note: This ordinance repealed former Ch. 42, Zoning, adopted 7-12-2007 by Ord. No. 242, as amended.*

Article 1.00. Title, Purpose and Scope

§ 42-1.01. Title.

This chapter shall be known as the "Paw Paw Township Zoning Ordinance." Within the following text, it may be referred to as the "ordinance" or the "Zoning Ordinance."

§ 42-1.02. Purpose.

This chapter is based on the Paw Paw Township Master Plan, as the same may be amended from time to time by the Township, and is intended and designed to regulate the use of land and structures for the purposes authorized by the Michigan Zoning Enabling Act^[1] and pursuant to the guiding principles, goals and policies of the Master Plan.

[1] *Editor's Note: See MCL § 125.3101 et seq.*

§ 42-1.03. Scope.

- A. The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.
- B. The chapter shall not abrogate or annul any easement, covenant or other private agreement. Where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this chapter shall govern.
- C. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this chapter.

Article 2.00. Rules of Text Interpretation and Definitions

§ 42-2.01. Rules of text interpretation.

The following rules of interpretation apply to the text of this chapter:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The word "erected" shall include the moving upon the land of any structure, including mobile homes.
- F. A "building" or "structure" includes any part thereof.
- G. The phrases "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for"; are all intended to be synonymous phrases.
- H. The word "person" includes an individual, corporation, partnership, incorporated association, trust, joint venture, or any other entity of any kind, or a combination thereof.
- I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and" or "or," the conjunction shall be interpreted as follows:
 - (1) "And" indicates that all the connected items, conditions, provisions or events shall apply; and
 - (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- J. The word "he" shall mean "he" or "she."
- K. The provisions of this chapter are intended to impose the minimum requirements adopted to promote the public health, safety, and general welfare, and shall be interpreted and applied accordingly.
- L. Any word or term not specifically defined in § 42-2.02 or elsewhere in this chapter shall be considered to be defined in accordance with its most applicable customary or common meaning.
- M. Any reference in this chapter to a specific law is intended to also include any amendment of that law, and any subsequently enacted superseding law on the same subject matter.

§ 42-2.02. Definitions of terms.

For the purpose of this chapter the following terms and words are herein defined, and these definitions shall apply in the interpretation and enforcement of this chapter unless otherwise specifically stated:

ACCESS LOT

A type of waterfront lot providing for private or common (semiprivate) access to a waterway for one or more access lot beneficiaries. An access lot includes the buffer strips required herein.

ACCESS LOT BENEFICIARY

The owners/occupants of an offshore lot or waterfront lot, and any other person with a right of access to a waterway and/or use of a waterway through a waterfront lot, in whole or in part, by fee ownership, easement, lease, license, gift, business invitation, or any other form of conveyance, dedication, permission, or access/use rights. Members of the same family, as defined by § 42-2.02 of this chapter, shall be collectively considered as one access lot beneficiary.

ACCESSORY BUILDING

A subordinate building or a portion of a principal building, the use of which is incidental to that of the principal building it serves and which, unless expressly permitted otherwise in this chapter, is located on the same lot as the main building.

ACCESSORY USE

A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

AGRICULTURAL PRODUCTION

The production for commercial purposes and sale for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and forage; by feeding or breeding or management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honey bees; or for dairying and the sale of dairy products of animal husbandry or any combination thereof; or any other agricultural, aquacultural, horticultural or floricultural use such as fruits, plants, ornamental trees, timber, shrubs, nursery stock, and vegetables, including in each instance the right to sell at wholesale or retail from the premises any goods or products produced thereon; but not including any such land use specifically designated in this chapter.

AGRICULTURE

The use of land for raising crops and livestock or poultry, but not including concentrated animal feeding operations, as defined herein.

ALLEY

A passage or way open to public travel affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

ALTER or ALTERATION

Any change, improvement, or repair to the structure that results in a change or modification to the exterior dimension of said structure. Roofing, siding, insulation, etc., shall not be construed to be a change in the exterior dimension.

APARTMENT HOUSE

A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service or utilities in common.

AUTOMOBILE

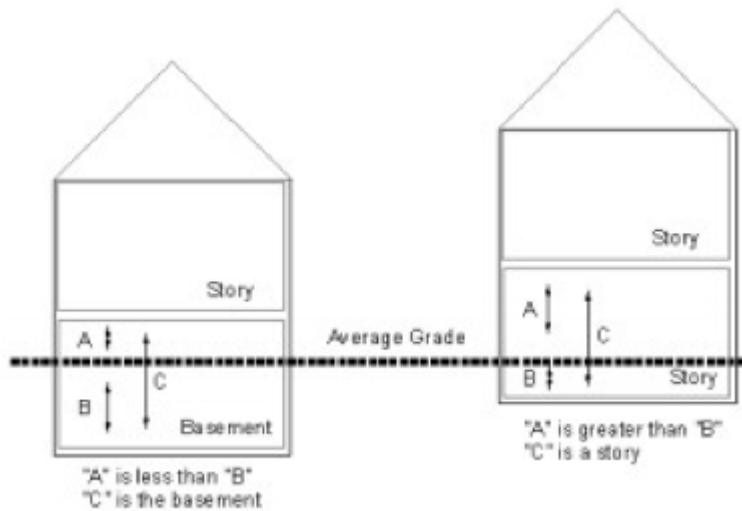
Any vehicle with four or more wheels, which is self-propelled by an engine or motor, and designed for the transporting of the operator and accompanying passengers, on public roads. An automobile includes any passenger car, station wagon, suburban, van, panel or pickup truck of a light delivery type none of which may exceed 8,500 pounds of gross vehicle weight (weight of vehicle and load capacity).

BARN

An enclosed building which is located on a farm and used either for the shelter of farm animals, storage of farm produce and/or equipment.

BASEMENT

That portion of a building below the first-floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground.



BED-AND-BREAKFAST INN

A private residence, owned and occupied by the innkeeper, that offers sleeping accommodations to transient tenants in five or fewer rooms for rent; is the residence in which the innkeeper resides while renting the rooms; and in which breakfast is provided to tenants at no extra cost.

BIOFUEL

Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and that meets applicable quality standards, including, but not limited to, ethanol and biodiesel; but not including methane or any other fuel product from an anaerobic digester. For purposes of this term "ethanol" means a substance that meets the ASTM international standard in effect on July 19, 2011, as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

BOARDINGHOUSE

A dwelling in which lodging, with or without meals, is furnished to guests for compensation.

BOATHOUSE

A permanent structure constructed on the land or over the water for the purpose of providing shelter for one or more boats.

BUFFER STRIP

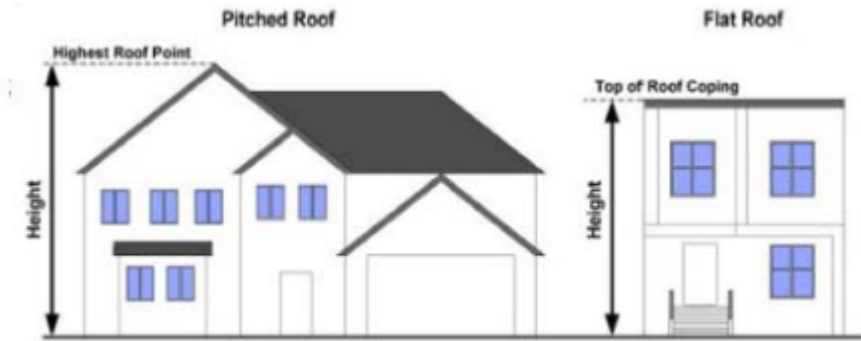
A portion of an access lot, required to be established and preserved as a natural barrier between the usable portion of the access lot and an adjacent lot.

BUILDING

A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT

The vertical distance from the natural grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs; and to the highest peak for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the highest natural grade around the perimeter of the building foundation wall.



BUILDING LINE

A line beyond which the foundation wall or any porch, vestibule, raised patio or other portion of building shall not project.

CAMPGROUND

A use on a parcel or tract of land licensed by the state for camping in tents and/or recreational vehicles on a temporary recreational basis.

CARE HOME

Includes rest and nursing homes, convalescent homes and boardinghomes for the aged; established to render nursing care for chronic or convalescent patients but excludes facilities for care of active or violent patients such as feeble-minded or mental patients, epileptics, alcoholics, senile psychotics, or drug addicts.

CELLAR

See "basement."

CHILD-CARE FACILITY

A facility for the care of children under 18 years of age, as licensed and/or registered and regulated by the state under Act No. 116 of the Public Acts of 1973^[1] and the associated standards and rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

A. CHILD-CARE CENTER or DAY-CARE CENTER

A facility, other than a private residence, receiving one or more preschool age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility, which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child-care center, day-care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child-care center" or "day-care center" does not include: 1) a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a twelve-month period; or 2) a facility operated by a religious organization where children are cared for not greater than three hours while persons responsible for the children are attending religious services.

B. FAMILY CHILD-CARE HOME

A private home which is the bona fide private residence of the operator of the family day-care home and in which one or more, but less than seven, minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

C. GROUP CHILD-CARE HOME

A private home which is the bona fide private residence of the operator of the group day-care home and in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

CHURCH

A building whose primary purpose is to provide a place where persons regularly assemble for religious worship which is maintained and controlled by a religious body organized to sustain public worship for a local congregation.

CO-LOCATE

To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

COMMERCIAL DISTRICT(S)

The NCC Neighborhood Convenience Commercial District, the HSC Highway Service Commercial District, the HCI Heavy Commercial and Industrial District and any other subsequently established zoning district which includes "C" or "Commercial" in its title.

COMMERCIAL MEDICAL MARIHUANA FACILITY (OR FACILITY)

The term may include any of the following:

- A. Grower facility, as that term is defined in the Medical Marihuana Facilities Licensing Act (MMFLA)^[2] and authorized by Ordinance No. 257.^[3]
- B. Processor facility, as that term is defined in the MMFLA and authorized by Ordinance No. 257.^[4]
- C. Safety compliance facility, as that term is defined in the MMFLA and authorized by Ordinance No. 257.^[5]
- D. Secure transporter facility, as that term is defined in the MMFLA and authorized by Ordinance No. 257.^[6]

COMMON OWNERSHIP

Ownership by the same individual(s) or entity; provided that property owned by one or both spouses, and corporations or other entities in which two or more directors are the same individual (or their spouses), shall be considered to have the same ownership for purposes of this chapter. This term is intended to be synonymous with the term "single ownership."

CONDOMINIUM TERMS

- A. **CONDOMINIUM COMMON ELEMENT**
That portion of a condominium project designed and intended for joint ownership and/or use by the owners of individual condominium units, as described in the master deed for the condominium project.
- B. **CONDOMINIUM PROJECT**
A development plan or project consisting of not less than two condominium units established in conformance with the Michigan Condominium Act (P.A. 59 of 1978, as amended).^[7]
- C. **CONDOMINIUM PROJECT PLAN**
The drawings and technical information prepared in compliance with this chapter and the Michigan Condominium Act (P.A. 59 of 1978, as amended)^[8] for review by the Planning Commission.

CONDOMINIUM UNIT

That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project. The functional equivalent of a "lot."

CONTRACTORS SERVICES

A place of business for contractors providing personal services directly to their clients in the electrical, plumbing, heating, painting, woodwork or similar occupations where any production, assembly or fabrication of a product is installed or applied by the owner and where there is no manufacturing, assembling or fabrication of products for other persons or businesses.

DECK

A structure consisting primarily of flooring which is raised above the ground level, which may be constructed as part of the principal building, or may be constructed as an accessory structure.

DENSITY

The number of dwelling units occupying, or to be developed upon, a net acre of land.

DISTILLERY

An establishment licensed by the State of Michigan as a manufacturer of spirits.

DISTRICT

An area within which certain uses of land and buildings are permitted and all others are prohibited; yards and other open spaces are required; and lot areas, building height limits, and other requirements are established. This term and the term "zone" mean the same thing as used in this chapter.

DOCK

A platform, either permanent or portable, extending over a body of water, from which one can fish, swim, and moor or board boats.

DWELLING

A building or portion thereof arranged or designed to provide living facilities for a single family, complying with the following standards:

- A. Minimum square footage requirements as set forth in Article 6.00.
- B. A core area of living space of at least 20 feet by 20 feet in size.
- C. Permanently attached to a solid foundation as required by the Michigan Single State Construction Code.^[9]
- D. No exposed wheels, towing mechanism, undercarriage or chassis.
- E. No additions of rooms or other areas which are not constructed with an appropriate foundation and permanent attachment to the principal structure.
- F. Connection to a public sewer and water supply or to such private facilities approved by the local health department.
- G. Aesthetic compatibility in design and appearance to conventionally on-site constructed dwellings, including, where appropriate, a roof overhang, a front and rear or front and side exterior door, permanently attached steps or porch areas where an elevation differential requires the same, and roof drainage systems concentrating roof drainage and avoiding drainage along the sides of the dwelling.
- H. Compliance with all pertinent building and fire codes, including those pertaining to newly manufactured homes or newly manufactured mobile homes.
- I. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state law or otherwise specifically required by this

chapter for mobile home parks.

DWELLING, MULTIPLE-FAMILY

A building containing three or more dwelling units.

DWELLING, SINGLE-FAMILY

A building containing not more than one dwelling unit.

DWELLING, TWO-FAMILY

A building containing not more than two separate dwelling units.

DWELLING UNIT

A building or a portion thereof arranged or designed to provide living, cooking and sanitary facilities for not more than one family of permanent residents.

EARTH REMOVAL

The digging of soil, sand, gravel, rock, minerals, clay or other earthen material from a land surface for carrying on a business or manufacturing operation. Does not mean grading or filling incidental to improvement of the land.

ELEVATION, BUILDING

The total length of any side of a building facing in the same direction.

EQUIPMENT COMPOUND

An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

ESSENTIAL SERVICES BY PUBLIC UTILITIES AND OTHER AGENCIES

The erection, construction, alteration or maintenance by public utilities, municipal departments or other governmental agencies of electric substations, gas regulator buildings and auxiliary buildings, underground or overhead gas, electrical communication, steam or water transmission or distribution systems, or collection, supply or disposal systems, including: poles, wires, mains, drains, sewers, pipes, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices, buildings or yards used for bulk storage, fabrication or manufacturing of materials used by such utilities or municipal departments or other governmental agencies or communication towers.

FAMILY

The term may include either of the following:

- A. One or more persons related by the bonds of consanguinity, marriage, or adoption, and foster children and servants, and not more than one additional unrelated person, occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or
- B. A collective number of individuals occupying a dwelling unit with a demonstrable and recognizable relationship of a permanent and distinct domestic character, and cooking and otherwise housekeeping as a single housekeeping unit.
- C. Notwithstanding the foregoing, certain types of living arrangements and occupancies shall not be considered to be within the scope of this term, including any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization which is not a recognized religious order; and any group of students or other individuals whose domestic association is likely or contemplated to exist for a limited or temporary duration, or whose association is otherwise of a transitory, temporary or resort-seasonal character or nature.

FARM MARKET

A place or an area where transactions between a farm market operator and customers take place. This includes roadside stands. It does not necessarily mean a physical structure such as a building and is considered part of a farm operation. At least 50% of the products marketed and offered for sale at a farm market (measured as an average over the farm market's marketing season or up to a five-year time frame) must be produced on and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws, and then sold at the affiliated farm market, as long as allowed by local, state and federal regulations. A farm market may operate seasonally or year round. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions, when allowed by applicable local, state and federal regulations.

- A. 50% of the products marketed: For purposes of determining the percentage of products being marketed, the primary measure will be 50% of the retail space used to display products offered for retail sale during the affiliated farm's marketing season. If measurement of retail space during the marketing season is not feasible, then the percent of the gross sales dollars of the farm market will be used. At least 50% of the gross sales dollars of products sold at the farm market need to be from products produced on and by the affiliated farm. For process products, at least 50% of the products' main "namesake" ingredient must be produced on and by the affiliated farm. For example, the apples used in apple pie, maple sap in maple syrup, strawberries in strawberry jam, etc.

FENCE

A barrier constructed of either wood, metal, stone, brick or masonry materials that may act as an enclosure of an area of land, property boundary identification or visual screen, which surface may be of either solid or open construction.

FIXTURE

The assembly that houses the lamp(s) and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

FLOOR AREA

The area of all floors calculated by measuring the dimensions of the outside walls of a building, excluding the floor area of basements, garages, accessory buildings, attics, breezeways and porches.

FOOTCANDLE

The illuminance cast on a surface by a one candela source one foot away. One footcandle is the equivalent of 10.76 lux.

FOSTER CARE (LARGE GROUP) FACILITY

A residential facility licensed by the state pursuant to Public Act 218 of 1979,^[10] as amended or Public Act 116 of 1973,^[11] as amended, which provides resident services, supervision and care for seven to 20 persons 24 hours a day.

FOSTER CARE (SMALL GROUP) FACILITY

A residential facility licensed by the state pursuant to Public Act 218 of 1979,^[12] as amended, or Public Act 116 of 1973,^[13] as amended, which provides resident services, supervision and care for six or fewer persons 24 hours a day.

FRONTAGE

The length of the front property line of the lot, lots or tract of land abutting a public street, road or highway.

GARAGE, PRIVATE

A building accessory to a dwelling, or a portion thereof, which is designed and used primarily for the housing or storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory.

GASOLINE SERVICE STATION

Building and lot, or portions thereof, used and limited in function to retail sale of gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories, and such services as lubrication, washing, polishing and other minor servicing to motor vehicles.

GLARE

Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see or that causes annoyance or discomfort.

GRADE

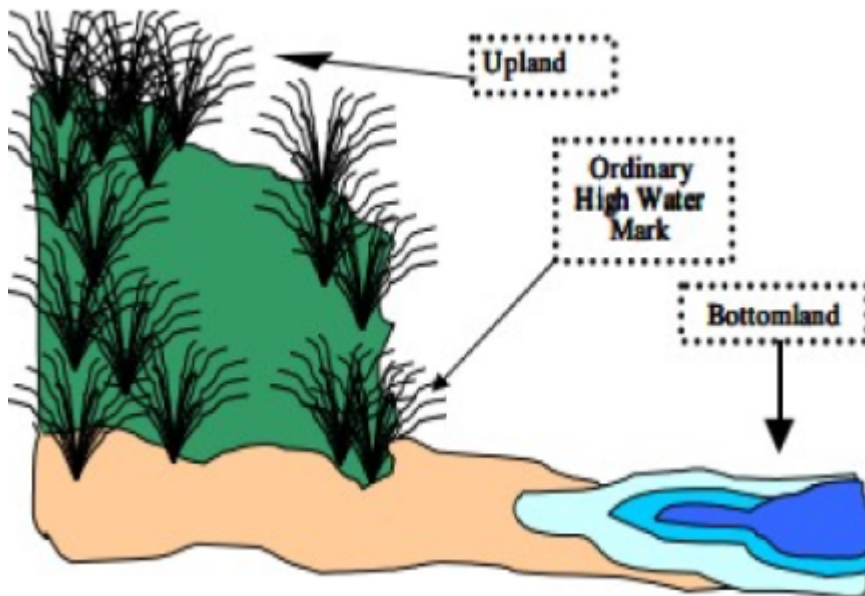
The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GUESTHOUSE

An accessory building (or portion thereof) designed and used for the convenience of housing guests visiting a premises occupied by a single-family dwelling as the principal use, but not including any rented or leased space.

HIGH WATER LINE

The line between upland and bottom land which persist through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.



HOME OCCUPATION

An occupation customarily engaged in by residents in their own dwelling.

HORSE BOARDING OR RIDING STABLE

A facility for boarding by persons not residing on the premises and/or where riding horses are rented and/or where horse riding lessons are given, including the indoor and outdoor facilities for same.

HOSPITAL

Any institution, including a sanitarium, which maintains and operates facilities for overnight care and treatment of two or more nonrelated persons as patients suffering mental or physical ailments, but not including any dispensary or first aid treatment facilities maintained by a commercial or industrial plant, educational institution, convent, or a convalescent home, as previously defined.

HOTEL

A building occupied as a temporary lodging place for individuals who are lodged with or without meals, in which as a rule the rooms are rented singularly in which provision is not made for cooking in any individual room.

ILLUMINANCE

A measure of light incident on a surface, expressed in lux or footcandles.

INDUSTRIAL DISTRICT(S)

The HCl Heavy Commercial and Industrial District and any other subsequently established zoning district which includes "I" or "Industrial" in its title.

ISOFOOTCANDLE PLAN

A site plan of a proposed development showing proposed outdoor illuminance with a series of isofootcandle lines that join points on a surface where the illuminance is the same.

JUNKYARD

Any land or building used for commercial, storage and/or sale of paper, rags, scrap metals, other scrap or discarded materials, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof.

KENNEL

Any lot or premises used for the boarding, breeding, training of four or more dogs for remuneration. Kennel shall also mean the keeping of four or more dogs over the age of six months with or without remuneration.

LANDFILL

Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose of trash, refuse or waste material of any kind.

LIGHT SPILLOVER

The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LIVESTOCK

Those species of animals used for human food, fiber, and fur, or used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, and rabbits; but excluding dogs and cats.

LOT

A parcel of land (including a "unit" within a site condominium development) with the frontage required by this chapter on a public street, or on a private road as specifically allowed by this chapter, and separated from other land by legal description, deed, or subdivision plot.

LOT, ACCESS

See "access lot."

LOT, AREA

The total horizontal area included within lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

LOT, CORNER

A lot located with frontage on two intersecting streets.

LOT COVERAGE

The amount of a lot, stated in terms of percentage, which is covered by all the buildings and other structures located on the lot, including porches, arbors, breezeways, patio roofs and the like, whether open box type and/or lathe roofs or fully roofed, but not including fences, walls, swimming pools, swing sets and other residential recreational structures that are not buildings.

LOT, DEPTH OF

The average horizontal distance between the front lot line and the rear lot line measured at right angles to lot width. Where the front lot line and the rear lot line are not parallel the average horizontal distance between them shall be calculated as the mean (midpoint) of the two extreme horizontal distances.

LOT, DOUBLE FRONTAGE

An interior or through lot which abuts two streets that are located on opposite sides of the lot.

LOT FRONTAGE

That portion of a lot extending along the front lot line.

LOT, INTERIOR

A lot other than a corner lot.

LOT LINE, FRONT

That portion of a lot which abuts a street or a lawful private road, except that the front line of a waterfront lot shall be that portion of the lot abutting or facing the water. In the case of a corner lot or double frontage lot, the front lot line shall be that line separating the lot from the street which is designated as the front street in the plat and/or in the request for a building or zoning compliance permit, except as otherwise provided above with respect to waterfront lots.

LOT LINE, REAR

The lot boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line and wholly within the lot.

LOT LINE, SIDE

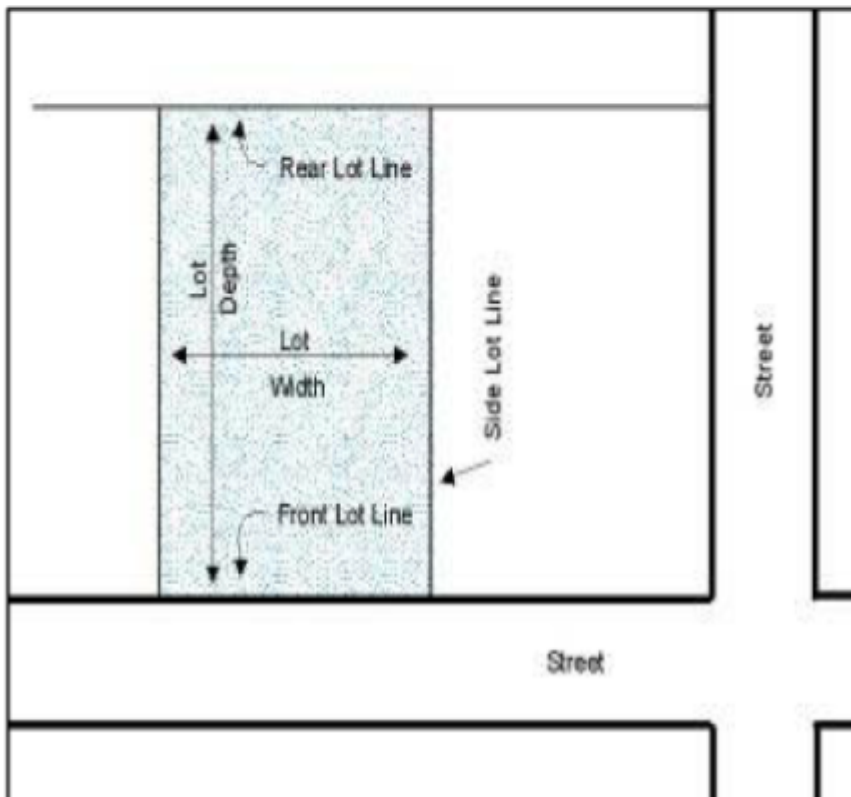
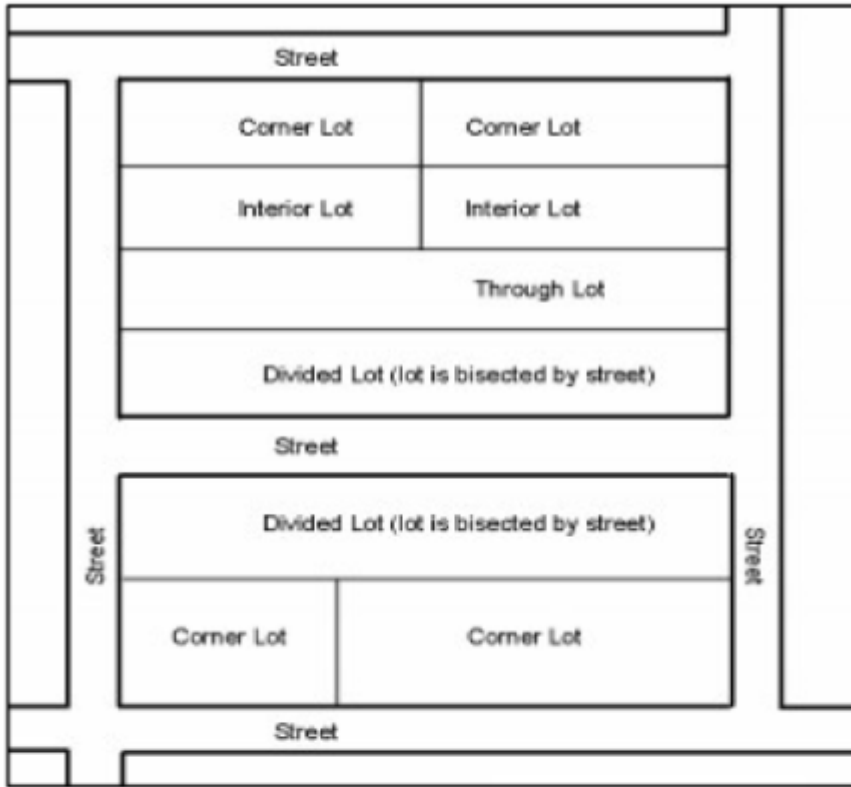
Any lot boundary line which is not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is also called an interior lot line.

LOT, WATERFRONT

See "waterfront lot."

LOT, WIDTH

The average horizontal distance between the side lot lines as measured at right angles to lot depth. Where the side lot lines are not parallel, the average horizontal distance between the side lot lines shall be calculated as the mean (midpoint) of the two extreme horizontal distances.



LOT, ZONING (ZONING LOT)

One or more contiguous lots or portions of lots in single ownership, where the grouping of such lots for zoning purposes is required or allowed by this chapter; and in such circumstances the outside perimeter of the grouping constitutes the applicable front, rear and side lot lines for purposes of this chapter.

LUMINAIRE

A complete lighting system, including a lamp or lamps and a fixture. This term shall be interpreted broadly as applying to all outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices (permanently installed or portable), used for illumination or advertisement.

MICROBREWERY

An establishment licensed by the State of Michigan as a microbrewery.

MOBILE HOME

Any vehicle, without motive power designed for carrying property or persons or so constructed and licensable as a mobile home under the laws of the State of Michigan.

MOTEL

A group of attached or detached dwellings not more than two stories in height containing guest rooms which are provided for transient occupancy only, including auto courts, motor lodges and tourist homes.

NONCONFORMING BUILDING OR STRUCTURE

A building or structure that was legally established and was lawfully existing at the time this chapter became effective but which does not conform to the present dimensional or bulk regulations of the district in which it is located.

NONCONFORMING LOT OF RECORD

A lot that was legally established by recorded deed or land contract or other legal document and was lawfully existing at the time this chapter became effective but which does not conform to the present dimensional regulations of the district in which it is located.

NONCONFORMING USE

The use of a building or of land lawfully existing at the time this chapter became effective but which does not conform to the present use regulations of the district in which it is located.

NURSING HOME

See "care home."

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE I)

A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.
- E. At least 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. At least 75% of the biofuel or other product/by-product of the facility is used on the farm where the facility is located, on an annual basis.

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE II)

A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.

- B. The facility has a designed annual production capacity of not more than 100,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.
- E. Less than 75% of the feedstock for the facility is produced on the farm where the facility is located, on an annual basis.
- F. Less than 75% of the biofuel or other product/by-product of the facility is used on the farm where the facility is located, on an annual basis.

ON-FARM BIOFUEL PRODUCTION FACILITY (TYPE III)

A facility designed and intended to be used to produce biofuel, and having all of the following characteristics:

- A. The facility is located on land used in the commercial production of farm products.
- B. The facility has a designed annual production capacity of at least 100,000 gallons but not more than 500,000 gallons of biofuel.
- C. The facility is located at least 100 feet from the boundary of any contiguous property under different ownership.
- D. The facility meets all otherwise applicable setback requirements.

OPEN SPACE

Land area which is maintained as a yard or court providing space between two or more buildings or between a building line and the boundary line of a parcel of land, other space suitable for recreation, or land in its natural state which is unimproved; all of which is primarily open and unobstructed from the land surface to the sky.

OUTDOOR LIGHTING

The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

PARKING SPACE

That area required for the parking or storage of one automobile including necessary aisle or driveway space providing access thereto.

PATIO

A structure consisting primarily of flooring at ground level.

PERMANENT RESIDENT

Any person who has resided in the same dwelling for a continuous period of 30 or more days is construed as a permanent resident for the purpose of this chapter.

PLANNED UNIT DEVELOPMENT

A land development project comprehensively planned as an entity via an overall site plan which may permit flexibility in building siting, mixtures of housing types, usable open spaces and the preservation of natural features. This definition shall include a tract of land having more than one single-family dwelling and/or two-family dwelling upon it other than a mobile home park.

PRINCIPAL USE

The primary or predominant use of the premises.

PRIVATE ROAD

A private right-of-way for vehicular access to abutting properties which has been lawfully established in accordance with this chapter and any other applicable ordinances of Paw Paw Township, and all other applicable county or state laws, rules and regulations.

PUBLIC UTILITY

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

PUBLIC UTILITY BUILDINGS AND STRUCTURES

Gas or electric substations, regulator stations, including buildings accessory thereto, and other public utility service buildings or structures; provided that wireless communications support structure, as defined in this chapter, and buildings accessory thereto, shall not be considered a public utility building or structure for purposes of this chapter.

RECREATIONAL VEHICLE

Any self-propelled vehicle or towed vehicle primarily designed and used for recreational, camping or travel purposes. This definition includes travel trailers, camping trailers, motor homes, and truck campers, as said terms are defined by Michigan statute at MSA 14.15 (12501); MCL § 333.12501, and boats, boat trailers, snowmobiles, snowmobile carriers, horse trailers, rafts, dune buggies, off-road vehicles and motorcycle carriers.

RESIDENTIAL DISTRICT(S)

The ARR Agricultural - Rural Residential District, the LDR Low Density Residential District, the WFR Waterfront Area District, the VE Village Edge Medium-High Density Mixed Use District, the MHR Mobile Home Residential District, the G-PUD Gateway Planned Unit Development District and any other subsequently established zoning district which includes "R" or "Residential" in its title. This term and the terms "residential use district" and "residential zone" mean the same thing as used in this chapter.

RESTAURANT, CARRY-OUT

Any establishment whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics:

- A. The customer stands in line or at a counter to be served.
- B. The food or beverage served is carried out of the building to be eaten on or off the premises.

RESTAURANT, DRIVE-IN

Any establishment whose principal business is the sale of food or beverages to the customer in a ready-to-consume state, and whose design, method of operation or any portion of whose business includes the following characteristics:

- A. Foods or beverages are served directly to the customer in a motor vehicle either by an employee or by other means which eliminates the need for the customer to exit the motor vehicle.

RESTAURANT, FAST-FOOD

Any establishment whose principal business is the sale of food or beverages to the customer in a ready-to-consume state and whose design or principal method of operation includes both the following characteristics:

- A. The customer stands in line or at a counter to be served.
- B. The customer consumes the food and/or beverage either within the building or out of the building on a fairly equal basis.

RESTAURANT, STANDARD

Any establishment whose principal business is the sale of foods or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their foods and/or beverages by a restaurant employee at the same table or counter at which said items are consumed.
- B. A cafeteria-type operation where foods or beverages generally are consumed within the building.

ROADSIDE STAND

See "farm market."

ROOFLINE

The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys or minor projections.

SAFETY LIGHTING

Exterior lighting that involves ensuring proper levels of illumination to provide safe working conditions, safe passage, and the identification of outdoor hazards.

SECURITY LIGHTING

Exterior lighting installed solely to enhance the security of people and property.

SETBACK (BUILDING OR STRUCTURE)

The minimum horizontal distance required to exist between a building or structure (including any portion of steps, porches, vestibules, patios raised above grade, or eaves) and the front, side or rear lot line. The required setback or yard area is that area encompassed by the respective lot lines and the respective setback lines.

SETBACK LINE (MINIMUM)

The line which pertains to and defines those minimum building/structure setback lines which are established parallel to the front, side and rear lot lines and within which setback areas no part of a building or structure shall project or be located, except as otherwise provided for by this chapter.

SHARP CUTOFF FIXTURE

A down-type fixture, mounted horizontally and angled perpendicular to the ground.

SHELTER, FALLOUT

A structure or portion of a structure intended to provide protection to human life during periods or danger to human life from nuclear fallout, air raids, storms, or other emergencies. Fallout shelters constructed completely below the ground level, except for a vent not exceeding 30 inches in height above ground level may be contained within any yard area.

SIGN

Every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person. This definition shall include billboards and signs painted directly on walls or structures.

A. ABANDONED SIGN

A sign serving a premises vacant or unoccupied for more than 180 consecutive days.

B. ANIMATED SIGN

A sign which uses moving parts or change of lighting to depict action or create a special effect or scene. This definition includes rotating signs.

C. BALLOON SIGN

A temporary sign consisting of an envelope inflated with pressurized or heated air, or a lighter-than-air gas, and displayed for the purpose of advertising or attracting attention. Unlike inflatables, balloon signs can be suspended in midair, independent of any structure other than that which keeps the device from floating away.

D. BANNER SIGN

A temporary sign intended to be hung with or without a frame, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. A feather banner is a type of banner sign. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for purposes of this chapter.



E. BILLBOARD

A sign which advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured, or furnished upon the site on which the sign is located.

F. CHANGEABLE COPY SIGN

A sign on which the message is changed manually.



G. DIRECTIONAL SIGN

A sign which is located and sized in a manner to safely and efficiently direct the flow of vehicular and pedestrian traffic to, from, and within a development site.

H. ELECTRONIC DISPLAY SIGN

A sign that uses changing lights to form a sign message in text or graphic or video display form wherein the sequence of the messages and the rate of change is electronically programmed. Electronic display signs include the following:

(1) ELECTRONIC CHANGEABLE COPY SIGN

A sign on which the message is changed automatically through the use of electronic display technology.

**(2) ELECTRONIC GRAPHIC DISPLAY SIGN**

A sign that displays static electronic images, including static graphics or pictures, in which the message change sequence is immediate or by means of fade or dissolve modes.

**(3) VIDEO DISPLAY SIGN**

A sign that displays a message characterized by motion, movement or pictorial imagery to depict action or a special effect that imitates movement.

**(4) MULTI-VISION OR TRI-VISION SIGN**

A sign composed of a series of vertical or horizontal slats that are designed to rotate at intervals so that each rotation of the slats produces a different image.



I. FLASHING SIGN

A sign that contains an intermittent or flashing light source. Electronic display signs shall not constitute a flashing sign for purposes of this chapter.

J. FREESTANDING SIGN

A sign not attached to a building or wall which is supported by one or more poles or braces which rest on the ground or on a foundation resting on the ground.

K. GROUND SIGN

A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is painted or posted.



L. INFLATABLE SIGN

A temporary sign consisting of flexible material that takes on a three-dimensional shape when filled with air/gas and is commonly used to draw attention to a site.

M. NAMEPLATE

A nonelectric sign which identifies the name of the resident of the property, with or without the address.

N. NONCONFORMING SIGN

Any sign that does not conform to the requirements of this chapter.

O. PENNANT SIGN

Any geometric shaped cloth, fabric or other lightweight material normally fastened to a stringer and which is secured or tethered so as to allow movement of the sign caused by movement of the atmosphere.

P. PORTABLE SIGN

A sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another.

Q. PUBLIC SIGN

A noncommercial message sign erected in the public interest by or upon orders from a local, state, county or federal public official. Examples of public signs include, but are not limited to, legal notices, safety signs, traffic signs, memorial signs, signs of historical interest, and similar signs.

R. ROOF SIGN

A sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall, and that is wholly or partially supported by such building.

(1) Exception: For the purposes of this definition, a sign that is mounted on a mansard roof, roof overhang, parapet wall, or on a wall with a roof below, shall not be considered a roof sign but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the roofline.

S. SIGN AREA

The area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame of other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, pole, or other structure necessary to support the sign.

(1) Signs with two or more faces: The area of a sign that has two or more faces shall be measured by including the area of all sign faces; except, if two such sign faces are placed back to back and are no more than two feet apart at any point, the area of the two back-to-back faces shall be computed as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the face.

T. SIGN HEIGHT

Measured as the vertical distance from the highest point of the sign to the finished grade of the abutting street.

U. TEMPORARY SIGN

A sign intended to be displayed for a limited period of time, and which is not permanently attached to a building wall or to the ground.

V. WALL SIGN

A sign that is attached directly to a wall, mansard roof, roof overhang, or parapet wall with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which projects not more than 12 inches from the building or structure wall and does not extend above the roofline of the building to which it is attached.

W. WINDOW SIGN

A sign attached to the inside or outside surface of a window on a building wall or door.

SOLAR FARM

Solar panel energy systems placed on property with the intent to provide utility-scale energy to the grid.

SOLAR PANEL

A solar panel, a photovoltaic panel, solar hot air or hot water panel collector device or other type of energy system which relies on solar radiation as the source for the generation of electricity or the transfer of stored heat. A solar panel is an accessory use in all zoning districts subject to § 42-8.26.

SPECIAL EVENT

A celebration, ceremony, wedding, reception, corporate function, or similar activity for the benefit of someone other than the property owner that takes place on a periodic basis, involving the gathering of individuals assembled for the common purpose of attending a special event. Uses including private parties, gatherings, and similar activities that are not subject to a use agreement

between a private individual or group and the homeowner are not defined as a special event and are not regulated under this section.

SPECIAL EVENT FACILITY

A facility where special events are permitted to occur under this chapter. Special event facilities are subject to a use agreement between a private group or individual and the facility owner. The facility owner may or may not charge a fee for the use of the facility, such as for a fund-raiser for a charitable nonprofit organization. Facilities may operate entirely within a structure, outside of a structure, or both inside and outside a structure. Facilities must include physical improvements necessary to accommodate special events, such as access and circulation improvements, parking areas, and water supply and sewer systems.

SPECIAL LAND USE

A use listed as a "special land use" in a zoning district is recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utility needs, and other similar characteristics) as necessitating prior Planning Commission authorization pursuant to specified standards in order to safeguard the general health, safety and welfare.

STABLE, PRIVATE

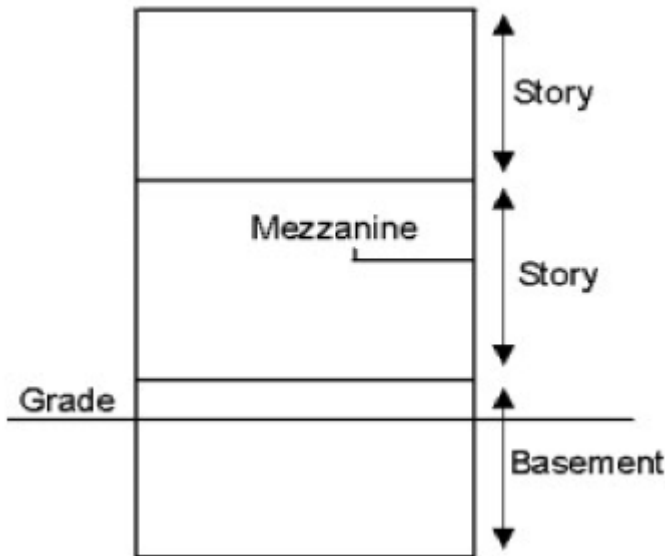
A building used or to be used by an individual for housing horses owned by said individual for the use of himself and his immediate family.

STABLE, PUBLIC

A building used or to be used for the housing of horses for hire by the owner or operator thereof.

STORY

That portion of a building included between the surface of any floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.



STREET

A public or private thoroughfare, other than an alley, which affords the principal means of vehicular access to abutting property. This term is synonymous with the term "highway" or "road."

STRUCTURE

Anything constructed, assembled or erected, or to be moved to or from any premises, the use of which requires location on the ground or attachment to something having location on or in the

ground, and shall include tanks, towers, advertising devices, bins, tents, lunch wagons, trailers, dining cars, camp cars or similar structures on wheels or other supports used for business or living purposes. The word "structure" shall not apply to fences, or wires and their supporting poles or frames of electrical or telephone utilities, or to service utilities entirely below the ground.

USE

The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is, or may be used, occupied or maintained.

VARIANCE

The granting to a petitioner, by the Zoning Board of Appeals, permission to vary from the strict application of this chapter as provided in Article 11.00.

VETERINARY CLINIC

A place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or surgical attention.

WATERFRONT LOT

Any lot or parcel of land, whether or not improved, and whether or not platted, any portion of which:

- A. Abuts the shoreline of any waterway; or
- B. Abuts a promenade, walkway, or other property which itself abuts the shoreline of any waterway and which provides access and/or use rights to the waterway.

WATERWAY

A natural or man-made lake, river, stream, channel, pond, or other natural or artificial watercourse.

WIND ENERGY SYSTEM

An electrical generating facility, accessory to a principal use, comprised of a wind turbine, rotor, support structure, and related electrical equipment that operates by converting the kinetic energy of wind into electrical energy, and that is designed and operated to wholly or primarily provide electricity to the principal use, rather than to the electric utility grid.

WINERY (INCLUDING CIDERY)

An establishment licensed by the State of Michigan as a winery/small winery. A winery may, with proper licensing, produce brandy and operate a wine tasting room.

WIRELESS COMMUNICATIONS EQUIPMENT

The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

WIRELESS COMMUNICATIONS FACILITY

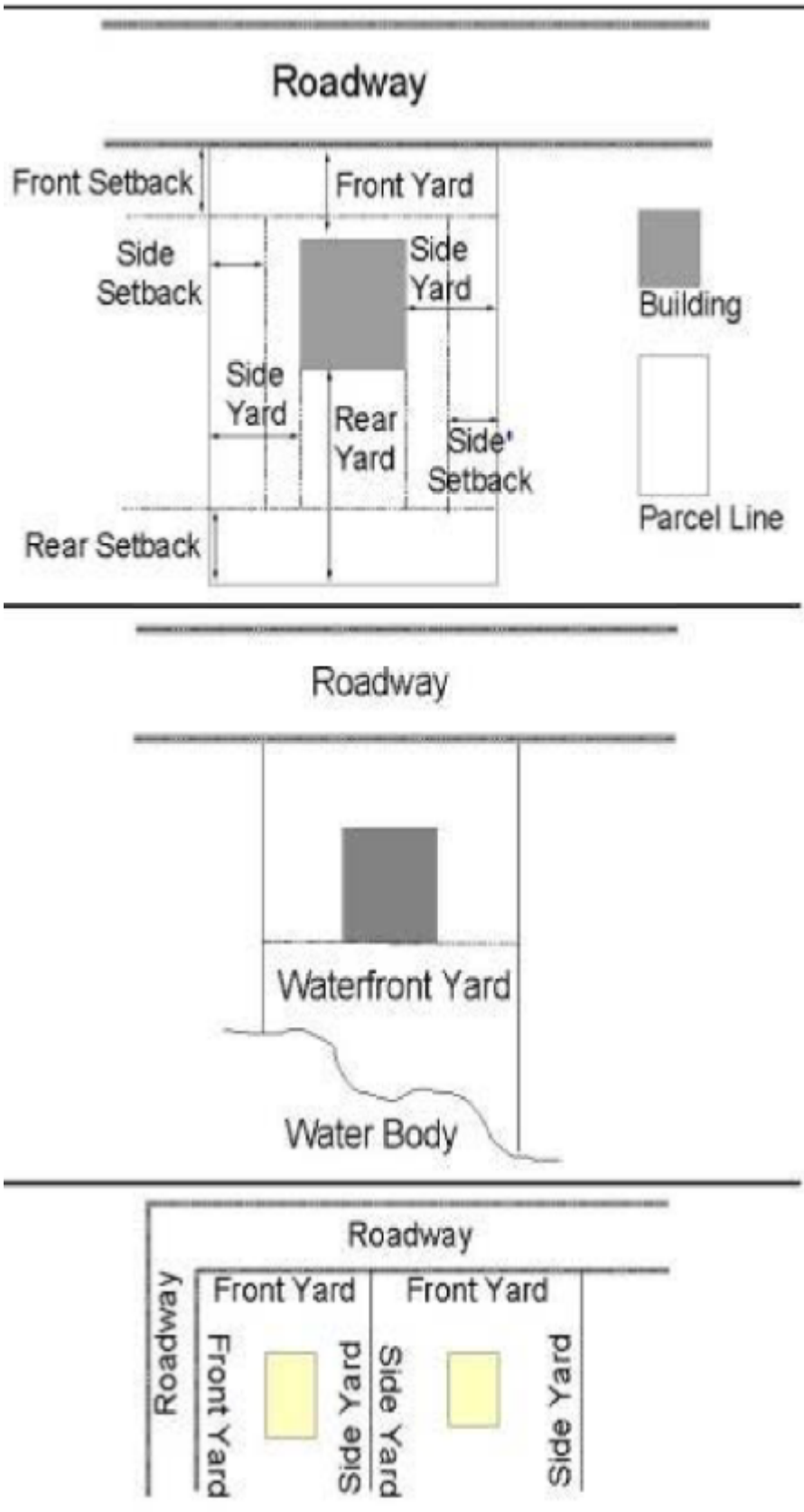
All support structures and communications equipment used in the provision of wireless communications services. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

WIRELESS COMMUNICATIONS SUPPORT STRUCTURE

A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

YARD

An open space of a required minimum width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, lying in the area between the building or group of buildings and the nearest lot line, and which is unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, fences, and as otherwise provided herein. The depth/width of such yard shall be measured at the shortest horizontal distance between the applicable lot line (front, rear, side) and the nearest point of a building or projection thereof.



YARD, FRONT

Open space extending across the full width of a lot between the front lot line and the nearest point of the building or projection thereof. The depth of such yard is the shortest horizontal distance between the front lot line and the nearest point of the building or projection thereof.

YARD, REAR

Open space extending across the full width of a lot between the rear lot line and the nearest point of the building or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and nearest point of the building or any projection thereof.

YARD, SIDE

Open space extending on each side of a lot from the front yard to the rear yard, or in the absence of either of such yards, to the front lot line or rear lot line. The width of a side yard is the shortest distance between the side lot line and nearest point of the building or any projection thereof.

ZONE

See "district."

- [1] *Editor's Note: See MCL § 722.111 et seq.*
- [2] *Editor's Note: See MCL § 333.27101 et seq.*
- [3] *Editor's Note: See Ch. 18, Art. I, Medical Marihuana Facilities.*
- [4] *Editor's Note: See Ch. 18, Art. I, Medical Marihuana Facilities.*
- [5] *Editor's Note: See Ch. 18, Art. I, Medical Marihuana Facilities.*
- [6] *Editor's Note: See Ch. 18, Art. I, Medical Marihuana Facilities.*
- [7] *Editor's Note: See MCL § 559.101 et seq.*
- [8] *Editor's Note: See MCL § 559.101 et seq.*
- [9] *Editor's Note: See MCL § 125.1501 et seq.*
- [10] *Editor's Note: See MCL § 400.701 et seq.*
- [11] *Editor's Note: See MCL § 722.111 et seq.*
- [12] *Editor's Note: See MCL § 400.701 et seq.*
- [13] *Editor's Note: See MCL § 722.111 et seq.*

Article 3.00. Establishment of Zoning Districts

§ 42-3.01. Zoning Districts.

For the purpose of this chapter, Paw Paw Township is hereby divided into the following zoning districts:

CSV	Conservation (Open Space) District
AGR	Agricultural (Farmland Protection) District
ARR	Agricultural - Rural Residential District
LDR	Low Density Residential District
WFR	Waterfront Area District
VE	Village Edge Medium-High Density Mixed Use District
MHR	Mobile Home Residential District
NCC	Neighborhood Convenience Commercial District
G-PUD	Gateway Planned Unit Development District
GC	General Commercial District
HSC	Highway Service Commercial District
HCI	Heavy Commercial and Industrial District

§ 42-3.02. Zoning Map and use district boundaries.

The locations and boundaries of the zoning districts are hereby established as shown on the Zoning Map^[1] of Paw Paw Township, which accompanies and is hereby made a part of this chapter, including such amendments of the Zoning Map as may be made from time to time. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, which is not clarified by measurements pursuant to the scale of the Zoning Map, the following rules of construction and interpretations shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
- D. Boundaries indicated as approximately following shorelines or lake or streambeds shall be construed as following such shorelines or lake or streambeds, and in the event of change in the location of shorelines or lake or streambeds, shall be construed as moving with the shoreline and lake or streambed.
- E. If all or any portion of a public street, alley, right-of-way, easement, or land which is not clearly included in a district on the Zoning Map shall ever revert to or otherwise come into private ownership, or ever be used for any purpose other than a public purpose, such land area shall be construed as located in the district immediately adjacent thereto, or within the most restrictive of the immediately adjacent districts if there be more than one.
- F. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of the chapter or applicable amendment thereto.

[1] *Editor's Note: The Zoning Map is included as an attachment to this chapter.*

§ 42-3.03. Areas not included within district.

In every case where land has not been clearly included within another district pursuant to the Zoning Map and the interpretive rules of this article, such land shall be in the ARR Agricultural-Rural Residential District.

§ 42-3.04. Annexation.

When property not now within Paw Paw Township shall become annexed into the Township, the property shall be classified within the ARR Agricultural-Rural Residential District until the property is appropriately classified in accordance with Article 11.00.

§ 42-3.05. Permissive zoning concept.

Land uses are allowed in the various zoning districts by express specific designation in this chapter. Where a use is not so designated, it is prohibited, unless construed by the Zoning Administrator or Zoning Board of Appeals to be sufficiently similar to a use expressly allowed. No land contained within any zoning district within Paw Paw Township shall be used for any purpose other than those uses

specifically allowed in the district in which the building or land is located, except as otherwise provided herein.

§ 42-3.06. Permitted uses.

A use listed as a "permitted use" in Article 4.00 and Article 5.00 of this chapter is recognized as a use of land and buildings which is harmonious with other such uses which may lawfully exist within the same district (or is designated as a permitted use due to statutory requirement). A permitted use is subject to the various applicable provisions of this chapter, but otherwise it is considered to be a lawful use not requiring special or extraordinary controls or conditions.

§ 42-3.07. Special land uses.

A use listed as a "special land use" in Article 4.00 and Article 5.00 of this chapter is recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utility needs, and other similar characteristics) as necessitating prior Planning Commission authorization and approval standards, and sometimes approval conditions, in order to safeguard the general health, safety and welfare of the community.

Article 4.00. Uses Allowed by District

§ 42-4.01. Uses allowed by district.

The following table, Uses Allowed by District,^[1] lists permitted uses and special land uses by zoning district. Refer to Article 2.00, Definitions, for specific definitions of all uses.

[1] *Editor's Note: Said table is included as an attachment to this chapter.*

§ 42-4.02. Table of Uses Allowed by District.

[1] *Editor's Note: Said table is included as an attachment to this chapter.*

Article 5.00. District Standards

§ 42-5.01. CSV Conservation (Open Space) District.

A. Intent. The intent of this district is to implement the open space protection goals of the Township Master Plan. The district is designed to provide for the arrangement of land uses that are compatible with the conservation and preservation of large tracts of land that represent areas of desirable natural environment and should be minimally disturbed. Use of these areas will be generally limited to those allowed by state law. Single-family homes are intended to only be allowed on exceptionally large lots with adequate spacing and land area to adequately handle on-site septic tanks and wells. It is the intended goal of the Township to support application of voluntary conservation easements and to protect and preserve the large areas of open space within the district.

B. Permitted uses:

- (1) Existing agricultural production. A parcel, or parcels of land under single ownership, of at least 10 acres in area may also be used for agricultural production, subject to the applicable provisions of the AGR District.

- (2) Single-family dwellings and seasonal dwelling units, when located on a parcel, or parcels of land under single ownership, of at least 10 acres in area, and not located within a floodplain or regulated wetland.
- (3) Those uses permitted under the provisions of the Natural Resources and Protection Act, Michigan Public Act 451 of 1994, as amended.^[1]
[1] Editor's Note: See MCL § 324.101 et seq.
- (4) Public, semipublic or private nature preserves and conservation areas, when located on a parcel, or parcels of land under single ownership, of at least 10 acres in area. Smaller parcels that are contiguous to land governed by a conservation easement may be approved by the Zoning Board of Appeals.
- (5) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2]
[2] Editor's Note: See MCL § 722.111 et seq.
- (6) Foster care (small group) facilities.
- (7) Minor home occupations. (See § 42-8.17.)
- (8) Roadside stands. (See § 42-8.25.)
- (9) Open space preservation developments. (See § 42-8.21.)
- (10) Clustered land developments. (See § 42-8.05.)
- (11) Wireless communications facilities. (See § 42-8.30.)
- (12) Solar panels. (See § 42-8.26.)
- (13) Wind energy systems. (See § 42-8.29.)
- (14) Accessory uses or buildings. (See § 42-8.01.)

C. Special land uses:

- (1) Nonintensive recreation facilities related to the natural environment, including campgrounds, hunting/fishing reservations, and water-related activity sites, when on a parcel, or parcels of land under single ownership, of at least 10 acres in area. (See § 42-8.04.)
- (2) Cemeteries.
- (3) Outdoor recreational facilities, including golf courses, country clubs, hunt clubs and gun clubs. (See § 42-8.22.)
- (4) Major home occupations. (See § 42-8.14.)
- (5) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
- (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (7) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.

D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.

- (1) Lot area. A minimum lot area of 10 acres is required, except as provided herein:
 - (a) Existing parcels of less than 10 acres. All parcels of land legally established and recorded with the Register of Deeds of Van Buren County having less than 10 acres of land area shall be entitled to one dwelling unit land division right, provided the location of said dwelling unit is in compliance with applicable requirements of this district, unless varied by the Zoning Board of Appeals pursuant to Article 11.00.
 - (b) Parcels of 10 acres or greater. Parcels of land legally established and recorded with the Register of Deeds of Van Buren County having 10 acres or greater of land area shall be entitled to dwelling unit land division rights such to allow one dwelling unit for each 10 acres of land area.
 - (c) Abutting properties in common ownership. Where the owner(s) of individual abutting properties held in common ownership (a tract being two or more parcels having common property lines as defined by Michigan Public Act 288 of 1967, as amended - Land Division Act^[3]) wish to have dwelling unit division rights assigned to the abutting parcels of land as a single parcel, the number of dwelling unit land divisions shall be computed based on the total land area divided by 10 acres rounded to the nearest whole number.
 [3] *Editor's Note: See MCL § 560.101 et seq.*
- (2) Alternative lot area requirements.
 - (a) Land division rights shall be assigned to a parcel of land no less than two acres in land area that complies with the dimensional requirements of the ARR District (Article 11.00) for the specific purpose of creating a "lot split" in compliance with the Michigan Public Act 288 of 1967, as amended - Land Division Act^[4] and the Paw Paw Township Land Division Ordinance.^[5]
 [4] *Editor's Note: Editor's Note: See MCL § 560.101 et seq.*
 [5] *Editor's Note: See Ch. 34, Subdivisions.*
 - (b) An application for said land division may be submitted to the Township by the landowner. Said application shall include a site plan having sufficient information, as determined by the Zoning Administrator, to define the location, lot size and total area of the proposed lots to be assigned the dwelling unit land division rights.
 - (c) Upon determination that the application fulfills the requirements of the Township's Land Division Ordinance,^[6] the application shall be transmitted to the Planning Commission for review and recommendation to the Township Board for approval.
 [6] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*
- (3) Prohibition of further land divisions. The application for use of dwelling unit land division rights shall include a legal document that indicates the availability or unavailability of further dwelling unit land division rights for approval by the Township Attorney prior to receiving Township Board approval and shall be recorded with the Register of Deeds of Van Buren County.
- (4) Tenure of assigned rights. Dwelling unit land division rights granted pursuant to this section shall remain in full force and effect until either:
 - (a) The Township Board, upon recommendation of the Planning Commission, changes the zoning district designation of the subject property.
 - (b) The landowner obtains approval of a cluster development pursuant to the provisions of Article 8.00.
 - (c) The Township Board, upon recommendation of the Planning Commission, changes the minimum lot size provision of this zoning district.

§ 42-5.02. AGR Agricultural (Farmland Protection) District.

- A. Intent. The intent of this district is to implement the farmland protection goals of the Township Master Plan. The Township has extensive agricultural areas that are important to the local economy of Paw Paw and to the rural character of the area. This district is designed to preserve and encourage the continuance of agricultural and related activities to the exclusion of nonagricultural uses to the extent possible. Nonagricultural uses will be allowed only under applicable conditions in those locations where they would least conflict with agricultural operations. It is the intended goal of the Township to support the use of voluntary conservation easements to protect and preserve large tracts of farmland within this district.
- B. Permitted uses:
- (1) Agricultural production, together with farm dwellings and buildings and other installations associated with such agricultural production. More than one dwelling unit may be permitted as living quarters on a farm for the owner's immediate family or for farm employees.
 - (2) Single-family dwellings.
 - (3) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (4) Foster care (small group) facilities.
 - (5) Minor home occupations. (See § 42-8.17.)
 - (6) Greenhouses and nurseries.
 - (7) Public, semipublic or private nature preserves and conservation areas.
 - (8) Cemeteries.
 - (9) Roadside stands. (See § 42-8.25.)
 - (10) Farm markets. (See § 42-8.09.)
 - (11) On-farm biofuel production facilities (Type I).
 - (12) Horse boarding or riding stables, including outdoor riding areas.
 - (13) Private airfields or aircraft landing strips, subject to compliance with all applicable federal, state and local regulations and codes.
 - (14) Private shooting ranges.
 - (15) Wireless communications facilities. (See § 42-8.30.)
 - (16) Solar panels. (See § 42-8.26.)
 - (17) Wind energy systems. (See § 42-8.29.)
 - (18) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Processing of agricultural products, including fruit packing plants. Slaughterhouses are not allowed.
 - (2) Sales and distribution facilities of agriculturally related products, such as bulk feed, fertilizer, and seed.
 - (3) Commercial grain elevators, for storage, drying and sales of agricultural products.
 - (4) Truck and cartage facilities for hauling agricultural products.
 - (5) On-farm biofuel production facilities (Type II or Type III).

- (6) Sales and service of farm machinery.
 - (7) Veterinary clinics.
 - (8) Commercial shooting ranges.
 - (9) Microbreweries, wineries (including cideries) and distilleries. (See § 42-8.15.)
 - (10) Special event facilities. (See § 42-8.28.)
 - (11) Major home occupations. (See § 42-8.14.)
 - (12) Clustered land developments. (See § 42-8.05.)
 - (13) Grower facilities - Class A, Class B and Class C. (See § 42-8.07.)
 - (a) The facility shall be located on a minimum of 10 acres.
 - (b) An operator of the facility shall reside on the premises.
 - (14) Processor facilities, when located on the same site as a grower facility. (See § 42-8.07.)
 - (15) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
 - (16) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (17) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.
 - (18) Solar farms. (See § 42-8.27.)
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- (1) Lot area. A minimum lot area of 10 acres is required, except as provided herein:
 - (a) Existing parcels of less than 10 acres. All parcels of land legally established and recorded with the Register of Deeds of Van Buren County having less than 10 acres of land area shall be entitled to one dwelling unit land division right, provided the location of said dwelling unit is in compliance with applicable requirements of this district, unless varied by the Zoning Board of Appeals pursuant to Article 11.00.
 - (b) Parcels of 10 acres or greater. Parcels of land legally established and recorded with the Register of Deeds of Van Buren County having 10 acres or greater of land area shall be entitled to dwelling unit land division rights such to allow one dwelling unit for each 10 acres of land area.
 - (c) Abutting properties in common ownership. Where the owner(s) of individual abutting properties held in common ownership (a tract being two or more parcels having common property lines as defined by Michigan Public Act 288 of 1967, as amended - Land Division Act^[2]) wish to have dwelling unit division rights assigned to the abutting parcels of land as a single parcel, the number of dwelling unit land divisions shall be computed based on the total land area divided by 10 acres rounded to the nearest whole number.

[2] *Editor's Note: See MCL § 560.101 et seq.*
 - (2) Alternative lot area requirements.

- (a) Land division rights shall be assigned to a parcel of land no less than two acres in land area that complies with the dimensional requirements of the ARR District (Article 11.00) for the specific purpose of creating a "lot split" in compliance with the Michigan Public Act 288 of 1967, as amended - Land Division Act^[3] and the Paw Paw Township Land Division Ordinance.^[4]
- [3] *Editor's Note: See MCL § 560.101 et seq.*
- [4] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*
- (b) An application for said land division may be submitted to the Township by the landowner. Said application shall include a site plan having sufficient information, as determined by the Zoning Administrator, to define the location, lot size and total area of the proposed lots to be assigned the dwelling unit land division rights.
- (c) Upon determination that the application fulfills the requirements of the Township's Land Division Ordinance,^[5] the application shall be transmitted to the Planning Commission for review and recommendation to the Township Board for approval.
- [5] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*
- (3) Prohibition of further land divisions. The application for use of dwelling unit land division rights shall include a legal document that indicates the availability or unavailability of further dwelling unit land division rights for approval by the Township Attorney prior to receiving Township Board approval and shall be recorded with the Register of Deeds of Van Buren County.
- (4) Tenure of assigned rights. Dwelling unit land division rights granted pursuant to this section shall remain in full force and effect until either:
- (a) The Township Board, upon recommendation of the Planning Commission, changes the zoning district designation of the subject property.
- (b) The landowner obtains approval of a cluster development pursuant to the provisions of Article 8.00.
- (c) The Township Board, upon recommendation of the Planning Commission, changes the minimum lot size provision of this zoning district.
- (5) Right to farm. It is the intent of this zoning district to both govern and protect agricultural land, building and structural uses in accordance with the provisions of Michigan Public Act 240 of 1967, as amended (Right to Farm Act)^[6] when such operations are compliant with generally accepted agricultural management practices as established by the Michigan Department of Agriculture. All legal nonconforming agricultural uses included in the Act shall be governed by the provisions of this chapter to the extent that they are not in conflict with the provisions of the Act. In which case, the provisions of the Act shall prevail.
- (a) The Zoning Administrator may approve upon application by a property owner a land division of not less than two acres nor more than five acres of land having a minimum of 200 feet of road frontage when the intent of the division is to allow the sale of a farm homestead when the remaining portion of the farm is intended to be consolidated into another active farm operation. The goal of this provision is to allow the purchaser of an active farm the opportunity to consolidate the active farmland into a single farming operation and to separate off the farm homestead. The Zoning Administrator may refer the approval of the proposed land division to the Planning Commission.
- (b) An original farm homestead (defined as the dwelling of the owner/farm operator) existing on the date of adoption of this chapter may be divided from the farm operations upon approval of the Planning Commission provided the land division is not less than two acres of land, has a minimum of 200 feet of road frontage, and meets lot coverage and yard/setback requirements.

[6] *Editor's Note: See MCL § 286.471 et seq.*

§ 42-5.03. ARR Agricultural — Rural Residential District.

- A. Intent. This district is composed of land in the rural areas of the Township where land use consists primarily of farms, residential dwellings and other compatible rural activities. It is the intent of this district to preserve the rural character of these areas, while encouraging the preservation of active agriculture, sensitive environmental features, and large open spaces within the Township. It is designed to allow low-density, rural residential development and promote the preservation of large tracts of land for agriculture and conservation. This district is intended to further the goals and objectives of the Paw Paw Township Master Plan on the preservation of rural character, open space and natural resources.
- B. Permitted uses:
- (1) Agricultural production, together with farm dwellings and buildings and other installations associated with such agricultural production. More than one dwelling unit may be permitted as living quarters on a farm for the owner's immediate family or for farm employees.
 - (2) Single-family dwellings.
 - (3) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (4) Foster care (small group) facilities.
 - (5) Minor home occupations. (See § 42-8.17.)
 - (6) Greenhouses and nurseries.
 - (7) Public, semipublic or private nature preserves and conservation areas.
 - (8) Cemeteries.
 - (9) Roadside stands. (See § 42-8.25.)
 - (10) Farm markets. (See § 42-8.09.)
 - (11) On-farm biofuel production facilities (Type I).
 - (12) Horse boarding or riding stables, including outdoor riding areas.
 - (13) Private airfields or aircraft landing strips, subject to compliance with all applicable federal, state and local regulations and codes.
 - (14) Wireless communications facilities. (See § 42-8.30.)
 - (15) Solar panels. (See § 42-8.26.)
 - (16) Wind energy systems. (See § 42-8.29.)
 - (17) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Processing of agricultural products, including fruit packing plants. Slaughterhouses are not allowed.
 - (2) Sales and distribution facilities of agriculturally related products, such as bulk feed, fertilizer, and seed.
 - (3) Grain elevators, for storage, drying and sales of agricultural products.
 - (4) Truck and cartage facilities for hauling agricultural products.

- (5) On-farm biofuel production facilities (Type II or Type III).
 - (6) Sales and service of farm machinery.
 - (7) Kennels. (See § 42-8.13.)
 - (8) Veterinary clinics.
 - (9) Microbreweries, wineries (including cideries) and distilleries. (See § 42-8.15.)
 - (10) Hunt clubs or gun clubs.
 - (11) Special event facilities. (See § 42-8.28.)
 - (12) Campgrounds. (See § 42-8.04.)
 - (13) Outdoor recreational facilities, including golf courses, country clubs, organized camps and other similar facilities. (See § 42-8.22.)
 - (14) Group child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2] (See § 42-8.06.)
 [2] *Editor's Note: Editor's Note: See MCL § 722.111 et seq.*
 - (15) Major home occupations. (See § 42-8.14.)
 - (16) Open space preservation developments. (See § 42-8.21.)
 - (17) Clustered land developments. (See § 42-8.05.)
 - (18) Grower facilities - Class A, Class B and Class C. (See § 42-8.07.)
 - (a) The facility shall be located on a minimum of 10 acres.
 - (b) An operator of the facility shall reside on the premises.
 - (19) Processor facilities, when located on the same site as a grower facility. (See § 42-8.07.)
 - (20) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
 - (21) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (22) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
 - (23) Solar farms. (See § 42-8.27.)
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.

§ 42-5.04. LDR Low Density Residential District.

- A. Intent. The purpose of this district is to provide for single-family residential development of spacious character, together with uses that are normally compatible and supportive to the residents living within the district. This district is directed to lands located in developed or developing areas where appropriate land use relationships and natural resource/open space

protection can be achieved. This district is intended to further the goals and objectives for low-density residential land use in the Paw Paw Township Master Plan.

B. Permitted uses:

- (1) Single-family dwellings.
- (2) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
- (3) Foster care (small group) facilities.
- (4) Minor home occupations. (See § 42-8.17.)
- (5) Wireless communications facilities. (See § 42-8.30.)
- (6) Solar panels. (See § 42-8.26.)
- (7) Accessory uses or buildings. (See § 42-8.01.)

C. Special land uses:

- (1) Open space preservation developments. (See § 42-8.21.)
- (2) Clustered land developments. (See § 42-8.05.)
- (3) Planned unit developments. (See § 42-8.24.)
- (4) Group child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2] (See § 42-8.06.)
[2] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
- (5) Churches.
- (6) Public and private schools.
- (7) Golf courses and country clubs. (See § 42-8.22.)
- (8) Nonprofit recreational, health, educational and social facilities.
- (9) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
- (10) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
- (11) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference, are prohibited.

D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.

E. Conditions and limitations.

- (1) The special land uses allowed by § 42-5.04C shall be subject to the following:
 - (a) The proposed site shall be provided frontage on a paved public road.
 - (b) The proposed site shall be provided direct access from the abutting paved public road.

(c) A 100-foot setback shall be provided from each property line, including the waterfront.

§ 42-5.05. WFR Waterfront Area District.

- A. Intent. The purpose of this district is to provide for single-family residential development, together with uses that are normally compatible and supportive to the residents living within areas adjacent to lakes and other surface water features. Development standards within this district are designed to sustain safe and healthful on-site or common water and sanitary sewer systems. This district is intended to further the goals and objectives for waterfront residential land use in the Paw Paw Township Master Plan.
- B. Permitted uses:
- (1) Single-family dwellings.
 - (2) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (3) Foster care (small group) facilities.
 - (4) Minor home occupations. (See § 42-8.17.)
 - (5) Wireless communications facilities. (See § 42-8.30.)
 - (6) Solar panels. (See § 42-8.26.)
 - (7) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Open space preservation developments. (See § 42-8.21.)
 - (2) Clustered land developments. (See § 42-8.05.)
 - (3) Planned unit developments. (See § 42-8.24.)
 - (4) Group child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2] (See § 42-8.06.)
[2] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (5) Churches.
 - (6) Public and private schools.
 - (7) Golf courses and country clubs. (See § 42-8.22.)
 - (8) Resorts and inns, where a minimum of 10 acres and 400 feet of waterfront are provided.
 - (9) Concessions for boating, fishing and water sports, where a minimum of five acres and 200 feet of waterfront are provided.
 - (10) Nonprofit recreational, health, educational and social facilities.
 - (11) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
 - (12) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (13) Public utility buildings and structures necessary for the service of the community, except that:

- (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Conditions and limitations.
- (1) The special land uses allowed by § 42-5.05C shall be subject to the following:
 - (a) The proposed site shall be provided frontage on a paved public road.
 - (b) The proposed site shall be provided direct access from the abutting paved public road.
 - (c) A 100-foot setback shall be provided from each property line, including the waterfront.
 - (2) All waterfront properties shall be subject to the waterfront regulations set forth in Article 9.00.

§ 42-5.06. VE Village Edge Medium-High Density Mixed Use District.

- A. Intent. This district provides opportunities for a wider variety of housing types, as well as variations in density and housing arrangements. Lands within this district will be allowed the most intensive residential development, as well as other residential-related development. This district will be directed to the areas within the Township that surround the Village of Paw Paw to serve as a transition from the rural landscape of the Township to the "small town" atmosphere of the Village. This area of "transition" will provide a mixture of housing options in locations close to areas of commerce and employment and avoid random residential sprawl and the loss of valuable farmland in the Township. This district is intended to further the goals and objectives for medium-high density and multiple-family residential land use in the Paw Paw Township Master Plan.
- B. Permitted uses:
- (1) Single- and two-family dwellings.
 - (2) Multiple-family dwellings, including three- and four-unit dwellings, attached single-family dwellings, townhouses, row housing and other similar residential building types, not to exceed eight units per acre. (See § 42-8.19.)
 - (3) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (4) Foster care (small group) facilities.
 - (5) Minor home occupations. (See § 42-8.17.)
 - (6) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (7) Wireless communications facilities. (See § 42-8.30.)
 - (8) Solar panels. (See § 42-8.26.)
 - (9) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Bed-and-breakfast inns. (See § 42-8.02.)

- (2) Cemeteries.
 - (3) Churches.
 - (4) Public and private schools.
 - (5) Open space preservation developments. (See § 42-8.21.)
 - (6) Clustered land developments. (See § 42-8.05.)
 - (7) Planned unit developments. (See § 42-8.24.)
 - (8) Group child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2] (See § 42-8.06.)
[2] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (9) Child-care centers or day-care centers. (See § 42-8.06.)
 - (10) Foster care (large group) facilities. (See § 42-8.11.)
 - (11) Care homes.
 - (12) Hospitals or medical clinics.
 - (13) Boarding or lodging houses. (See § 42-8.03.)
 - (14) Bed-and-breakfast inns. (See § 42-8.02.)
 - (15) Nonprofit recreational, health, educational and social facilities.
 - (16) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
 - (17) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Conditions and limitations.
- (1) The special land uses allowed by § 42-5.06C shall be subject to the following:
 - (a) The proposed site shall be provided frontage on a paved public road.
 - (b) The proposed site shall be provided direct access from the abutting paved public road.

§ 42-5.07. MHR - Mobile Home Residential District.

- A. Intent. This district provides an area in the Township where mobile homes can be located in parks, subdivisions or on metes and bounds lots and parcels, exclusively for the purpose of providing families who prefer this type of housing to conventional-built housing and further to provide for others seeking such housing to assemble in the same district. This district is intended to further the goals and objectives for mobile home residential development in the Paw Paw Township Master Plan.
- B. Permitted uses:

- (1) State-licensed mobile home parks per Michigan Public Act 96 of 1987, as amended (Mobile Home Park Commission Act^[1]), located on a parcel having at least 15 usable acres for mobile home sites.
[1] Editor's Note: See MCL § 125.2301 et seq.
 - (2) Single-family mobile homes on lots which meet the requirements of the construction standards established by the "Mobile Home Construction and Safety Standards."^[2]
[2] Editor's Note: See 24 CFR 3280.
 - (3) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[3]
[3] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (4) Foster care (small group) facilities.
 - (5) Minor home occupations. (See § 42-8.17.)
 - (6) Major home occupations within existing single-family homes. (See § 42-8.14.)
 - (7) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Public and private schools.
 - (2) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (3) Nonprofit recreational, health, educational and social facilities.
 - (4) Churches.
 - (5) Golf courses and country clubs. (See § 42-8.22.)
 - (6) Child-care centers or day-care centers. (See § 42-8.06.)
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Conditions and limitations.
- (1) The special land uses allowed by § 42-5.07C shall be subject to the following:
 - (a) The proposed site shall have at least one property line abutting a paved road, except a minor road having conventional single-family housing fronting upon it.
 - (b) The proposed site shall be provided direct access from the abutting paved road.
 - (c) Front, waterfront, side and rear yards shall be set back at least 50 feet, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to screen the use from abutting residential lots and parcels.
- F. Additional requirements.
- (1) The following regulations shall govern mobile homes located outside of a state-licensed mobile home park either on mobile home subdivision lots or metes and bounds lots or parcels:
 - (a) A zoning permit for the placement thereof shall be obtained from the Zoning Administrator, accompanied by a nonrefundable permit fee as specified in the Township Fee Schedule.^[4]
[4] Editor's Note: Said schedule is on file in the Township offices.

- (b) Each mobile home, its placement and the lot upon which it is to be located, shall meet all requirements relating to use, size of lot, floor area, setback, side yard and rear yard requirements specified for the MHR Zoning District.
- (c) Each mobile home shall be connected to potable water and sanitary sewage disposal facilities approved by the Van Buren County Health Department. If public water and sanitary sewage disposal facilities are available to a lot upon which a mobile home is to be located, the mobile home shall be connected to them.
- (d) Each mobile home shall be installed pursuant to the provision of the Michigan Construction Code and regulations of the Michigan Mobile Home Commission. Placement of a mobile home shall begin only after a zoning permit has been obtained in accordance with this chapter.
- (e) Construction of a mobile home, and all plumbing, electrical apparatus, and insulation within and connected to a mobile home shall be of a type and quality conforming to the most recent requirements and standards of the United States Department of Housing and Urban Development's "Mobile Home Construction and Safety Standards," as amended.^[5]
[5] *Editor's Note: See 24 CFR 3280.*
- (f) Each mobile home shall meet or exceed all wind and snow roof loads and other strength requirements of the United States Department of Housing and Urban Development's "Mobile Home Construction and Safety Standards," as amended.^[6]
[6] *Editor's Note: See 24 CFR 3280.*
- (g) No person shall occupy a mobile home as a dwelling until a certificate of zoning compliance has been issued by the Zoning Administrator. The certificate shall indicate satisfactory compliance with all requirements of this chapter and the construction code in effect in the Township. No such permit shall be issued for occupancy of any mobile home not bearing the appropriate identification plate indicating that the mobile home was constructed in compliance with applicable Michigan Construction Code and the "Mobile Home Construction and Safety Standards"^[7] of the United States Department of Housing and Urban Development.
[7] *Editor's Note: See 24 CFR 3280.*

§ 42-5.08. NCC Neighborhood Convenience Commercial District.

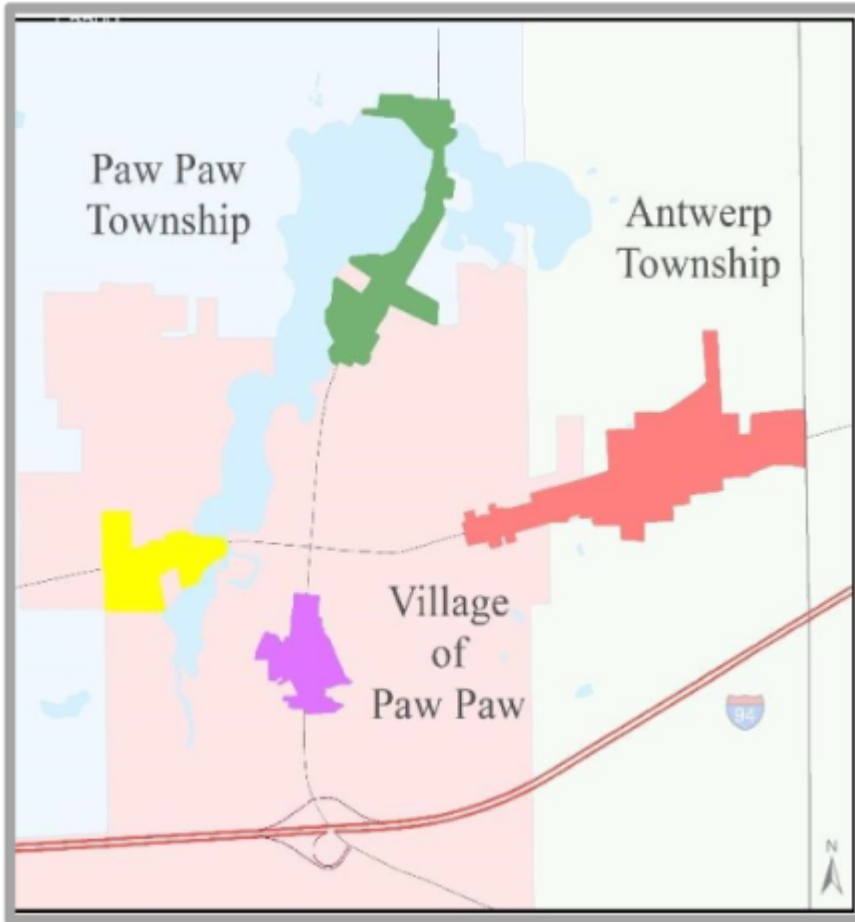
- A. Intent. This district is intended to accommodate the limited establishment of small neighborhood commercial centers at designated locations within the Township that are designed to provide services in a manner convenient to surrounding residential areas. These regulations are intended to provide standards of use and design that ensure compatibility with adjacent rural land use and nearby residential properties. This district is intended to further the goals and objectives of the Paw Paw Township Master Plan for commercial land use.
- B. Permitted uses:
 - (1) Single- and two-family dwellings, when located on the same lot or within the development area of a special land use allowed by § 42-5.08C, subject to the site plan review requirements of § 42-11.02.
 - (2) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] *Editor's Note: Editor's Note: See MCL § 722.111 et seq.*
 - (3) Foster care (small group) facilities.
 - (4) Minor home occupations. (See § 42-8.17.)
 - (5) Wireless communications facilities. (See § 42-8.30.)

- (6) Solar panels. (See § 42-8.26.)
 - (7) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Bed-and-breakfast inns. (See § 42-8.02.)
 - (2) Retail establishments which supply commodities on the premises such as, but not limited to, groceries, baked goods, pharmaceuticals, and clothing.
 - (3) Service establishments such as, but not limited to, a photographic studio, flower shop, beauty salon or barber shop, and photocopy shop.
 - (4) Business establishments such as, but not limited to, a bank, insurance office, and real estate office.
 - (5) Professional services such as, but not limited to, legal, financial, and similar allied professional.
 - (6) Restaurants.
 - (7) Gasoline sales.
 - (8) Mixed-use establishments, allowing both permitted and special land uses within the same building.
 - (9) Microbreweries, wineries (including cideries) and distilleries. (See § 42-8.15.)
 - (10) Outdoor sales or activities accessory to a permitted or special land use. (See § 42-8.23.)
 - (11) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Site development standards.
- (1) District boundaries. Each area occupied by the NCC District shall not be greater than two contiguous acres in size and shall be provided frontage on a county-designated primary road.
 - (2) Dimensional requirements. All Zoning Ordinance dimensional requirements for the zoning district shall apply, unless specifically reduced by the Planning Commission upon a finding that the reduction meets the purpose of the district to provide for compatibility of design and use between neighboring properties and complies with the intent of the special land use provisions set forth in Article 7.00. Such a dimensional reduction is not subject to variance approval or further relief by the Zoning Board of Appeals.
 - (3) Lot coverage:
 - (a) The total improved area of each lot shall not occupy more than 50% of the lot area unless specifically reduced by the Planning Commission upon a finding that the reduction meets the purpose of the overlay district to provide for compatibility of design and use between neighboring properties and complies with the intent and purpose of the special land use provisions set forth in Article 7.00. Such a dimensional reduction is not subject to variance approval or further relief by the Zoning Board of Appeals.
 - (b) For purposes of this district, "improved area" shall include the portion of a lot that is covered by buildings and hard-surfaced areas, such as drives, parking areas, and sidewalks.

- (4) Access. Shared access between lots through shared driveways, driveway placement or closure of any existing driveway so as to facilitate future shared access between lots shall be encouraged where feasible and appropriate.
- (5) Parking:
 - (a) Except as specified herein, parking for motor vehicles shall be in accordance with § 42-9.12.
 - (b) Parking layouts designed to allow for shared access and shared parking with adjacent properties will be encouraged where feasible and appropriate.
 - (c) An overlap in parking requirements between uses that have alternating peak parking demands may be allowed where shared or common parking facilities are provided.
- (6) Architectural design features:
 - (a) Building architecture shall be compatible with the character of the surrounding area, including, but not limited to, roofline, exterior materials, building height, orientation and facade.
 - (b) Elevation drawings shall be submitted with the site plan for consideration during the special land use approval process.
- (7) Lighting. Outdoor lighting shall be in accordance with § 42-9.13.
- (8) Signs. Signs are allowed in the district as provided by § 42-9.18.
- (9) Landscaping:
 - (a) Green space shall be established along the perimeters of the lot to establish a continuity of natural areas along the abutting street and between adjacent residential properties.
 - (b) Screening shall be established along property lines abutting an existing residential use if determined to be necessary to minimize any impacts. Screening shall be accomplished through the siting of land uses, maximizing existing screens or land cover, or providing new screens consistent with § 42-9.17.
 - (c) Landscaping shall be provided on site and in internal areas of parking lots to provide shade, visual relief, and vehicular/pedestrian separation.
- (10) Unimproved areas.
 - (a) Unimproved areas shall be designed to achieve the following:
 - [1] Screen undesirable views.
 - [2] Complement building form.
 - [3] Mitigate impacts from lighting and noise.
 - (b) For purposes of this district, "unimproved areas" shall include that portion of the lot that is not covered by buildings and hard-surfaced areas, such as drives, parking areas, and sidewalks.
- (11) Stormwater management. Stormwater management systems shall be designed to achieve compliance with § 42-9.06 and are required to:
 - (a) Incorporate and/or use natural drainage systems existing on the site.
 - (b) Protect the surrounding natural environment.
 - (c) Retain the natural retention and storage capacity of any wetland or waterway.

(d) Not increase flooding or the possibility of polluting surface water or groundwater.

§ 42-5.09. G-PUD Gateway Planned Unit Development District.



A. Intent. The purposes of this district are to:

- (1) Permit greater flexibility in the regulation of land and encourage creative and imaginative design in development through the use of planned unit development legislation, as authorized by the Michigan Zoning Act (Public Act 110 of 2006, as amended).^[1]
[1] Editor's Note: See MCL § 125.3101 et seq.
- (2) Provide for a harmonious mixture of housing choices with the integration of retail/service establishments, civic and cultural facilities, and recreational opportunities.
- (3) Ensure a high quality appearance for development and redevelopment and promote appropriate building scale; pedestrian-friendly design; side and rear yard parking arrangements; active streetscapes; and a proper transition to the downtown area.
- (4) Provide functional, visual and definable connectivity to the downtown area from the community gateways.
- (5) Provide an aesthetic that is inviting and oriented around announcing entrance into the core of the Paw Paw community.
- (6) Further the vision and redevelopment strategies for the gateway areas set forth in the Paw Paw Township Master Plan.

B. Applicability.

- (1) The Gateway PUD District is intended to apply to the North Gateway into the downtown area of Paw Paw. The North Gateway includes all parcels abutting North Kalamazoo Street from 51st Street south to the southern boundary of Paw Paw Township.
- (2) The Gateway PUD District boundary defines a gateway area along the North Kalamazoo Street gateway corridor and is generally consistent with the gateway identified in the Paw Paw Township Master Plan.
- (3) The Gateway PUD District sets forth use and design standards that are specific to the gateway area, as well as streetscape standards intended to apply similarly to all of the gateways.
- (4) Buildings existing within the Gateway PUD District prior to (date of adoption) shall not be subject to the building design standards set forth herein.
- (5) Any expansion or modification to an existing or approved use, building, or site that requires site plan review by the Planning Commission pursuant to § 42-11.02 shall be subject to the requirements of the Gateway PUD District.
- (6) Any new development shall be subject to the requirements of the Gateway PUD District.
- (7) A site plan shall be submitted in accordance with § 42-11.02 for all permitted uses. All special land uses shall be subject to the special land use permit requirements set forth in § 42-7.02.

C. Planned unit development provisions - North Gateway.

- (1) Permitted uses:
 - (a) Single and two-family dwellings.
 - (b) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[2]
[2] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
 - (c) Foster care (small group) facilities.
 - (d) Minor home occupations. (See § 42-8.17.)
 - (e) Museums, libraries and other recreational facilities.
 - (f) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (g) Wireless communications facilities. (See § 42-8.30.)
 - (h) Solar panels. (See § 42-8.26.)
 - (i) Accessory uses or buildings. (See § 42-8.01.)
- (2) Special land uses:
 - (a) Multiple-family dwellings, including three- and four-unit dwellings, attached single-family dwellings, townhouses, row housing and other similar residential building types not to exceed eight units per acre. (See § 42-8.19.)
 - (b) Bed-and-breakfast inns. (See § 42-8.02.)
 - (c) Group child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[3]
(See § 42-8.06.)
[3] Editor's Note: Editor's Note: See MCL § 722.111 et seq.

D. Design requirements - North Gateway.

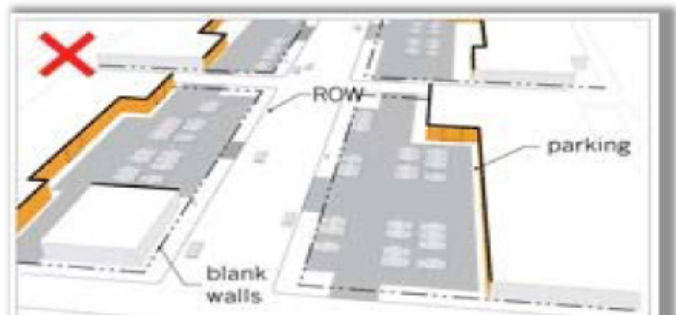
- (1) Minimum lot size: 10,000 square feet.

- (2) Minimum lot width: 80 feet.
- (3) Front yard required build-to line: 40 feet.
- (4) Side yard setback: eight feet minimum; 20 feet maximum.
- (5) Minimum rear yard setback: 25 feet.
- (6) Maximum building height: two stories.
- (7) Maximum lot coverage: 35%.
- (8) Residential architectural requirements:
 - (a) A prominent front facade pedestrian entry shall face the front lot line.
 - (b) A front porch or landing with steps shall be provided.
 - (c) Front facade shall be at least 25% windows and doors.
 - (d) Accessory buildings shall not be forward of the residential dwelling.
- (9) Site layout requirements:
 - (a) Parking areas for nonresidential and multiple-family uses shall be limited to side and rear yards.
 - (b) Integrated approaches to development that minimizes vehicular entry points shall be provided.
 - (c) Vehicular and pedestrian connections to adjacent development sites shall be provided.
 - (d) Reduced lot coverage requirements will be considered for an integrated design approach with adjacent property.

E. Site design requirements. The following site design requirements shall apply within the Gateway PUD District:

- (1) Parking.
 - (a) Except as specified herein, off-street parking and loading areas shall be in accordance with § 42-9.12. Compliance with parking requirements may be met through on-site parking or common parking facilities, subject to Planning Commission approval.
 - (b) The Planning Commission may approve reduced on-site parking, or the paving of only a portion of the parking area, leaving a portion as grass for overflow parking, if it is demonstrated that adequate parking otherwise exists in a shared and/or adjacent parking facility during the principal operating hours of all uses to share said parking and access is shared.

Undesirable parking situation — the parking is in front of the building and each building has a separate parking lot.

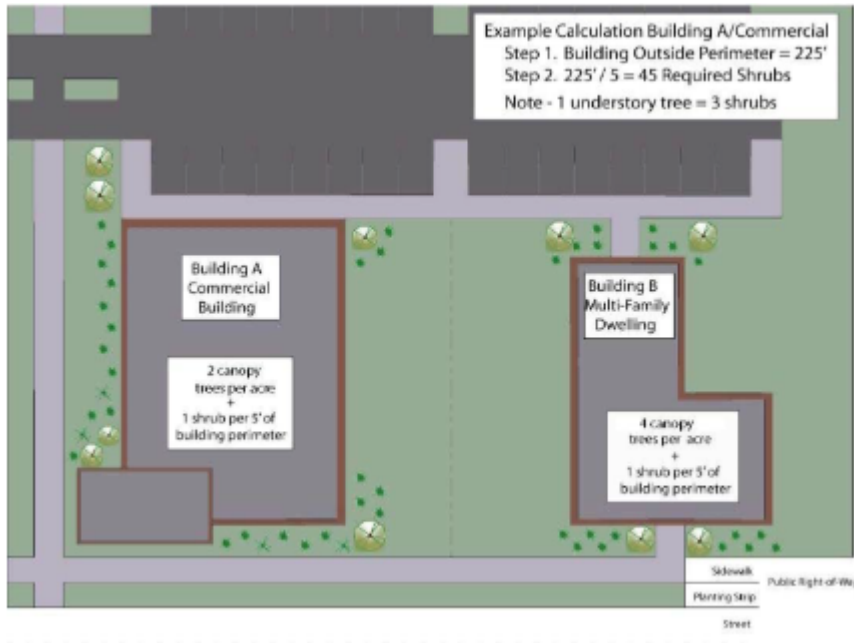


Desirable parking situation — the parking is in the rear of the

building and is designed as common/shared parking area.



- (2) Frontage landscaping. Landscaping is required between the building or build-to line, whichever is greater, and the abutting right-of-way line.



- (3) Utilities. All utilities, including telephone, electric, and cable television, shall be placed underground.
- (4) Outdoor lighting. On-site outdoor lighting shall be in accordance with § 42-9.13.
- (5) Dumpsters. Dumpster facilities are allowed only in rear yards and shall be in accordance with § 42-9.16.
- (6) Signs.
 - (a) Signage shall be in accordance with § 42-9.18.
 - (b) Existing freestanding signage shall be considered lawfully nonconforming and subject to the provisions of Article 10.00.
- (7) Bike racks.
 - (a) The planned unit development shall be designed to accommodate bicycle travel, including the provision of bike racks.
 - (b) All parking areas for nonresidential uses shall include bike racks.
- (8) Outdoor spaces. Outdoor dining or general gathering spaces accessory to the principal use on the premises shall be allowed, upon approval by the Planning Commission.



- (9) Stormwater management. Stormwater management systems shall be designed to achieve compliance with Zoning Ordinance standards and are required to:
 - (a) Incorporate and/or use natural drainage systems on the site or within the district.
 - (b) Protect the surrounding natural environment.
 - (c) Retain the natural retention and storage capacity of nearby wetlands or waterways.
 - (d) Not increase flooding or the possibility of polluting surface water or groundwater.

F. Green space requirements. There shall be designated an amount of green space within the planned unit development of not less than 15% of the total gateway planned unit development district, subject to the following standards:



- (1) Designated green space shall be of functional value as it relates to opportunities for wildlife habitat, natural feature preservation, recreation, visual impact, and accessibility.

- (2) Designated green space shall be located along the waterfront (if applicable) and along the roadway corridor so as to be visible and accessible to the public.
- (3) Designated green space shall be designed to effectively connect open spaces throughout the planned unit development.
- (4) Any significant and/or sensitive environmental resources shall be included within the designated green space.
- (5) The following land areas may be included as designated green space for purposes of meeting minimum green space requirements:
 - (a) The landscaped area of any road right-of-way or private road easement;
 - (b) On-site landscaping, where connected with green space areas;
 - (c) Stormwater detention/retention basins, including natural wetland areas.
- (6) Structures or buildings which are accessory to the designated green space may be allowed and shall be erected only in accordance with the approved site plan.
- (7) Designated green space shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as recorded deed restrictions; covenants that run perpetually with the land; a conservation easement; or land trust. Conveyance shall assure that the green space is protected from development, except as approved by the Planning Commission. Such conveyance shall also:
 - (a) Indicate the proposed allowable uses(s) of the designated green space;
 - (b) Require that the designated green space be maintained by parties who have an ownership interest in the green space;
 - (c) Provide standards for scheduled maintenance of the green space;
 - (d) Provide for maintenance to be undertaken by the Township in the event that the designated green space is inadequately maintained, or is determined by the Township to be a nuisance, with the assessment of the costs for maintenance upon the green space ownership.

G. Streetscape design requirements.

- (1) The streetscape elements within the rights-of-way of the gateway corridors are key to announcing entrance into the Paw Paw community and effectively drawing the traveler into the downtown area, the community's economic hub.



- (2) These elements occur within the public realm and are therefore not regulated by the Zoning Ordinance. Instead, improvements are determined and funded by the community and roadway agencies. To assist in providing consistency and direction regarding these essential

improvements, design guidelines regarding streetscape elements are set forth in the Paw Paw Community Gateways Report.

H. Procedural guidelines.

- (1) Application requirements. The application for development approval within the Gateway PUD District shall be made according to the development review process set forth in this section.
- (2) Effect of approval. After a site plan has been approved and construction of any part thereof commenced, no other type of development will be allowed on the site without further approval by the Planning Commission and after proceedings conducted as in the original application.
- (3) Conformity to approved plan. Property within the Gateway PUD District which is the subject of site plan approval must be developed in strict compliance with the approved site plan. If construction and development do not conform to same, the approval thereof shall be forthwith revoked by the Township. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.
- (4) Amendment to approved plan. A proposed amendment or modification to a previously approved site plan within the PUD District shall be submitted for review in the same manner as the original application.
- (5) Project phasing.
 - (a) When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and green space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the occupants and residents of the planned unit development and surrounding area.
 - (b) Each phase of the development shall be commenced within one year of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void.
- (6) Performance bond.
 - (a) The Planning Commission may require that a performance bond, bank letter of credit, or cash bond in such amounts as may be determined be deposited with the Village to ensure completion of the site in accordance with the approved plans. The bond shall be for the purpose of securing the health, safety, and welfare of Village residents and adjacent property owners.
 - (b) Such bond or bank letter of credit, if required, shall be set at a minimum of 100% of the cost of the unfinished work for which the bond was required. The Village shall provide for the rebate of any cash bond filed in reasonable proportion to the ratio of the work completed, provided the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements related to the deposit.
- (7) Development agreement.
 - (a) No building permit shall be issued for development and no construction activity commenced within the planned unit development until an affidavit containing the legal description of the planned unit development and the subject development site within the planned unit development; the date and terms of the site plan approval; and a declaration that all improvements will be carried out in accordance with the approved site plan is recorded with the Register of Deeds for Van Buren County.
 - (b) All required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be filed with the Village and recorded at the Register of Deeds.
- (8) Revocation. In any case where construction of the approved site plan has not commenced within one year of the date of the final approval, all approvals shall be null and void.

(9) Development review process.

(a) Preapplication meeting. An applicant desiring to submit an application for site plan review within the Gateway PUD District is encouraged to attend a preapplication meeting with the Planning Commission. The purpose of the preapplication meeting is to determine general compliance with the planned unit development eligibility and design requirements, and to identify issues of significance regarding the proposed application. The applicant shall present the following information for a preapplication meeting:

- [1] Sketch plan of the proposed development site layout;
- [2] Accurate legal description of the development site;
- [3] Names and addresses of all current owners of the development site;
- [4] Total site acreage;
- [5] Number of acres to be developed by use;
- [6] Number of acres of undeveloped land;
- [7] Number of acres of designated open space;
- [8] Number and type of residential units;
- [9] Details of nonresidential use;
- [10] Details of vehicular and pedestrian circulation system;
- [11] Location and details of known natural features; and
- [12] Relationship of the development site design to the existing/planned layout of the planned unit development.

(b) Preliminary plan review.

- [1] An application for development approval within the Gateway PUD District shall be subject to mandatory preliminary plan review by the Planning Commission. The review is intended to provide an indication of the issues and concerns that must be resolved prior to site plan review.
- [2] Preliminary plan approval shall not constitute an approval of a detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the site plan. A request for a modification to the approved preliminary plan shall be submitted for review in the same manner as the original preliminary plan was submitted and reviewed.

(c) Preliminary plan requirements. Engineering details of a preliminary plan are not required to be developed beyond a level of detail required to determine the feasibility of the proposed layout. The preliminary plan, drawn to a reasonable scale, shall provide the following information:

- [1] Boundaries of the planned unit development and the development site;
- [2] General location map showing existing land use and ownership within the planned unit development and of adjacent land;
- [3] Topography of the development site and its relationship to adjoining land;
- [4] Location of existing/proposed streets adjacent to and within the planned unit development; proposed connection to and/or extension of existing streets within the planned unit development;

- [5] Pedestrian and vehicular circulation systems and related parking facilities on the development site and their relationship to existing/planned systems within the planned unit development;
 - [6] Delineation of proposed residential and nonresidential areas on the development site, indicating for each area its size, number and composition of buildings, dwelling unit density, building envelopes, height and orientation of buildings;
 - [7] Designated green space;
 - [8] Proposed landscaping, including greenbelts, berms, and/or screening;
 - [9] Stormwater drainage system;
 - [10] Public facilities;
 - [11] The following documentation shall accompany the preliminary plan:
 - [a] Name, address and telephone number of:
 - [i] All persons with an ownership interest in the land within the Planned Unit Development District, together with a description of the nature of each entity's interest;
 - [ii] All engineers, attorneys, architects or registered land surveyors associated with the development site;
 - [iii] The developer or proprietor of the development site;
 - [iv] Any person authorized to represent the owner in the review process.
 - [12] Accurate legal description of the planned unit development and development site;
 - [13] Total acreage of the planned unit development and development site;
 - [14] Number and type of units to be developed;
 - [15] General statement as to how open space and recreation areas are to be owned and maintained;
 - [16] General indication of the proposed sequence and approximate time frames of development phases;
 - [17] A narrative describing how the development site design is consistent with the purposes of the Planned Unit Development District and the capacity and availability of necessary public facilities to the development; and the impact the development will have on adjoining properties.
- (d) Additional information. During the preliminary plan review process, the Planning Commission may require additional information it determines is reasonably necessary to demonstrate compliance with the planned unit development standards. Such information may include, but not be limited to, hydrological tests, traffic studies, or wetland determinations.
- (e) Site plan review. The Planning Commission shall hold a public hearing on an application for development approval within the Gateway PUD District.
- [1] An application for development approval within the Gateway Planned Unit Development District shall be subject to site plan review by the Planning Commission. The detailed site plan shall conform to the approved preliminary plan and incorporate any revisions or recommendations made by the Planning Commission at the preliminary plan review.

- [2] An application for development approval within the Gateway Planned Unit Development District shall be subject to final approval by the Township Board. If a detailed site plan is not submitted for review within six months of preliminary plan approval, the Planning Commission may require resubmission of the preliminary plan for further review and possible revision.
- (f) Site plan requirements. The following information shall be included on, or attached to, all site plans:
- [1] An update of the approved preliminary plan pursuant to the site plan informational requirements set forth in § 42-11.02.
- [2] Engineering plans presented in sufficient detail to indicate compliance with Township standards.
- [3] Easements, deed restrictions, and other documents pertaining to pedestrian and vehicular systems; the designated open space system; and recreation areas.
- [4] If condominium ownership is proposed, all documentation required by the condominium regulations of the Township.
- (g) Review criteria. Approval of a site plan within the Gateway PUD District shall be determined on the basis of the site plan review criteria set forth in § 42-11.02, as well as the following criteria:
- [1] The overall design and land uses proposed in connection with the planned unit development site shall be consistent with the purpose of the planned unit development concept and the specific design standards set forth herein.
- [2] The proposed development site shall be serviced by the necessary public facilities to ensure the public health, safety, and welfare of the residents and users of the development.
- [3] The proposed development site shall be designed to minimize the impact of traffic generated by the development on the surrounding land uses and road network.
- [4] The proposed development site shall be designed so as to be in character with the function of the corridor as a gateway as it relates to bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
- [5] The proposed development site shall be designed and constructed so as to preserve the integrity of the existing on- and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.
- [6] The designated green space shall be of functional value as it relates to opportunities for open space preservation, visual impact along the corridor, and/or connectivity within the planned unit development and adjacent gateway properties.
- [7] The proposed development site shall comply with all applicable federal, state, and local regulations.

§ 42-5.10. GC General Commercial District.

- A. Intent The intent of this district is to provide for a compact area of auto-oriented commercial land use along Red Arrow Highway, strategically located adjacent to heavy commercial/industrial development and convenient to the larger community. These regulations are intended to provide standards of use and design that recognize the "gateway" potential of Red Arrow Highway to the downtown area of the Paw Paw community. This district is intended to further the goals and objectives of the Paw Paw Township Master Plan for heavy commercial land use.

B. Permitted uses:

- (1) Existing single- and two-family dwellings.
- (2) Family child-care homes licensed or registered under Michigan Public Act 116 of 1973.^[1]
[1] Editor's Note: Editor's Note: See MCL § 722.111 et seq.
- (3) Foster care (small group) facilities.
- (4) Minor home occupations. (See § 42-8.17.)
- (5) Retail establishments which supply commodities on the premises such as, but not limited to, groceries, baked goods, pharmaceuticals, and clothing.
- (6) Service establishments such as, but not limited to, a photographic studio, flower shop, beauty salon or barber shop, and photocopy shop.
- (7) Business establishments such as, but not limited to, a bank, insurance office, and real estate office.
- (8) Professional services such as, but not limited to, a legal, financial, and similar allied professional.
- (9) Multi-good retail establishments, such as department, building supply, and appliance warehouses.
- (10) Restaurants, including drive in/drive-through service facilities.
- (11) Bars and taverns.
- (12) Gasoline sales, vehicle service and repair stations.
- (13) Funeral homes.
- (14) Veterinary clinics.
- (15) Hotels and motels.
- (16) Hospitals or medical clinics.
- (17) Public and private schools.
- (18) Nonprofit recreational, health, educational and social facilities.
- (19) Wireless communications facilities. (See § 42-8.30.)
- (20) Solar panels. (See § 42-8.26.)
- (21) Accessory uses or buildings. (See § 42-8.01.)

C. Special land uses:

- (1) Indoor recreation facilities, including bowling alleys, skating rinks and theatres.
- (2) Open air businesses. (See § 42-8.20.)
- (3) Motor vehicle sales and service. (See § 42-8.18.)
- (4) Vehicle wash facilities.
- (5) Mini/self-storage facilities (See § 42-8.16.)
- (6) Outdoor sales or activities accessory to a permitted or special land use. (See § 42-8.23.)

- (7) Other similar commercial establishments as authorized by the Planning Commission. In consideration of such authorization, the Planning Commission shall consider the following:
 - (a) The size, nature and character of the proposed use and the proximity of the proposed use to adjoining property.
 - (b) Any traffic congestion or hazard which could be experienced by the proposed use.
 - (c) Compatibility of the proposed use with adjoining properties.
 - (d) The ability of the proposed use to service the needs of the surrounding area.
 - (e) The impact of the proposed use on adjoining properties and the surrounding area.
 - (8) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
 - (9) Publicly owned and operated buildings and uses, including community buildings and public parks, playgrounds and other recreational areas.
 - (10) Public utility buildings and structures necessary for the service of the community, except that:
 - (a) There is no zoning restriction for utilities to be located in public streets or public rights-of-way.
 - (b) Public utility activities of an industrial character such as repair and maintenance yards, storage facilities, or activities which generate electronic interference are prohibited.
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Conditions and limitations.
- (1) Frontage. The site shall be provided frontage on Red Arrow Highway.
 - (2) Access. Frontage access roads shall be considered for all property within the GC District in accordance with § 42-9.01 in order to promote efficient use of Red Arrow Highway and decrease hazardous traffic conditions created through excessive driveways.
 - (3) Outdoor storage. Outdoor storage of goods, materials or trash/garbage in connection with the uses set forth in § 42-5.10B and C is not allowed, except as provided in Article 9.00.

§ 42-5.11. HSC Highway Service Commercial District.

- A. Intent. This district is designed to provide for servicing the needs of automobile highway traffic at the interchanges areas. The overall site design on any single parcel of land and the total area shall be done to: 1) avoid undue congestions on feeder roads; 2) promote smooth traffic flow at the interchange area and on the expressway; 3) protect adjacent properties in other districts from adverse influences of traffic; and 4) provide for an overall pleasing visual appearance. This district is intended to further the goals and objectives of the Paw Paw Township Master Plan for highway commercial land use.
- B. Permitted uses:
- (1) Gasoline sales, vehicle service and repair stations.
 - (2) Restaurants, including drive-in/drive-through service facilities.
 - (3) Hotels and motels.
 - (4) Other retail or service establishments providing food or services which are directly needed by highway travelers.

- (5) Wireless communications facilities. (See § 42-8.30.)
 - (6) Solar panels. (See § 42-8.26.)
 - (7) Accessory uses or buildings. (See § 42-8.01.)
- C. Special land uses:
- (1) Indoor recreation facilities, including bowling alleys, skating rinks and theatres.
 - (2) Microbreweries, wineries (including cideries) and distilleries. (See § 42-8.15.)
 - (3) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
- D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.
- E. Conditions and limitations.
- (1) Barriers. All development shall be physically separated from the local road by a curb and planting strip or other suitable barrier. Such barrier shall effectively eliminate vehicle ingress or egress except for authorized accessways.
 - (2) Accessways.
 - (a) Each separate use, grouping of buildings or groupings of uses as a part of a single planned development shall not have more than two accessways from a local road. Such accessways shall not be located closer than 300 feet to the point of intersection of an interstate highway entrance or exit ramp.
 - (b) In those instances where properties fronting on a local road are of such width or are in multiple ownerships, and the accessways to property cannot be provided in accordance with the minimum 300-foot distance from the intersection of the interstate highway entrance or exit ramp, a frontage access road shall be provided to service such properties.
 - (3) Outdoor storage. Outdoor storage of goods, materials or trash/garbage in connection with the uses set forth in § 42-5.11B and C is not allowed, except as provided in Article 9.00.

§ 42-5.12. HCI Heavy Commercial and Industrial District.

- A. Intent. This district is intended to provide for commercial uses that offer goods and services on a mass scale to major and bulk purchasers, as well as transportation-related service facilities and light industrial uses. This district is intended to further the goals and objectives of the Paw Paw Township Master Plan for heavy commercial and light industrial land use.
- B. Permitted uses:
- (1) Assembly of finished or semifinished products from previously prepared materials.
 - (2) Packaging of previously prepared materials.
 - (3) Printing, lithographic, blueprinting and similar uses.
 - (4) Processing or compounding of commodities such as pharmaceuticals, cosmetics, pottery, and food products.
 - (5) Wholesaling, storage and/or warehousing of commodities, such as hardware, packaged or fresh foods, clothing or drugs — which are wholly contained within a fully enclosed building(s), except live fowl or animals, commercial explosives, or aboveground or below-

ground bulk storage of flammable liquids, or gases, unless and only to the extent that such storage of liquids or gases is directly connect to energy or heating on the premises.

- (6) Industrial-office developments designed to accommodate a variety of light industrial, applied technology, research and related office uses, such as corporate headquarters, administrative or professional offices, scientific or medical laboratories, engineering, testing or design facilities, or other theoretical or applied research facilities.
- (7) Contractor's services.
- (8) Wireless communications facilities. (See § 42-8.30.)
- (9) Solar panels. (See § 42-8.26.)
- (10) Wind energy systems. (See § 42-8.29.)
- (11) Accessory uses or buildings. (See § 42-8.01.)

C. Special land uses:

- (1) Motor vehicle sales and service. (See § 42-8.18.)
- (2) Special events facilities. (See § 42-8.28.)
- (3) Any industrial use which meets the purpose of this district where all work is carried on within an enclosed building and which does not emanate noise, vibration, odor, smoke, liquid waste, or light to such an extent as to be objectionable to surrounding properties.
- (4) Grower facilities - Class A, Class B and Class C. (See § 42-8.07.)
 - (a) The facility shall be located on a minimum of 10 acres.
 - (b) An operator of the facility shall reside on the premises.
- (5) Processor facilities. (See § 42-8.07.)
- (6) Secure transport facilities. (See § 42-8.07.)
- (7) Safety compliance facilities. (See § 42-8.07.)
- (8) Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction. (See § 42-8.08.)
- (9) Publicly owned and operated buildings and uses including community buildings and public parks, playgrounds and other recreational areas.
- (10) Public utility buildings and structures necessary for the service of the community.
- (11) Solar farms. (See § 42-8.27.)

D. Lot, yard and area requirements. Except as elsewhere specified herein, the lot, yard and area requirements shall be as specified in Article 6.00.

E. Conditions and limitations.

- (1) The site shall have frontage and principal access from a paved public road.
- (2) Where the site is adjacent to an existing residential district or use, screening shall be provided in compliance with § 42-9.05.
- (3) Outdoor storage in connection with the uses set forth in § 42-5.12B and C shall be allowed subject to the following:
 - (a) Outdoor storage shall be allowed only in the side and rear yard areas and may not be located within any required side or rear building setback.

- (b) Outdoor storage areas shall be visually screened from persons standing at ground level on all abutting property located in other than the HCI District and all abutting streets. Required screening shall comply with § 42-9.17.
- (c) The total area of outdoor storage shall not exceed 30% of the floor area of the principal building(s) upon the premises.
- (4) Loading areas may be located in side or rear yards; however, side yard loading areas shall not face public streets and shall be screened from front yard view where practical.
- (5) Public water and sanitary sewer shall be provided as part of the site development.
- (6) All utilities shall be placed underground.
- (7) All uses set forth in § 42-5.12B and C must be conducted in such a manner which does not emanate noise, vibration, odor, smoke, dust, liquid waste, or light to such an extent as to be objectionable to surrounding properties.

Article 6.00. Schedule of Regulations

§ 42-6.01. Table of Dimensions.

[1] *Editor's Note: The Table of Dimensions is included as an attachment to this chapter.*

§ 42-6.02. Notes to Table of Dimensions.

[1] *Editor's Note: Said notes are included at the end of the Table of Dimensions, which is included as an attachment to this chapter.*

Article 7.00. Special Land Uses

§ 42-7.01. Special land uses.

- A. Intent. The procedures and standards in this section are intended to provide a consistent and uniform method for review of proposed plans for special land uses. Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. This section contains standards for review of each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.

§ 42-7.02. Procedures and requirements.

- A. Procedures and requirements. Special land use proposals shall be reviewed in accordance with the procedures in § 42-11.02 for site plan review, except as follows:
 - (1) Public hearing required. A public hearing shall be held by the Planning Commission before a decision is made on a special land use request. The public hearing shall be noticed as required by law.
 - (2) Planning Commission action.
 - (a) The Planning Commission shall review the application for special land use, including all pertinent plans, specifications and other data upon which the applicant intends to rely,

together with the public hearing findings and reports and recommendations. The Planning Commission shall then make a decision regarding the proposed special land use, based on the requirements and standards of this chapter.

- (b) The Planning Commission may approve, approve with conditions, or deny the special land use application as follows:
- [1] Approval. Upon determination by the Planning Commission that the final plan for special land use is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the Planning Commission shall approve the special land use.
 - [2] Approval with conditions. The Planning Commission may impose reasonable conditions upon the approval of a special land use, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
 - [a] Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this chapter.
 - [3] Denial. Upon determination by the Planning Commission that a special land use proposal does not comply with the standards and regulations set forth in this chapter, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Planning Commission shall deny the special land use.
- (c) Where the Planning Commission determines that Township Board consideration of a special land use application is warranted, the Planning Commission may instead offer a recommendation on the application, with conditions if appropriate, for action by the Township Board.
- (3) Recording of Planning Commission. Each action taken with respect to a special land use shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.
 - (4) Effect of approval. Upon approval, a special land use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located. Such approval shall remain valid regardless of change of ownership.
 - (5) Zoning Board of Appeals authority. The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision concerning a special land use proposal. The ZBA shall have the authority to consider variances associated with a special land use that relate to setbacks and dimensional requirements.
 - (6) Expiration of special land use approval. If construction has not commenced, or if the project has commenced but has not made reasonable progress within 12 months after final approval, the approval becomes null and void and a new application for special land use approval shall be required. However, the applicant may apply in writing to the Planning Commission for an extension of special land use approval. The Planning Commission may grant one or more extensions of up to 12 months, upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved special land use plan conforms to current Zoning Ordinance standards.

- (7) Modification to approved special land use. Special land use approval in accordance with provisions of this section may subsequently be modified, subject to the following requirements:
- (a) Modifications that do not change the nature of the use or that do not affect the intensity of use may be reviewed and approved following normal site plan review procedures described in § 42-11.02.
- [1] In evaluating change in intensity of use, the Planning Commission shall consider the extent of increase of vehicular or pedestrian traffic, the change in demand for public services, extent to which the total floor area occupied by the proposed use will increase, increased demand for parking, off-site impacts from noise, fumes, drainage, etc., and similar considerations.
- (b) Modifications that change the nature of the use or that result in an increase in the intensity of the use shall be reviewed in the same manner as a new special land use proposal, following the procedures in this section.
- (8) Special land use violation. In the event that construction or subsequent use is not in compliance with the approved special land use application, the Zoning Administrator shall take corrective action, unless a revised special land use application is submitted for Township review, following the normal special land use review procedures. If the builder, developer, or current user fails to take corrective action or pursue approval of an amended plan, the Zoning Administrator or his/her designee may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.
- (9) Revocation. All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use.
- (a) The Zoning Administrator may recommend revocation of a special land use permit upon determining a violation of the terms and conditions of a special land use approval or related provisions of this chapter. The Zoning Administrator shall provide written notice of the revocation recommendation to the permit holder/property owner by personal delivery or regular mail, and also to the Township Clerk.
- (b) The Planning Commission shall review the Zoning Administrator's recommendations to revoke a special land use permit and shall hold a public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters. The Zoning Administrator shall provide written notice of the public hearing to the permit holder/property owner by personal delivery or regular mail.
- (c) After notice and public hearing as provided herein, the Planning Commission may vote, by a majority of its membership, to revoke a special land use permit upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use permit shall be provided to the permit holder/property owner by personal delivery or regular mail.
- (d) Premises for which a special land use permit has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant section of the Zoning Ordinance for the applicable zoning district.
- (e) A determination of the Planning Commission revoking a special land use permit may be appealed to Circuit Court as provided by law.

§ 42-7.03. Criteria for review.

- A. Standards for granting special land use approval. Approval of a special land use proposal shall be based on the determination that the proposed use will be consistent with the intent and purposes of this chapter, will comply with all applicable requirements of this chapter, including site plan review criteria set forth in § 42-11.02, applicable site development standards for specific uses set forth in § 42-6.01, and the following standards:
- (1) Compatibility with adjacent uses. The proposed special land use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - (a) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - (b) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - (c) The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 - (d) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - (e) Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this chapter may be required as a condition of approval of a special land use.
 - (2) Compatibility with the Master Plan. The proposed special land use shall be consistent with the general principles and objectives of the Township's Master Plan.
 - (3) Public services. The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, roads, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special land use is established.
 - (4) Impact of traffic. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
 - (a) Proximity and access to major thoroughfares.
 - (b) Estimated traffic generated by the proposed use.
 - (c) Proximity and relation to intersections.
 - (d) Adequacy of driver sight distances.
 - (e) Location of and access to off-street parking.
 - (f) Required vehicular turning movements.
 - (g) Provisions for pedestrian traffic.
 - (5) Detrimental effects. The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.

- (6) Economic well-being of the community. The proposed special land use shall not be detrimental to the economic well-being of those who will use the land, residents, businesses, landowners, and the community as a whole.
- (7) Compatibility with natural environment. The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy.

Article 8.00. Use Standards

§ 42-8.01. Accessory uses and accessory buildings/structures.

- A. To qualify as an accessory use, the use shall:
 - (1) Be clearly incidental and subordinate to, and customarily and commonly associated with, the operation of the principal use.
 - (2) Shall be operated and maintained under the same ownership as the principal use.
 - (3) Shall be operated and maintained on the same lot as the principal use, or on a contiguous lot.
 - (4) Shall not include structures or structural features inconsistent with the principal use.
- B. Except as otherwise provided in this chapter, a residential accessory building, including a private garage, shall be subject to the following:
 - (1) No accessory building may be used as a dwelling except as provided for in § 42-8.12, Guesthouses.
 - (2) The total combined floor space of the accessory building(s) shall not exceed the following limits:

Lot or Parcel Size	Total Combined Floor Space (square feet)
0 to 20,000 square feet	1,176
20,000 square feet to 1 acre	1,320
1.01 acres to 2.99 acres	2,000
3.00 acres to 4.99 acres	3,000
5.00 acres to 9.99 acres	4,000
10.00 acres or more	5,000

- (3) When an accessory building is not structurally attached to the residence, it shall be located in the side or rear yard. The definition of "lot line, front" set forth in § 42-2.02 shall determine the "front yard."
- (4) An accessory building shall comply with all applicable setback, height, and lot coverage requirements set forth in Article 6.00 or elsewhere in this chapter.
- C. An otherwise permissible residential accessory building that does not comply with applicable size, location, height, and/or lot coverage requirements is allowable as a special land use, subject to the provisions of this chapter pertaining to special land uses, and the following additional requirements:
 - (1) The accessory building shall be located at least six feet from all property lines.
 - (2) The accessory building shall not be used for any purpose/use other than as approved by the Planning Commission.

- (3) The accessory building as approved by the Planning Commission shall not be eligible for any variance relief from the Zoning Board of Appeals from any size, location, height, and/or lot coverage requirement approved by the Planning Commission.
- (4) An accessory building for which special land use approval is required under this subsection shall also be subject to site plan review pursuant to § 42-11.02. The special land use permit application shall be accompanied by a site plan of the subject property containing the following information:
 - (a) The date, North arrow and scale.
 - (b) The location and dimensions of all property lines and all existing and proposed building setbacks.
 - (c) The location, dimensions, and height of all existing and proposed buildings/structures on the subject property and any existing buildings on adjacent property within 100 feet of the subject property.
 - (d) The location and dimensions of all existing and proposed driveways.
 - (e) The location and width of the pavement and right-of-way of all abutting roadways.
 - (f) The location of existing and proposed utilities.
 - (g) A statement setting forth the purpose for which the proposed accessory building will be used.
- D. An otherwise permissible residential accessory building is allowable as a special land use on an otherwise vacant lot, or on a lot having only another accessory building(s), to be used for permissible residential purposes, subject to the provisions of this chapter pertaining to special land uses, and the additional related requirements set forth in Subsections **B** and **C**.
- E. Accessory buildings may be established to serve a lawful nonconforming residence providing that such accessory building(s) are established in accordance with this section and Article 10.00.

§ 42-8.02. Bed-and-breakfast inns.

- A. Regulations and conditions.
 - (1) The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - (2) The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes; provided, however, that carriage houses in existence as of the effective date of this section, and located on the same parcel as a bed-and-breakfast inn may be utilized for sleeping rooms, in accordance with this section.
 - (3) The rental sleeping rooms shall have a minimum size of 120 square feet for one or two occupants with an additional 30 square feet for each occupant to a maximum of four occupants per room.
 - (4) There shall be no separate kitchen facilities in the guest room or available to guests.
 - (5) Two off-street parking spaces for use by the owner and one parking space per rental sleeping room shall be provided.
 - (6) The bed-and-breakfast inn shall not alter the residential character of the building or structure nor the essential character of the area in terms of traffic generation or appearance.
 - (7) The permit holder shall secure and maintain all required state and local permits.

§ 42-8.03. Boardinghouses.

A. Regulations and conditions.

- (1) The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- (2) The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes; provided, however, that accessory dwellings in existence as of the effective date of this section, and located on the same parcel as a boardinghouse, may be utilized for sleeping rooms, in accordance with this section.
- (3) There shall be no separate cooking facilities in the guest rooms.
- (4) One bathroom per two guest bedrooms shall be provided.
- (5) Two off-street parking spaces for use by the owner and one parking space per rental sleeping room shall be provided.
- (6) The boardinghouse shall not alter the residential character of the building or structure nor the essential character of the area in terms of traffic generation or appearance.
- (7) The permit holder shall secure and maintain all required state and local permits.

§ 42-8.04. Campgrounds.

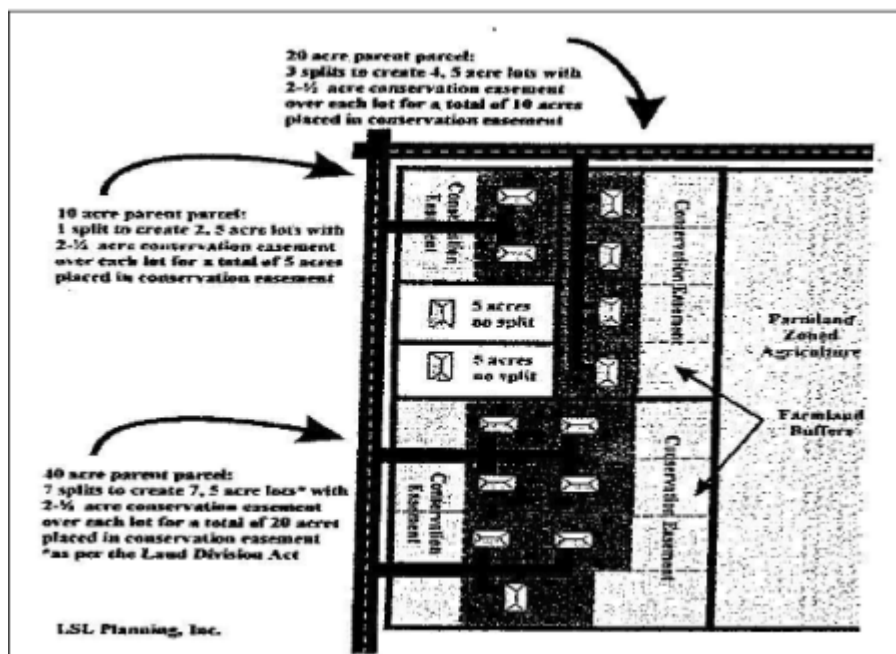
A. Regulations and conditions.

- (1) All publicly and/or privately owned campgrounds shall comply with Michigan's Public Health Code, 1978 PA 368, as amended (the Act),^[1] and the administrative rules adopted pursuant to the Act.
[1] Editor's Note: See MCL § 333.1101 et seq.
- (2) A license from the Michigan Department of Environmental Quality is required to operate a campground.
- (3) Commercial uses designed and intended to serve primarily the convenience or recreational needs of the campground tenants shall be allowed. No commercial use in a campground may be located abutting a public street bordering the campground. Off-street parking for commercial uses in the campground shall be provided in accordance with the parking standards set forth in § 42-9.12.
- (4) Screening shall be established between any campground improvements and an adjacent premises used or zoned for residential purposes.
- (5) Campsites, common use areas, roadways and permanent buildings in the campground shall be so situated and designed as to minimize any adverse effects therefrom to owners and occupants of adjacent properties.

§ 42-8.05. Clustered land developments.

- ### A. Regulations and conditions. For each parent parcel, as defined by the Michigan Land Division Act, the number of lots permitted by Section 108 of the Michigan Land Division Act, Michigan Public Act 288 of 1967,^[1] may be created, provided where a landowner chooses to develop lots under this provision, all of the following requirements shall be met:

- (1) The lots shall be subject to the lot, yard and area requirements set forth in Article 6.00, with the exception of lot area, lot width, and lot frontage requirements.
- (2) The lots shall be contiguous.
- (3) An area equal to or greater than the lots being created shall be set aside as permanent open space. These open spaces may be easements located on each of the lots or a single easement.
- (4) The open space shall be used for agricultural, conservation or recreational.
- (5) The open space shall be set aside through an irrevocable conveyance such as: recorded deed restrictions, covenants that run perpetually with the land, or conservation easements. The conveyance shall assure that the open space will be protected from all forms of development except as permitted under this provision.
- (6) Further division of the open space for use other than agricultural, conservation, or recreational, except for easements for utilities and driveways, shall be strictly prohibited.
- (7) The open space shall be maintained by parties who have an ownership interest in the open space. Maintenance responsibilities shall be specified in a deed restriction.
- (8) A survey and legal description of the open space, as well as deed restrictions establishing the maintenance responsibilities of the open space, shall be provided with the land division application.
- (9) Public water and sanitary sewer services shall be required where reasonably available. Where such services are not reasonably available, lots shall meet Van Buren County Health Department requirements for private well and sanitation systems.
- (10) Any new utility lines to serve the lots shall be installed underground.
- (11) All lots shall have access limited to a shared residential driveway or a private road. A shared residential driveway may serve a maximum of two lots. A private road may serve a maximum of four lots.
- (12) A private road in conjunction with a clustered land development shall be established in accordance with the provisions of § 42-9.15.



Clustered Land Development Example

[1] *Editor's Note: See MCL § 560.101 et seq.*

§ 42-8.06. Child-care facilities.

A. Regulations and conditions.

- (1) Each child-care facility shall be duly licensed or registered by the State of Michigan Department of Social Services (DSS) continuously and for all times it is operating as a child-care facility. Any child-care facility whose license or certificate of registration by the State of Michigan is no longer valid and/or which has been revoked or denied or refused by the DSS shall immediately lose its status and authorization to continue to operate.
- (2) Buildings and lots used for child-care facilities shall conform to all state, DSS, and local requirements, rules, and standards.
- (3) Each child-care facility shall provide, equip, and maintain on the premises the minimum square feet of indoor floor space and outdoor play area as required by the DSS. An applicant for a group child-care home or child-care center or day-care center shall submit to the Planning Commission sufficient information and documentation regarding the maximum number of children allowed and the amount of indoor floor space and outdoor play area required by the DSS for the proposed child-care facility prior to obtaining a special land use permit or site plan approval to operate within the Township.
- (4) The lot occupied by any child-care facility shall have a fence which shall be not less than four feet but not more than six feet in height and which shall completely enclose the outdoor area where the minor children play or congregate, except that interior fences within a mobile home park shall not exceed 36 inches in height. However, the provisions of this subsection shall not apply to family child-care homes.
- (5) A group child-care home licensed or registered under Michigan Public Act 116 of 1973^[1] shall be issued a special land use permit if the group child-care home meets the following standards:
 - (a) A group child-care home shall comply with all the requirements set forth in Subsection **A(1), (2), (3) and (4)** above.
 - (b) A group child-care home shall be located not closer than 1,500 feet to any of the following:
 - [1] Another licensed group child-care home; or
 - [2] Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Michigan Public Act 218 of 1979, being Sections 400.701 to 400.737 of the Michigan Compiled Law; or
 - [3] A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Michigan Public Act 698 of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws; or
 - [4] A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
 - (c) The property containing a group child-care home shall be maintained in a manner which is consistent with the visible characteristics of the neighborhood.
 - (d) The operation of a group child-care home shall not exceed 16 hours of operation during a twenty-four-hour period.

- (e) A group child-care home operator shall provide one off-street parking space for each employee. These parking spaces shall be in addition to the off-street parking facilities serving the residents of the home. These off-street parking spaces shall be located on the lot in such a manner as to provide unblocked automobile access from the street to the required residential off-street parking facilities.
- (f) The subsequent establishment of any of the facilities listed in Subsection **A(5)(b)[1]** to **[4]** of this section within 1,500 feet of the licensed or registered group child-care home will not affect any subsequent special land use permit renewal, pertaining to the group child-care home.
- (g) The distances specified in Subsections **A(5)(b)** and **(f)** above shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.
- (h) An applicant for a group child-care home shall submit to the Planning Commission a to-scale rendering which shows the dimensions of the zoning lot, setbacks of all structures on the lot, the proposed location of the fencing, the proposed parking arrangement, and any other features relevant to the application for special land use approval.

[1] *Editor's Note: Editor's Note: See MCL § 722.111 et seq.*

§ 42-8.07. Commercial medical marihuana facilities.

A. Regulations and conditions.

- (1) A commercial medical marihuana facility may be authorized to operate within the Township by the holder of a state operating license, pursuant to Michigan Public Act 281 of 2016,^[1] as may be amended, the rules promulgated thereunder, and all applicable local ordinances.

[1] *Editor's Note: See MCL § 333.27101 et seq.*

- (2) No commercial medical marihuana facility shall be located within 500 feet of any school, public park/playground, public library, church or medical facility with the minimum distance between uses measured between the facility and the nearest property line of the school, public park/playground, public library, church or medical facility.
- (3) Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
 - (a) The placement of the container shall be subject to site plan review.
 - (b) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (c) All containers shall rest on a concrete pad.
 - (d) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (e) The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.
- (4) A commercial medical marihuana facility shall be reviewed in consideration of the following:
 - (a) Lighting. The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and comply with the outdoor lighting standards set forth in § 42-9.13.

- (b) Noise. Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.
- (c) Odor. Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
- (d) Environmental. Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
- (e) Traffic. A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
- (f) Security. Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety. Demonstration of compliance with the security measures required by state law shall be required.
- (g) Impact on neighboring property. Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.
- (h) Annual review. A facility shall be subject to an annual review by the Planning Commission to confirm compliance with the special land use permit and the provisions of this chapter.

§ 42-8.08. Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction business.

- A. Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction businesses shall be recognized as a special land use and controlled by the guidelines thereof. Control of such activities shall be the responsibility of the Planning Commission but shall only be permitted as a special land use in all zoning districts. Before a special land use permit shall be granted for this activity, the Planning Commission shall be satisfied that the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in this chapter or in any other Township ordinance controlling such operations.
- B. Location.
 - (1) All such operations shall be located on a primary road, as defined by the Van Buren County Road Commission, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes.
 - (2) Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support as set forth is at all times maintained.

- (3) No such excavation operation shall be permitted within 50 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
 - (4) The permanent processing plant and its accessory structures shall not be located closer than 100 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
 - (5) No such excavation operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.
- C. Screening. Screening shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth.
- D. Nuisance abatement.
- (1) Noise and vibration shall be minimized in their effect upon adjacent property by the use of modern equipment designed to accomplish such minimization and by proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
 - (2) Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
 - (3) The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. The Planning Commission may permit operations beyond these time periods if the nature of the operation requires longer hours and the effect upon adjacent properties is minimized to an acceptable level appropriate for such extended hours of operation.
 - (4) All dangerous excavations, pits, or pond areas shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.
- E. Reclamation of mined areas.
- (1) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for a twelve-month consecutive period shall constitute, for this purpose, termination of mining activity.
 - (2) The following standards shall control reclamation and rehabilitation:
 - (a) All excavation shall be either to a water-producing depth of not less than five feet below the average summer groundwater table in the excavation, or shall be graded or backfilled with nonhazardous, nonflammable, and noncombustible solids to ensure:
 - [1] That the excavated area shall not collect stagnant water and not permit the same to remain therein; or

- [2] That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
- (b) The banks of all excavations shall be sloped to the waterline in a water-producing excavation at a slope which shall not be steeper than one foot vertical to four feet horizontal, and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical and three feet horizontal.
 - (c) Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of four inches to support vegetation.
 - (d) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
 - (e) Upon cessation of mining operations by abandonment or other-wise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
- (3) A performance bond, cash, or bank letter of credit shall be furnished to the Township Clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$3,000 per acre proposed to be mined or excavated in the following twelve-month period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this chapter and the applicant's filed plan. Mined areas resulting in a water depth of five feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one foot vertical to four feet horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the Zoning Inspector of the Township and the Planning Commission. In no event shall such financial guarantee be less than \$3,000 in amount.

F. Submission of operational and reclamation plans.

- (1) No earth removal, quarrying, gravel processing, mining and related commercial mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of the within ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
- (a) A contour map of the tract of land involved in the operations, including dimensions of the same, access to abutting public streets, and whether or not the same are "all-weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - (b) The number of acres and the location of the same proposed to be operated upon within the following twelve-month period after commencement of operations.
 - (c) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.

- (d) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- (e) In the event excavation or activities are to be conducted closer than 150 feet from the boundaries of the site, soil borings shall be made on the perimeter of the excavation site in sufficient number to disclose whether conditions exist satisfactory for lateral support of adjacent premises as determined by the Township Engineer. The written consent of the Planning Commission shall be required if mining operations shall be closer than specified in this chapter to the boundaries of the site. Such written consent shall only be granted if the Planning Commission determines, in its absolute discretion, that the requested operation will not have a material adverse impact upon adjacent properties. Such written consent may be made subject to such reasonable conditions and limitations, as the Planning Commission deems appropriate.
- (f) A map of plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

G. Hearing.

- (1) After receiving an application for a grant of a special land use permit for an earth removal, quarrying, gravel processing, mining, or related commercial mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same manner as set forth in Article 7.00 pertaining to special land uses.
 - (a) Following such hearing, the Planning Commission shall render a decision based upon the general criteria set forth in Article 7.00 of this chapter.
- (2) The extraction, by mining, of valuable natural resources from any property shall not be prevented unless very serious consequences would result from the extraction of those natural resources.
 - (a) Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.
 - (b) The applicant shall have the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources (by the applicant or in the market served by the applicant), and that no very serious consequences would result from the extraction, by mining, of the natural resources.
 - (c) In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:
 - [1] The relationship of extraction and associated activities with existing land uses.
 - [2] The impact on existing land uses in the vicinity of the property.
 - [3] The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
 - [4] The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
 - [5] The impact on other identifiable health, safety, and welfare interests in the local unit of government.

[6] The overall public interest in the extraction of the specific natural resources on the property.

(d) The Township may apply reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by Part 632 of Michigan Public Act 451, 1994 (Natural Resources and Environmental Protection Act^[1]). Such regulation shall be reasonable in accommodating customary mining operations.

[1] *Editor's Note: See MCL § 324.101 et seq.*

(3) In making any decision, the Planning Commission shall have the right and authority, as set forth in Article 7.00, to impose additional conditions and limitations with respect to the proposed special land use.

H. Liability insurance.

(1) Except as otherwise provided herein, all parties receiving a special land use permit hereunder shall be required to carry personal injury and property damage insurance while unreclaimed or unrehabilitated area exists, in the amount of not less than \$1,000,000 for each person or property injured or damaged and not less than \$4,000,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon other properties as a result of conditions or activities existing upon the site.

(2) The Planning Commission shall have the authority to increase this minimum liability insurance requirement at the time of granting the special land use permit if the Planning Commission determines, in its sole reasonable discretion, that, because of unusual characteristics concerning the nature or location of the proposed operation, additional minimum liability insurance is necessary to adequately protect persons and property on or near the site of the operation. Similarly, the Planning Commission shall have authority to grant a partial waiver reducing the dollar amount of the insurance coverage required hereunder if the Planning Commission determines, in its sole reasonable discretion, that based upon the specific nature of the proposed operation, the property upon which it is located and/or the nature of the surrounding area, insurance coverage in such lesser dollar amount would adequately protect persons and property on or near the site of the operation.

(3) A copy of the insurance policy shall be filed with the Township Clerk prior to commencing a special land use approved hereunder. The deductible written into the insurance policy shall not exceed 5% of the per-incident limit of the liability of the policy. The coverage obtained by the owner/operator to fulfill the requirements of this section shall include the provision that the insurer shall notify the Township Clerk in writing at least 30 days before lapse or cancellation of the insurance for any reason.

§ 42-8.09. Farm markets.

A. Regulations and conditions.

(1) Sales of farm products or commodities that have been processed/converted into a value-added product are allowed. Such farm products or commodities shall meet State of Michigan guidelines for "cottage food" items.

(2) A parking area equivalent to one parking space per 25 square feet of the farm market area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turnaround area outside of the road right-of-way.

§ 42-8.10. Festivals, concerts, flea markets and outdoor historical, cultural and entertainment activities of rural nature.

A. Regulations and conditions.

- (1) Ingress to and egress from the premises shall be adequate to ensure the orderly flow of traffic onto and off of the premises and to ensure access for ambulance, fire equipment, and other emergency vehicles.
- (2) Off-street parking shall be in accordance with the provisions of § 42-9.12 and sufficient to accommodate peak periods of use.
- (3) Rubbish disposal shall be handled in such a manner as will avoid any littering upon adjoining properties.
- (4) Adequate public restrooms and other sanitary facilities shall be provided and properly maintained; commensurate with the anticipated peak attendance at the particular activity involved.
- (5) Security arrangements shall be made, including the hiring of any necessary security personnel, as are necessary and sufficient to provide for the adequate security and protection of the persons attending the outdoor activity and for the preservation of order and protection of property in and around the site of the outdoor activity.
- (6) Camping incidental or accessory to the principal activity may be allowed by the Planning Commission subject to compliance with the requirements of § 42-8.04.

§ 42-8.11. Foster care (large group) facilities.

A. Regulations and conditions.

- (1) Foster care facilities serving more than six residents shall not be considered a single-family dwelling.
- (2) Foster care facilities shall, as a condition of special land use approval, at all times maintain all valid state and local licenses.
- (3) A foster care facility shall not be located within 1,500 feet of any other foster care facility.
- (4) All outdoor lighting shall be in accordance with § 42-9.13.
- (5) All off-street parking shall be in accordance with § 42-9.12 and shall satisfy peak parking needs.
- (6) A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking areas visible from adjacent properties or streets.
- (7) The foster care facility shall maintain the property consistent with the visible characteristics of the surrounding area.

§ 42-8.12. Guesthouses.

A. Regulations and conditions.

- (1) No more than one guesthouse shall be allowed on a lot.
- (2) A guesthouse may be located within an accessory building.
- (3) A guesthouse shall be used only to house guests of the occupants of the principal dwelling on the lot.
- (4) A guesthouse shall not be rented or used for commercial purposes.

- (5) A guesthouse may not:
 - (a) Contain kitchen facilities.
 - (b) Have more than one bathroom and two other rooms, all of which shall be contiguous.
 - (c) Have a total living area that exceeds 480 square feet.

§ 42-8.13. Kennels.

A. Regulations and conditions.

- (1) The kennel shall be operated in conformance with all applicable county and state laws and regulations.
- (2) The kennel shall be located on property with a lot area of at least five contiguous acres for a kennel with a capacity for up to 10 dogs, and an additional one acre for each three additional dog capacity, up to a limit of 25 dogs.
- (3) The facilities and activities of a kennel that is not fully enclosed and/or that has any outside animal runs shall be located at least 500 feet from all boundary lines of any residential zoning district, and at least 500 feet from all lot lines of any property upon which a dwelling is situated.
 - (a) The facilities and activities of a fully enclosed kennel, without any outside animal runs, shall be located at least 100 feet from all boundary lines of any residential zoning district, and at least 100 feet from all lot lines of any property upon which a dwelling is situated.
 - (b) A kennel may include an approved exercise area pursuant to Subsections **A(4) to (6)** and **(9)** herein and still be considered a fully enclosed kennel facility for purposes of this section.
- (4) A kennel intending to offer any outside dog exercise opportunities shall enclose the area intended to be used for such purposes with fencing at least six feet in height, and otherwise sufficient to preclude dogs from straying beyond the exercise area.
- (5) A kennel with an approved outside dog exercise area, but without any outside animal runs, shall not allow dogs outside except in the approved exercise area, for reasonable periods of time, and shall be operated in such a manner as to not allow more than four dogs in the exercise area at the same time.
- (6) Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.
- (7) The kennel shall have waste disposal systems adequate to handle all animal waste generated by the facility at its maximum capacity.
- (8) The kennel shall be designed, constructed, operated and maintained in such a manner as to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the American Kennel Association.
- (9) A kennel that is not fully enclosed and/or that has any outside animal runs shall not create noise, odor, or other objectionable characteristics incident to the operation of the facility that is discernible beyond the boundaries of the property upon which the facility is located. A fully enclosed kennel (including a facility with an approved outside exercise area) shall not create noise, odor, or other objectionable characteristics incident to the operation of the facility that is discernible beyond the boundaries of the property upon which the facility is located at a level beyond what is reasonable and customary in residential areas where dogs reside with residents.

- (10) A kennel may be located on the same lot as a single-family dwelling owned by the owner and/or operator of the kennel; provided that in such circumstances the nature and character of all buildings and facilities used for kennel purposes shall be aesthetically compatible with the dwelling use of the premises and with the principal uses of all adjoining properties.
- (11) Sufficient off-street parking shall be provided upon the premises upon which the kennel is operated to accommodate all potential customers and employees, and to prevent any traffic congestion as a result of the kennel. The off-street parking area shall, at a minimum, be gravel surfaced. The Planning Commission may require the off-street parking area to be hard-surfaced with asphalt or concrete pavement, if the parking area is located such that fugitive dust from an unpaved parking area will migrate off site and be detrimental to the uses and occupants of adjoining property, or to the public health, safety and welfare, generally.
- (12) The Planning Commission may require a vegetative buffer to be installed and maintained around the perimeter of some or all of the kennel facilities for visual screening and/or noise abatement purposes, and/or to diminish off-site distractions to any dog(s) that may be in any permissible exercise area or other permissible outside area. The Planning Commission may determine whether to impose such requirements and/or the extent of such requirements as a condition of approval of the special land use permit and/or as a condition of approval of a subsequent site plan for the facility.

§ 42-8.14. Major home occupations.

- A. Occupations engaged in upon a residential premises by the resident or residents of the same and which do not materially impair the rural character of the general area and which also comply with the following conditions and regulations.
- B. Conditions and regulations.
 - (1) The home occupation conducted upon the premises is clearly incidental and subordinate to the principal use of the premises for residential purposes.
 - (2) The home occupation shall be conducted within the dwelling, attached garage or in a detached accessory building located on the same premises as the dwelling. The term "premises" as used in this section shall include adjoining parcels under common ownership and occupancy. This term shall also include parcels under common ownership and occupancy that would be contiguous to one another except for an intervening public or private right-of-way.
 - (3) No occupation conducted upon the premises shall occupy an area greater than 25% of the combined floor area of the dwelling and any open porch, attached garage and detached accessory building(s).
 - (4) The home occupation must be owned and operated by a person or persons residing on the premises. However, the Planning Commission shall have the authority to permit additional assistants who do not so reside within such dwelling where the same would not materially impair the rural character of the general area or cause traffic congestion or parking problems.
 - (5) No home occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, traffic, parking, or lighting.
 - (6) There shall be no alteration in the rural character of the premises in connection with such home occupation.
 - (7) All articles or material used in connection with the home occupation shall be stored in an enclosed building.

- (8) No article or service shall be sold or offered for sale on the premises except as is produced on the premises by the home occupation or is clearly incidental and directly related to the principal activity constituting the home occupation.
- (9) The home occupation special land use permit may be revoked by the Planning Commission for noncompliance with this chapter and/or the terms and conditions of the special land use permit. Any such revocation shall be preceded by not less than seven days' written notice by first class mail to the occupant of the subject property of the proposed revocation, the reasons therefor, and the date, time, and place of the hearing at which the Planning Commission will consider such revocation.
- (10) The home occupation shall be permitted only after the issuance of a special land use permit as provided in this chapter. A home occupation shall not be allowed if the Planning Commission determines that the home occupation would alter or change the rural/residential character of the area.
- (11) A sketch plan containing the following information shall accompany any application for a special land use permit for a home occupation:
 - (a) North arrow and accurate scale;
 - (b) Area of subject parcel;
 - (c) Location of all existing and proposed structures on the subject site;
 - (d) Identification of all structures intended to be used in connection with the home occupation;
 - (e) Setbacks of all structures from property lines;
 - (f) Access, parking, loading, and proposed on-site circulation; and
 - (g) Location and separation distances of structures on adjacent properties.

§ 42-8.15. Microbreweries, wineries, cideries and distilleries.

A. Regulations and conditions.

- (1) This section is intended to promote local agricultural production by allowing the construction of microbrewery, winery, cidery and distillery production facilities, along with associated tasting rooms and retail sale of related products.
- (2) This section is intended to encourage the growing of crops and production as an integral component of the rural and agricultural ambiance of Paw Paw Township and to maintain the viability of farming in Paw Paw Township by allowing valued added processing and direct sales of beverages.
- (3) If required by law, a microbrewery, winery, cidery or distillery must be licensed by the applicable federal, state and/or local agency and shall provide proof of such licensing (or pending application) with the special land use application. All required licensing must be kept current by the licensee. The facility shall comply with the requirements of said license at all times.
- (4) Microbreweries, wineries, cideries and distilleries may also include ancillary services such as tasting rooms, associated food service and sale of associated retail products. Any ancillary services must obtain all appropriate licenses as required by the federal, state and/or local agencies and provide proof of such licenses (or pending application) with the special land use application. All required licensing must be kept current by the licensee. The facility shall comply with the requirements of said license at all times.

- (5) All production activities shall take place within a fully enclosed building.
- (6) All buildings and structures used for microbrewery, winery, cidery or distillery purposes must meet minimum required setbacks in the applicable zoning district. However, in order to encourage the use and/or reuse of existing structures, the Planning Commission may consider reduction of setback requirements, upon site plan review and a finding that such reduction in the required setback will not be injurious to the public health, safety and welfare and will not cause negative impacts on surrounding properties or public areas (including roads and road rights-of-way).

§ 42-8.16. Mini/self storage facilities.

A. Regulations and conditions.

- (1) The development site shall be at least two acres in size.
- (2) All outdoor storage areas shall be fenced and screened from view from adjoining roadways and residentially used and/or zoned properties.
- (3) All outdoor storage areas shall be provided with a smooth and dust-free surface.
- (4) All parking, maneuvering and drive aisles shall be 40 feet in width.

§ 42-8.17. Minor home occupations.

A. Home occupations shall be permitted only after the issuance of a zoning compliance permit by the Zoning Administrator as provided in this chapter.

B. Home occupations, as regulated by this section, shall include professional business and personal service on a small scale including, but not limited to: insurance agencies, beauty shops, barber shops, income tax services, repair shops, arts and crafts, real estate, photographic studio, music teaching, small appliance and electrical motor repair, professional office, and consulting services. Other similar uses may be permitted as home occupations, subject to the provisions of this section.

C. Regulations and conditions.

- (1) The home occupation shall be conducted entirely within the dwelling.
- (2) No home occupation conducted within the dwelling shall occupy an area greater than 25% of the total floor area of the dwelling exclusive of any open porch, attached garage, or similar space not suited for or intended to be occupied as living quarters. In no event, however, may a home occupation occupy an area greater than 300 square feet.
- (3) The home occupation must be owned and conducted by a person or persons residing in the dwelling on the premises.
- (4) No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, traffic, parking, or lighting.
- (5) There shall be no alteration in the residential character of the premises in connection with such home occupation.
- (6) There shall be no external evidence of said home occupation, such as window displays, other than the small nameplate sign as specified herein.
- (7) No article or service shall be sold or offered for sale on the premises except as is produced on the premises by the home occupation or is clearly incidental and directly related to the

principal activity constituting the home occupation.

- D. The zoning compliance permit for the home occupation may be revoked by order of the Planning Commission for noncompliance with this chapter and/or the terms and conditions of the zoning compliance permit. Any such revocation shall be preceded by not less than seven days' written notice by first class mail to the occupant of the subject property of the proposed revocation, the possible reasons therefor, and the date, time and place of the hearing at which the Planning Commission will consider such revocation.

§ 42-8.18. Motor vehicle sales and service.

A. Regulations and conditions.

- (1) Adequate security outdoor lighting shall be provided upon the premises to illuminate any outdoor goods, merchandise or activities located thereon.
- (2) Outdoor display or parking of sales items and equipment shall be maintained on a dust-free surface.
- (3) The size and location of such outdoor sales businesses shall not be such as to unreasonably interrupt or impede pedestrian or vehicular travel by customers or patrons of adjoining commercial businesses.
- (4) Vehicle service activities shall occur within a completely enclosed building.
- (5) Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
- (6) Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the locational requirements for parking lots as specified in § 42-9.12, with the exception of the front setback requirement.

§ 42-8.19. Multiple-family dwellings.

A. Regulations and conditions.

- (1) A minimum of two access streets connecting said development to a public street shall be provided. The Planning Commission may waive this requirement upon a finding that due to the particular characteristics of the proposed development, a second access street would not improve traffic safety.
- (2) Adequate frontage shall be provided to accommodate any ingress/egress design requirements.
- (3) The minimum allowable distance between buildings shall be 50 feet.
- (4) The minimum dwelling unit sizes shall be as follows:
 - (a) Efficiency: 400 square feet.
 - (b) One bedroom: 500 square feet.
 - (c) Two or more bedrooms: 500 square feet plus 150 square feet for each additional bedroom above one.
- (5) Buildings shall not contain more than eight dwelling units and shall not contain more than four units if located within 150 feet of a single-family residential district. No more than four units shall be allowed on the first-floor level.

- (6) Multiple-family developments shall not exceed eight dwelling units per acre.
- (7) Each dwelling unit containing more than two bedrooms shall be provided an additional parking space for each additional bedroom. All off-street parking shall be in accordance with § 42-9.12.
- (8) An outdoor recreation area equivalent to 500 square feet per dwelling unit shall be provided. "Recreation area" is defined for the purposes of this chapter as that area specifically set aside for outdoor leisure activities.
- (9) A multiple-family development containing 40 or more dwelling units shall provide a minimum of 800 square feet of indoor recreation area at a single location. An additional 100 square feet of indoor recreation area shall be provided for every eight additional dwelling units. Any one indoor recreation area shall be a minimum of 800 square feet.
- (10) All utility lines shall be placed underground.

§ 42-8.20. Open air businesses.

A. Regulations and conditions.

- (1) Lot area, lot width, and any other dimensional requirement of the zoning district shall be complied with; provided that no item or items displayed outdoors shall be greater than 35 feet in height.
- (2) All exterior lighting shall be in accordance with § 42-9.13.
- (3) The Planning Commission may establish, as a condition of approval, hours of operation for the open air business.
- (4) The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen landscaping, berms, and fencing; and such conditions may be in addition to the screening standards of § 42-9.17 to mitigate the visual impact of an open air business.
- (5) The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.
- (6) Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
- (7) The outdoor sales/display area shall be paved, or otherwise provided with a dust-free surface. The site plan shall include measures satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.

§ 42-8.21. Open space preservation developments.

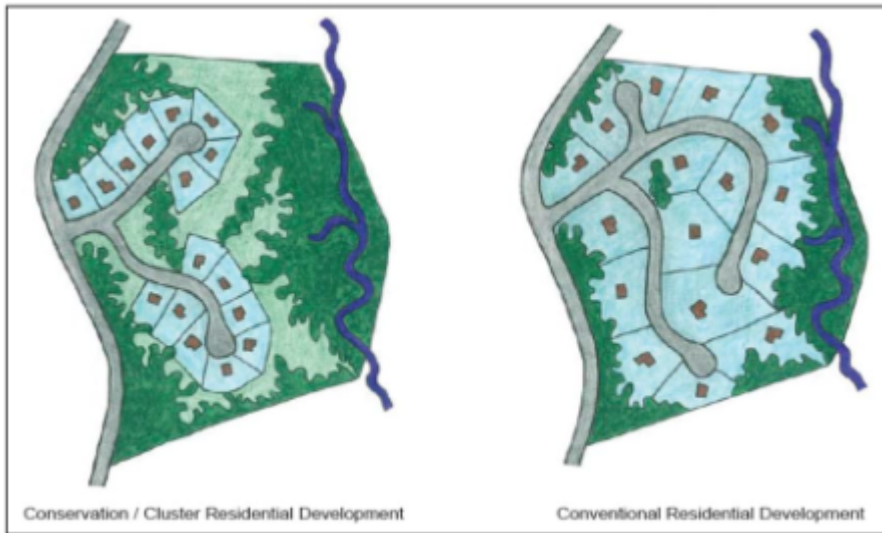
A. Purpose.

- (1) The purpose of this section is to offer an alternative to traditional subdivisions through the use of open space preservation development opportunities, as authorized by Section 506 of the Michigan Public Act 110 of 2006,^[1] as amended, for the purpose of:
 - (a) Assuring permanent preservation of substantial open space and other natural resources;
 - (b) Allowing innovation and greater flexibility in the design of residential developments;

- (c) Facilitating construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- (d) Providing for site development that maintains a low visual impact, particularly along roadways and abutting properties;
- (e) Encouraging a less sprawling form of development, thus preserving open space, natural features, and wildlife habitat areas consistent with the Township's rural character; and
- (f) Ensuring compatibility of design and use between neighboring properties.

[1] *Editor's Note: See MCL § 125.3506.*

- (2) These regulations are intended to result in a development substantially consistent with these chapter requirements, generally, yet allowing for specific modifications from the general requirements. These regulations are not intended as a device for ignoring the Township's zoning requirements or the planning concepts upon which this chapter has been based.



B. Scope.

- (1) An "open space preservation development" is defined as a residential development where the protection of substantial open space is the primary site development consideration, and the clustering or grouping of dwelling units and/or sites upon a small portion of the property is a fundamental feature.
- (2) An open space preservation development shall be permitted within the "CSV," "AGR," "ARR," "LDR," "WFR" and "VE" Zoning Districts, subject to the following requirements and standards.

C. Open space requirements.

- (1) A minimum of 50% of the gross contiguous land area of the open space preservation development shall be designated as "open space."
- (2) All significant/sensitive environmental resources (steep slopes, wetlands, woodlands, prime agricultural soils, scenic features, etc.) should be considered for inclusion within the designated open space.
- (3) The following land areas within the boundaries of the open space preservation development shall not be included as designated open space:
 - (a) Land devoted to a residential lot or unit, accessory use, vehicle access, parking, and/or approved land improvement [other than those land improvements specifically referenced in the definition of "undeveloped state" in Subsection **C(4)** below];

- (b) Public street right-of-way, or right-of-way deeded to the Township; and
 - (c) Private street easements.
- (4) Designated open space shall remain perpetually in an undeveloped state. "Undeveloped state" shall be defined as a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park.
 - (5) Designated open space shall, except for open space used for agriculture, consist of contiguous land area and be easily accessible to all residents of the open space preservation development through open space segments between clusters, visual and pedestrian linkages and proximity to such open spaces. Open space design should consider adjacent properties for the purpose of linking open spaces and creating connected open space and wildlife corridors.
 - (6) Division (by platting, site condominium-izing or otherwise) of the designated open space is prohibited.
 - (7) Designated open space shall be under common ownership or control, such that there is a single person or entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided.
 - (8) Designated open space shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as:
 - (a) Recorded deed restrictions;
 - (b) Covenants that run perpetually with the land;
 - (c) Conservation easements; and
 - (d) Land trusts.
 - (9) Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on the approved site plan, and shall never be changed to another use. Such conveyance shall also:
 - (a) Indicate the proposed allowable use(s) of the designated open space;
 - (b) Require that the designated open space" be maintained by parties who have an ownership interest in the open space; and
 - (c) Provide standards for scheduled maintenance of the open space.
 - (10) Failure of the party(ies) having an ownership interest in the designated open space to maintain the open space in accordance with the standards set forth in the terms of conveyance described in Subsection **C(8)** shall constitute a violation of this chapter and subject the violator(s) to all sanctions, including injunctive relief, provided for under this chapter.

D. General development requirements.

- (1) An open space preservation development shall be limited to single- and two-family residential dwelling units, provided that the total number of dwelling units does not exceed the density for the open space preservation development permitted by Subsection **D(2)**.
- (2) The total number of dwelling units allowable within an open space preservation development shall not exceed the density allowed by the applicable requirements of the underlying

residential zoning district. The number of residential lots allowable within an open space preservation development shall be determined in the following manner:

- (a) A parallel design for the project consistent with the state and Township requirements and design criteria for a tentative preliminary plat shall be presented to the Planning Commission for review.
 - (b) The design shall be reviewed to determine the number of lots that could be feasibly constructed following the adopted plat requirements.
 - (c) The number of lots determined by the Planning Commission in this review shall be the maximum number of residential sites allowable for the open space preservation development.
- (3) Minimum lot area and width requirements shall not apply within an open space preservation development. All other zoning ordinance dimensional requirements for the underlying zoning district shall apply, unless specifically modified by the Planning Commission.
- (a) The Planning Commission is authorized to approve specific modifications from the dimensional requirements set forth in this chapter. Any dimensional modification shall be approved through a finding by the Planning Commission that the modification meets the purpose of the open space preservation development set forth in Subsection **A**. Such a dimensional modification is not subject to variance approval or further relief by the Zoning Board of Appeals.
- (4) Residential sites shall be designed to accommodate adequate sewage disposal facilities where public sewer is not required.
- (5) Residential sites shall be confined to cluster areas established within the open space preservation development.
- (6) Cluster area design standards:
- (a) A range of approximately five to 10 sites per cluster area, arranged in a small, cohesive neighborhood, shall be considered a desirable design feature, as opposed to a linear arrangement.
 - (b) Cluster areas should provide access to accommodate vehicles, utilities, and commonly owned facilities, as well as a linkage to the project open space system.
 - (c) Cluster areas should be visually and physically separated from one another and off-site roadways by open space buffers.
 - (d) Cluster areas should be integrated into the site without causing significant impacts on neighboring properties.
 - (e) Cluster areas should be designed to be compatible with the surrounding community character.
 - (f) The use of single-loaded streets (houses on only one side), especially alongside open space, around community common areas, and to create foreground meadows along the public road that serves the development, should be incorporated into cluster area designs to avoid a traditional suburban subdivision appearance.
- (7) Visual screening of dwellings from off-site street networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.
- (8) The proposed open space preservation development shall be under common ownership or control while being constructed, such that there is a single person or entity having proprietary responsibility for the full completion of the project. Sufficient documentation of ownership or

control, that indicates the proposed development will be completed in its entirety, shall be submitted with the application for approval.

E. Design standards.

- (1) Interior street system. The open space preservation development shall be serviced by an interior street system; dwelling units shall not front on or gain direct access from an off-site road network. Interior streets may be public and/or private subject to Township approval.
 - (a) Public streets shall be constructed to the standards of and dedicated to the Van Buren County Road Commission.
 - (b) Where adjoining areas are not subdivided, the arrangement of streets within the proposed open space preservation development shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
 - (c) When an interior street will serve as a connecting link between different landownerships or different public roads, either currently or within the future, it shall be constructed as a public road in the Van Buren County road system or, if approved by the Township, it may be a private road located upon a sixty-six-foot public right-of-way/easement granted to the Township for public ingress and egress.
 - (d) If approved as a private road, the Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.
 - (e) Where space permits, culs-de-sac should be designed with a central island where vegetation shall be preserved/established.
 - (f) Street systems should be designed so that their curvature or alignment produces "terminal vistas" of open space elements, such as water features, meadows, or playing fields. This may commonly occur at the terminus of street intersections or through the use of single-loaded streets.
 - (g) Street systems shall be designed to accommodate required emergency vehicle access and circulation.
- (2) Access. Access to the open space preservation development shall be designed consistent with the rural, natural character of the area.
- (3) Utilities.
 - (a) Public water and/or sanitary sewer services shall be required where reasonably available.
 - (b) Where such services are not reasonably available, private sewer facilities may be permitted subject to the review and regulation of the Michigan Department of Environmental Quality and/or the Van Buren County Health Department and the approval of the Township.
 - (c) All utility lines and installations capable of being placed underground, including telephone, electric and cable television, shall be placed underground.
- (4) Stormwater management. Stormwater management systems and drainage facilities shall be designed so as to:
 - (a) Protect the natural environment, including wetlands, water bodies, watercourses, floodplains, groundwater and soils;
 - (b) Retain the natural retention and storage capacity of any wetland, water body, or watercourse, and not increase flooding or the possibility of polluting surface water or groundwater, on-site or off-site; and

- (c) Incorporate and/or use natural drainage systems existing on the site.
 - (5) Streetlighting. Streetlighting shall be designed and arranged so as to avoid light spillover onto adjacent premises and so that any light source is shielded or directed so that the light intensity or brightness will not be reasonably objectionable to surrounding areas.
 - (6) Natural features. The development shall be designed to promote the preservation of natural features.
- F. Review criteria. In considering an application for approval of an open space preservation development, the Planning Commission shall make its determination on the basis of the site plan review criteria set forth in § 42-11.02 and the following standards and criteria:
- (1) The overall design and land uses proposed in connection with an open space preservation development shall be consistent with the intent of the open space preservation development concept and the specific open space/general development/design standards set forth herein.
 - (2) The proposed open space preservation development shall be serviced by the necessary public and/or private facilities to assure the public health, safety, and welfare of project residents and users.
 - (3) The proposed open space preservation development shall be designed to minimize the impact of traffic generated by the development on the surrounding land use and road network.
 - (4) The proposed open space preservation development shall be designed so as to be in character with surrounding conditions as they relate to the bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
 - (5) The proposed open space preservation development shall be designed and constructed so as to preserve the integrity of existing on-site and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.
 - (6) The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
 - (7) The proposed open space preservation development shall comply with all applicable federal, state and local regulations.
- G. Application guidelines.
- (1) Conceptual development plan review.
 - (a) The applicant shall present the following information on the proposed open space preservation development for a conceptual review by the Planning Commission:
 - [1] Sketch plan of the proposed layout;
 - [2] An accurate legal description of the development site;
 - [3] The names and addresses of all current owners of the development site;
 - [4] The total acreage of the project site;
 - [5] The number of acres to be developed by use;
 - [6] The number of acres ineligible for density computation or open space;
 - [7] The number of acres to be preserved as open space;
 - [8] A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon PA 288 of 1967,^[2] as amended, and the Township Subdivision Control Ordinance.^[3] The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;

- [2] *Editor's Note: See MCL § 560.101 et seq.*
[3] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*

- [9] The number and type of proposed dwelling units;
- [10] The concept of the pedestrian and vehicular circulation system; and
- [11] The location and dimension of known natural features.
- (b) Conceptual development plan approval shall not constitute an approval of a detailed final development/site plan but shall be deemed a tentative approval of the development concept and layout as a guide to the preparation of the final development/site plan. A request for modification of the conceptual development plan shall be submitted to the Planning Commission for review in the same manner as the original conceptual development plan.
- (2) Development/site plan review.
- (a) Following conceptual development plan review, an open space preservation development shall undergo a final development/site plan review by the Planning Commission. The final development/site plan review shall conform to the approved conceptual development plan and incorporate any revisions required by the Planning Commission at the conceptual development plan review. If a final development/site plan is not submitted for review within six months of conceptual development plan approval, the Planning Commission may require a resubmission of the conceptual development plan for further review and possible revision. Development/site plan review shall be subject to all appropriate sections of this chapter.
- (b) The following information shall be provided as part of the development/site plan:
- [1] Boundaries of the open space preservation development;
- [2] A general location map showing the existing zoning designations, uses, and ownerships of the open space preservation development and all land within 1/4 mile of the boundaries of the open space preservation development;
- [3] The topography of the site and its relationship to adjoining land;
- [4] A general description of existing soil conditions per the Van Buren County Soil Survey Map. Locations and dimensions of wetland areas and other significant natural features such as: woodland areas, slopes in excess of 8%, lakes, ponds, streams and water drainage areas;
- [5] The location of existing roads adjacent to the open space preservation development with an indication of how they will connect with the proposed circulation system for the proposed development;
- [6] The pedestrian and vehicular circulation system proposed within the open space preservation development;
- [7] Delineation of proposed residential cluster areas indicating for each such area its size and number of buildings, dwelling unit density, building envelopes, and orientation of units;
- [8] The interior open space system and park/recreation areas;
- [9] Proposed landscaping, including greenbelts, berms, and/or screening;
- [10] The overall stormwater drainage system;
- [11] The proposed sewage treatment method and water systems;
- [12] A colored rendering of the development plan for presentation purposes;

- [13] The overall plan shall represent the development concept using maps and illustrations for each use; specify square footage or acreage allocated to each use which is not residential; approximate locations of each principal structure in the development; setbacks, and typical layouts and architectural building elevations for each use. The plan shall summarize in a table form, the underlying zoning district requirements and specify, in table form, requested modifications from those requirements;
- [14] A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon Michigan Public Act 288 of the 1967,^[4] as amended, and the Township Subdivision Control Ordinance.^[5] The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;
- [4] *Editor's Note: See MCL § 560.101 et seq.*
- [5] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*
- [15] Maps and written analysis of the significant natural, cultural, and geographic features of and near the site. Analysis must include:
- [a] Existing vegetation.
 - [b] Topography.
 - [c] Water bodies.
 - [d] Streets, rights-of-way, easements.
 - [e] Existing structures.
- [16] An analysis of vehicular traffic impact of the proposed open space preservation development on existing road network;
- [17] A specific time schedule for the intended development and construction details, including proposed phasing or timing of all improvements;
- [18] The names, address, and telephone number of:
- [a] All persons with an ownership interest in the land on which the open space preservation development will be located together with a description of the nature of each entity's interest.
 - [b] All engineers, attorneys, architects or registered land surveyors associated with the open space preservation development.
 - [c] The developer or proprietor of the open space preservation development.
 - [d] Any person(s) authorized to represent the owner in the review process.
- [19] An accurate legal description of the open space preservation development, including appropriate tax identification numbers;
- [20] A statement as to how common open space and park/recreation areas are to be owned and maintained;
- [21] A narrative describing how the open space preservation development is consistent with the Township's Land Use Plan, the capacity and availability of necessary public facilities to the development, and the impact the development will have on adjoining properties;
- [22] Written reviews/approvals from all applicable regulatory agencies;

- [23] Easements, deed restrictions, and other documents pertaining to the open space system and park/recreation areas;
- [24] If condominium ownership is proposed, all documentation required by any condominium regulations of the Township; and
- [25] Engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the Township, including the cross sections of proposed streets, drive aisles, paved areas, and on-site drainage, including retention and/or detention areas.
- (3) Public hearings and noticing. The Planning Commission shall hold a public hearing on an application for conceptual development plan review and development/site plan review for an open space preservation development. Notice of a public hearing for an open space preservation development shall be accomplished in accordance with Article 7.00.
- (4) Effect of approval. After a development/site plan has been approved and construction of any part thereof commenced, no other type of development is permitted on the site without further approval thereof by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
- (5) Conformity to approved plan. Property which is the subject of approval for an open space preservation development must be developed in strict compliance with the approved development/site plan and any amendments thereto which have received Planning Commission approval. If construction and development does not conform to same, the approvals thereof shall be forthwith revoked. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.
- (6) Amendment to approved plan. A proposed amendment or modification to a previously approved development/site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.
- (7) Project phasing.
- (a) When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of users of the open space preservation development and the residents of the surrounding area.
- (b) Each phase of the project shall be commenced within 12 months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void.
- (8) Security deposit. The Planning Commission may require that a security deposit, in accordance with Article 11.00, be deposited with the Township to insure completion of the site in accordance with the approved plans.
- (9) Recording of action.
- (a) No building permit shall be issued for an open space preservation development and no construction activity commenced within the open space preservation development until an affidavit containing the full legal description of the open space preservation development, specifying the date of final Planning Commission approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation development/site plan, is recorded with the Register of Deeds for Van Buren County.
- (b) In addition, all required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be duly filed with the Township and have been

recorded with the Register of Deeds for Van Buren County.

§ 42-8.22. Outdoor recreational facilities.

A. Regulations and conditions.

- (1) All parks and playgrounds shall be fenced.
- (2) Tees, fairways and greens within a golf course shall be located not less than 50 feet from adjacent residentially zoned property under separate ownership, and not less than 50 feet from a public street; provided, further, that any tees, fairways or greens within 150 feet from property used for residential purposes under separate ownership shall be adequately fenced to prevent trespassing upon said residential property. The Planning Commission is hereby given authority to determine upon application to it the adequacy of such fences to prevent trespassing upon adjacent property.
- (3) Pro shops, clubhouses (including the sale of food and beverages) and maintenance buildings (not including storage buildings) must have a sideline setback of not less than 500 feet from adjoining residentially zoned land under different ownership, and a front yard setback of not less than 110 feet from the adjoining highway center line. The side line setback for storage buildings shall be 40 feet.
- (4) No overnight accommodations shall be permitted except for the owners and/or managers of the facility.
- (5) Adequate public restrooms and other facilities shall be constructed and properly maintained.
- (6) Rubbish disposal shall be handled in such a manner as will be adequate for the purpose and avoid any nuisance or annoyance to adjoining property owners.
- (7) Any sale of foodstuff, beverages or merchandise shall be clearly incidental to the needs of the occupants and users of the facility while on the property.

§ 42-8.23. Outdoor sales or activities.

A. Outdoor sales or activities accessory to a permitted or special land use are allowed subject to the review and approval of the Planning Commission.

B. Regulations and conditions.

- (1) Outdoor display of merchandise shall be subject to the setback requirements applicable to a principal building within the district.
- (2) Outdoor activities shall not be located so as to reduce required on-site parking or impair site access and circulation.
- (3) The Planning Commission may restrict the hours of operation or the duration of the outdoor activity based upon the character of the surrounding area.

§ 42-8.24. Planned unit developments.

A. Purpose.

- (1) To permit greater flexibility in the regulation of land and encourage creative and imaginative design in development through the use of planned unit development legislation, as authorized by the Michigan Public Act 110 of 2006,^[1] as amended, in order to achieve the following:

- (a) Innovation in land use and variety in design, layout, and type of structures constructed;
 - (b) Provision of a harmonious mixture of housing choices with the integration of commercial and community facilities and recreational opportunities;
 - (c) Efficient provision of public services, utilities, and transportation facilities;
 - (d) Safe and convenient vehicular and nonmotorized access throughout the development;
 - (e) Greater protection and preservation of natural resources and natural features than associated with conventional development;
 - (f) Provision of useful and desirable open space as an integral part of the development; and
 - (g) Compatibility of design and use between neighboring properties.
- [1] *Editor's Note: See MCL § 125.3101 et seq.*
- (2) These planned unit development regulations are intended to result in land use development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, yet allow for specific modifications to facilitate an improved quality of development. These regulations are not intended as a device for circumventing the more specific standards and requirements of this chapter, nor the planning concepts upon which the Zoning Ordinance has been based.
- B. Scope. A planned unit development shall be recognized as a special land use and controlled by the guidelines thereof. Such developments shall be allowed as a special land use within the LDR, WFR, and VE Zoning Districts.
- C. Planned unit development requirements.
- (1) Minimum area. The minimum size of a planned unit development shall be 20 acres of contiguous land.
 - (2) Permitted uses. Planned unit developments are restricted to one or more of the following uses regardless of the zoning district in which the development is located:
 - (a) Single-family, two-family, and multiple-family dwellings, including uses and buildings accessory thereto.
 - (b) Nonresidential uses of an educational, cultural, recreational, office or commercial character, including uses and buildings accessory thereto, which uses are an integral part of a residential development, logically oriented to and coordinated with the planned unit development.
 - (3) Density requirements. Within any planned unit development approved under this section, the requirements set forth below shall apply in determining the permitted density of development:
 - (a) The overall density of the residential uses within a planned unit development shall be determined by dividing the planned unit development area (total parcel area less land area deemed unbuildable due to wetlands or natural features, less 10% of the parcel total for roads/infrastructure) by the minimum residential lot area per dwelling unit required by the zoning district in which the development is located.
 - (b) The total density of all phases developed prior to completion of the project shall not exceed five dwelling units per acre.
 - (c) Nonresidential uses permitted, including related access roads and parking areas, shall not occupy more than 20% of the planned unit development area.
 - (4) Dimensional requirements. Except for minimum lot area, frontage, and width requirements, all Zoning Ordinance dimensional requirements for the underlying zoning district shall apply, unless specifically modified by the Planning Commission, pursuant to this section. To

encourage flexibility and creativity consistent with the purposes of the planned unit development concept, the Planning Commission may grant specific deviations from the dimensional requirements set forth in the Zoning Ordinance. Any dimensional deviation shall be approved through a finding by the Planning Commission that the deviation meets the purpose of the planned unit development set forth in Subsection **A**. Such a dimensional deviation is not subject to variance approval by the Zoning Board of Appeals.

- (5) Open space requirements. Within any planned unit development there shall be designated an amount of open space not less than 15% of the total planned unit development parcel size, subject to the following standards:
- (a) Designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access. Any significant and/or sensitive environmental resources shall be included within the designated open space.
 - (b) Designated open space shall be located so as to be visible and accessible to all residents of the development, preserve natural features, buffer adjacent uses, and/or connect open spaces throughout the development.
 - (c) All designated open space shall be within and contiguous to the rest of the planned unit development.
 - (d) The following land areas shall not be included as designated open space for purposes of meeting minimum open space requirements:
 - [1] Area proposed as a single-family lot;
 - [2] Residential yards, or required building setback areas for any use;
 - [3] The area of any public street right-of-way or private road easement; and
 - [4] Parking and loading areas; stormwater detention/retention basins, unless designed as a created wetland;
 - (e) Structures or buildings which are accessory to the designated open space may be permitted and shall be erected only in accord with the approved site plan.
 - (f) Designated open space shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as recorded deed restrictions; covenants that run perpetually with the land; a conservation easement; or land trust. Such conveyance shall assure that the open space is protected from development, except as approved by the Planning Commission. Such conveyance shall also:
 - [1] Indicate the proposed allowable uses(s) of the designated open space;
 - [2] Require that the designated open space be maintained by parties who have an ownership interest in the open space;
 - [3] Provide standards for scheduled maintenance of the open space; and
 - [4] Provide for maintenance to be undertaken by the Township in the event that the designated open space is inadequately maintained, or is determined by the Township to be a nuisance, with the assessment of the costs for maintenance upon the open space ownership.
 - (g) Designated open space shall be under common ownership or control, such that there is a single entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided.

- (6) Design requirements.

- (a) Access. A planned unit development shall have direct access onto a public street. More than one access point onto the public street network shall be considered if a traffic study is provided that demonstrates overall traffic operations and safety will be improved.
- (b) Interior street system. The planned unit development shall be serviced by an interior street system complying with the following requirements:
 - [1] No use within the planned unit development shall front or gain direct access from an off-site road network. Interior streets may be public or private subject to Township approval.
 - [2] Public streets shall be constructed to the standards of and dedicated to the Van Buren County Road Commission. Private roads shall be constructed to Van Buren County Road Commission standards and subject to the pavement and easement widths as indicated below.
 - [3] All private two-way interior roads within a planned unit development shall have a paved driving surface with a minimum width of 24 feet, exclusive of parking area, and a minimum easement width of 66 feet. All private one-way interior roads within a planned unit development shall have a paved driving surface with a minimum width of 15 feet, exclusive of parking areas, and a minimum easement width of 66 feet. The paved driving surface shall be located in approximately the center of the required easement.
 - [4] Where adjoining areas are not subdivided, the arrangement of streets within the proposed planned unit development shall be designed to extend to the property line(s) of the project to allow for the future construction of street extensions that make provision for the future projection of streets into adjoining areas.
 - [5] When an interior street will serve as a connecting link between different landownerships or different public streets, either currently or within the future, it shall be constructed as a public street in the Van Buren County road system or, if approved by the Township, it may be a private road located upon a sixty-six-foot public right-of-way/easement granted to the Township for public ingress and egress.
 - [6] If approved as a private road, the Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.
 - [7] Street systems shall be designed to accommodate required emergency vehicle access and circulation.
- (c) Parking. To encourage integration of mixed uses and improved efficiency in land use, an overlap in the parking requirements may be permitted between uses that have alternating peak parking demands.
- (d) Sidewalks. Sidewalks shall be required to provide for improved pedestrian access and circulation within the planned unit development and with adjoining areas.
- (e) Utilities. Public water and sanitary sewer facilities shall be provided as part of the planned unit development. All utility lines and installations capable of being placed underground, including telephone, electric, and cable television, shall be placed underground.
- (f) Streetlighting. Streetlighting shall be in accordance with § 42-9.13.
- (g) Stormwater management. The design of stormwater management systems within the planned unit development shall seek to protect the natural environment, retain the natural retention and storage capacity of any wetland or water body, and not increase flooding or pollute surface or groundwater, on site or off site.
- (h) Screening. Screening shall be required along the planned unit development boundaries if determined to be necessary to minimize any adverse impacts upon or from properties

which are not within the development. Screening shall be accomplished through the siting of land uses, maximizing existing screens or land cover, and/or providing new natural screens and/or open space buffers where appropriate.

- (i) Natural features. The planned unit development shall be designed to promote the preservation of natural features.

D. Procedural requirements.

- (1) Application requirements. The application for approval of a planned unit development shall be made according to the procedures and application requirements for special land uses in Article 7.00.
- (2) Effect of approval. After a site plan for a planned unit development has been approved and construction of any part thereof commenced, no other type of development shall be allowed on the site without further approval by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
- (3) Conformity to approved plan. Property which is the subject of approval for a planned unit development must be developed in strict compliance with the approved special land use permit and site plan. If construction and development do not conform with same, the approval thereof shall be forthwith revoked. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.
- (4) Amendment to approved plan. A proposed amendment or modification to a previously approved site plan for a planned unit development shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.
- (5) Project phasing. When a planned unit development is proposed to be constructed in phases, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and residents of the surrounding area. Each phase of the development shall be commenced within one year of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void for all uncompleted phases.
- (6) Security deposit. The Planning Commission may require that a security deposit be deposited with the Township to ensure completion of the site in accordance with the approved site plan.
- (7) Recording of action. No building permit shall be issued for the development and no construction activity commenced within the planned unit development until an affidavit containing the legal description of the planned unit development, the date and terms of the final approval, and a declaration that all improvements will be carried out in accordance with the approved planned unit development is approved by the Township and recorded with the Register of Deeds for Van Buren County. All required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be approved by the Township and recorded at the Register of Deeds for Van Buren County.
- (8) Revocation. In any case where construction of the planned unit development has not commenced within one year of the date of the final approval, all approvals shall be null and void.

E. Preliminary approval process.

- (1) Preapplication meeting. An applicant desiring to submit an application for a planned unit development is encouraged to attend a preapplication meeting with Township staff and applicable Township consultants. The purpose of the preapplication meeting is to determine general compliance with the planned unit development eligibility and design requirements,

and to identify issues of significance regarding the proposed application. The applicant shall present the following information on the proposed planned unit development for a preapplication meeting:

- (a) Sketch plan of the proposed layout;
 - (b) Accurate legal description of the development site;
 - (c) Names and addresses of all current owners of the development site;
 - (d) Total project acreage;
 - (e) Number of acres to be developed by use;
 - (f) Number of acres of undeveloped land;
 - (g) Number of acres of designated open space;
 - (h) Number and type of residential units;
 - (i) Details of nonresidential use;
 - (j) Details of vehicular and pedestrian circulation system; and
 - (k) Location and details of known natural features.
- (2) Preliminary plan review. A planned unit development shall undergo a mandatory preliminary plan review by the Planning Commission. The review is intended to provide an indication of the issues and concerns that must be resolved prior to site plan review. Preliminary plan approval shall not constitute an approval of a detailed site plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the site plan. A request for a modification to the approved preliminary plan shall be submitted to the Planning Commission for review in the same manner as the original preliminary plan was submitted and reviewed.
- (3) Preliminary plan requirements:
- (a) Engineering details of a preliminary plan are not required to be developed beyond a level of detail required to determine the feasibility of the proposed layout. The preliminary plan, drawn to a reasonable scale, shall provide the following information:
 - [1] Boundaries of the planned unit development;
 - [2] General location map showing existing zoning, existing land use, and ownership of the planned unit development and all adjacent land;
 - [3] Topography of the site and its relationship to adjoining land;
 - [4] Location of existing streets adjacent to the planned unit development; proposed connection of existing streets with the planned unit development circulation system;
 - [5] Pedestrian and vehicular circulation system and related parking facilities within the planned unit development;
 - [6] Delineation of proposed residential and nonresidential areas indicating for each area its size, number and composition of buildings, dwelling unit density, building envelopes, height and orientation of buildings;
 - [7] Designated open space system and recreation areas;
 - [8] Proposed landscaping, including greenbelts, berms, and/or screening;
 - [9] Stormwater drainage system; and

[10] Public facilities.

(b) The following documentation shall accompany the preliminary plan:

[1] Name, address and telephone number of:

[a] All persons with an ownership interest in the land on which the planned unit development will be located together with a description of the nature of each entity's interest;

[b] All engineers, attorneys, architects or registered land surveyors associated with the planned unit development;

[c] The developer or proprietor of the planned unit development;

[d] Any person authorized to represent the owner in the review process;

[2] Accurate legal description of the planned unit development;

[3] Total acreage of the planned unit development;

[4] Number and type of units to be developed;

[5] General statement as to how open space and recreation areas are to be owned and maintained;

[6] General indication of the proposed sequence and approximate time frames of development phases; and

[7] A narrative describing how the planned unit development is consistent with the Paw Paw Township Master Plan and the purposes of a planned unit development; the capacity and availability of necessary public facilities to the development; and the impact the development will have on adjoining properties.

(4) Additional information. During the preliminary plan review process, the Planning Commission may require additional information reasonably necessary to demonstrate compliance with the planned unit development review standards. Such information may include, but not be limited to, hydrological tests, traffic studies, or wetland determinations.

F. Final approval process.

(1) Special land use permit/site plan review. The Planning Commission shall hold a public hearing on a planned unit development application in accordance with applicable laws and the special land use provisions in Article 7.00.

(a) A planned unit development shall be subject to site plan review by the Planning Commission. The detailed site plan shall conform to the approved preliminary plan and incorporate any revisions required by the Planning Commission at the preliminary plan review. Site plan review shall be subject to all appropriate sections of the Zoning Ordinance. If a detailed site plan is not submitted for review within six months of preliminary plan approval, the Planning Commission may require resubmission of the preliminary plan for further review and possible revision.

(2) Site plan requirements. The following information shall be included on, or attached to, all site plans:

(a) An update of the approved preliminary plan pursuant to the site plan informational requirements in § 42-11.02;

(b) Engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the Township, including street design/construction, paved areas, and stormwater drainage;

- (c) Easements, deed restrictions, and other documents pertaining to the designated open space system and park/recreation areas; and
 - (d) If condominium ownership is proposed, all related condominium documentation.
- (3) Review criteria. Approval of a planned unit development shall be determined on the basis of the special land use criteria in Article 7.00, the site plan review criteria in Article 11.00, and the following criteria:
- (a) The overall design and land uses proposed in connection with a planned unit development shall be consistent with the purpose of the planned unit development concept and the specific design standards set forth herein.
 - (b) The planned unit development shall be serviced by the necessary public facilities to ensure the public health, safety, and welfare of the residents and users of the development.
 - (c) The planned unit development shall be designed to minimize the impact of traffic generated by the development on the surrounding land uses and road network.
 - (d) The planned unit development shall be designed so as to be in character with surrounding conditions as they relate to bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
 - (e) The planned unit development shall be designed and constructed so as to preserve the integrity of the existing on-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources; and also so as to not impair or otherwise adversely affect such environments off site on property not included in the development.
 - (f) The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
 - (g) The planned unit development shall comply with all applicable federal, state, and local regulations.

§ 42-8.25. Roadside stands.

A. Regulations and conditions.

- (1) A roadside stand shall not exceed 150 square feet in area. The 150-square-foot area dedicated as the "roadside stand" may be located within a larger structure.
- (2) A roadside stand may only be located within a larger structure if the larger structure complies with the lot, yard and area requirements in Article 6.00.
- (3) A roadside stand that is less than 25 square feet in area or is only left in place seasonally may be located adjacent to the abutting road right-of-way. All other lot, yard and area requirements in Article 6.00 shall apply.
- (4) Awnings may be established on up to three sides of a roadside stand and shall not project more than four feet from the stand. In the event the roadside stand is located within a larger structure, the awnings may only be established on that portion of the structure constituting the roadside stand.
- (5) A parking area equivalent to one parking space per 25 square feet of the roadside stand area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turnaround area outside of the road right-of-way.

- (6) It is the intent of this section to provide only for the limited seasonal sale of agricultural and related products. It is not intended to encourage the size of investment in equipment that would require a commercial district.

§ 42-8.26. Solar panels.

- A. Solar panels, either attached to principal or accessory buildings or as accessory structures, shall be allowed in all zoning districts.
- B. Regulations and conditions.
- (1) Attached to a building. Where attached to a building, the solar panels shall be subject to the same regulations as the building in terms of height and setback. Solar panels may be attached to the roof or the wall, but not both.
- (a) Roof-mounted solar panels shall include solar panels integrated as the surface layer of the roof structure with no additional apparent change in relief or projections (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.
- [1] Flush-mounted solar panels installed on a sloped roof surface shall not project vertically above the peak of the roof to which it is attached.
- [2] Flush-mounted solar panels installed on a flat roof shall not project vertically higher than the height of the parapet wall surrounding the roof or shall be screened by architectural features.
- [3] Solar panels integrated as the surface layer of the roof structure may be located on any part of the roof. Flush-mounted solar panels may only be located on the rear or side-facing roof.
- [4] Roof-mounted solar panels shall be only of such weight as can safely be supported by the roof. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
- (b) Wall-mounted solar panels.
- [1] Wall-mounted solar panels shall not exceed the height of the wall to which they are affixed.
- [2] Wall-mounted solar panels may only be attached to a side or rear building facade.
- (c) Building-mounted solar panels shall be permanently and safely attached to the building or structure. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
- (2) Freestanding. Solar panels may be freestanding.
- (a) Freestanding solar panels shall be subject to the height, setback and location requirements applicable to accessory buildings established by § 42-8.01.
- (b) The surface area covered by freestanding solar panels shall be included in the lot coverage calculations for the lot.
- (c) Freestanding solar panels shall be permanently and safely attached to the ground. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
- (d) All related power transmission lines shall be placed underground.
- (e) After the installation of solar panels, accessory structures or vegetation shall not be established on an abutting property in a location that will block the solar panels' access to

solar energy during 10:00 a.m. and 3:00 p.m.

- (3) The exterior surfaces of solar panels shall be generally neutral in color and substantially nonreflective of light.
- (4) Solar panels shall conform to applicable industry standards and shall be installed, maintained and used only in accordance with the manufacturer's directions. The Building Official may inspect the completed installation to verify compliance.
- (5) Solar panels shall comply with all applicable Township construction-related codes and permitting requirements.
- (6) Solar panels allowed as a permitted accessory use shall require an administrative review.
- (7) Solar panels failing to meet the height, setback, location or lot coverage requirements set forth herein may be allowed as a special land use, in accordance with Article 7.00.

§ 42-8.27. Solar farms.

- A. Purpose. The purpose of this section is to establish guidelines for the siting of solar panel energy systems placed on property with the intent to provide utility-scale energy to the grid which shall hereafter be referred to as a "solar farm." It is further the purpose and intent of this section to:
 - (1) Allow the safe, effective, and efficient use of a renewable energy system consistent with the goals and objectives set forth in the Paw Paw Township Master Plan.
 - (2) Preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse effects of solar farms, including aesthetic impacts and risks to the values of adjoining properties.
 - (3) Establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of solar farms shall be governed.
- B. Scope. Solar farms shall be allowed as a special land use in the AGR, ARR and HCI Zoning Districts as the principal use on a lot.
- C. Solar farm requirements.
 - (1) Siting of solar farms must conform to the front, side, and rear setback requirements of the zoning district.
 - (2) When oriented at maximum tilt, freestanding solar panels shall not exceed the maximum accessory building height requirements of the zoning district.
 - (3) All power transmission lines shall be located underground, unless otherwise modified by the Planning Commission in consideration of the special land use criteria for review.
- D. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. The exterior surfaces of solar panels shall be generally neutral in color and substantially nonreflective of light.
- E. Batteries.
 - (1) When a battery storage system is included as part of the solar farm, it must be placed in a secure temperature-controlled enclosure when in use. When no longer in use, such batteries must be disposed of in accordance with applicable laws and regulations.
 - (2) Battery storage enclosures shall conform to the solar farm provision set forth in Subsection C.
- F. Permits.

- (1) Solar farms shall conform to applicable industry standards and shall be installed, maintained and used only in accordance with the manufacturer's directions. The Building Official may inspect the completed installation to verify compliance.
- (2) Solar farms shall comply with all applicable Township construction-related codes and permitting requirements.

G. Removal.

- (1) A decommissioning plan shall be provided and shall:
 - (a) State the anticipated life of the project;
 - (b) Describe estimated decommissioning costs in current dollars and provide that this figure will be updated every fifth year after commercial operation of the utility-scale solar panel energy system;
 - (c) Be signed by the party responsible for decommissioning and the landowner (if different);
 - (d) Define the conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for 12 months, etc.);
 - (e) State that all equipment, conduit, structures, fencing, roads, and foundations will be removed by the end of the decommissioning period;
 - (f) Require property to be restored to the condition it was in prior to the development of the solar farm;
 - (g) Describe the time frame for completion of decommissioning activities;
 - (h) Describe any agreement (e.g., lease) with the landowner regarding decommissioning;
 - (i) State the party currently responsible for decommissioning; and
 - (j) Describe any plans or circumstances requiring an update of the decommissioning plan.
- (2) A recorded copy of the decommissioning plan shall be submitted to the Planning Commission.
- (3) Decommissioning shall be completed within 12 months of determination by the Zoning Administrator that the solar farm is no longer being maintained in an operable state of good repair, unless the current responsible party with ownership interest in the facility provides substantial evidence to the Planning Commission of the intent to maintain and reinstate operation of the farm.
- (4) A cash deposit, certified check, irrevocable bank letter of credit, surety bond, corporate guaranty, or other similar financial instrument acceptable to the Planning Commission that is equal to the cost of decommissioning is required. The amount of security shall be adjusted to equal the latest estimated net decommissioning costs under Subsection **G(1)(b)** above.

§ 42-8.28. Special events facilities.

A. Regulations and conditions.

- (1) A special event facility shall be located on a minimum of 10 acres of contiguous land.
- (2) No special event facility shall be approved for an attendance level in excess of 250 people, nor host a special event that lasts longer than two days during a single weekend, not including set up and take down.
- (3) Drives and parking areas shall be subject to compliance with § 42-9.12, except parking shall be provided at one space for every four persons of the maximum attendance level approved

for the facility and shall be subject to compliance with applicable barrier-free requirements.

- (4) A parking attendant(s) shall direct traffic into the facility and towards available parking during the arrival of guests.
- (5) A special event facility is limited to the following operational period, unless otherwise modified by the Planning Commission:
 - (a) 9:00 a.m. to 9:00 p.m. on Sundays.
 - (b) 9:00 a.m. to 12:00 a.m. on Fridays and Saturdays.
- (6) Adequate lighting shall be provided on the premises to illuminate outdoor activities and parking areas. All lighting shall be in accordance with § 42-9.13. Lighting associated with the special event shall be turned off when the event is not in operation.
- (7) A special event facility shall provide a water supply and sewage disposal system necessary to accommodate all special events to the satisfaction of the Van Buren County Health Department.
- (8) Noise levels generated at a special event facility shall not constitute a nuisance to adjoining properties.
- (9) Structures and features related to the special event facility shall be kept within an esthetic that is appropriate within the surrounding area.
- (10) Barriers and/or buffers and facility separations designed to minimize identified injurious or annoying impacts on surrounding properties may be required by the Planning Commission.

§ 42-8.29. Wind energy systems (WES).

- A. The height of the WES with the blade in vertical position shall not exceed 65 feet.
- B. A WES shall be set back from all lot lines a distance which is at least equal to the height of the WES (with the blade in the vertical position) as measured from the lot line to the base of the tower. No portion of the WES, including the guy wire anchors, shall be located within or above the required front, side or rear yard setback.
- C. A structure-mounted WES shall have a distance from the nearest property line which is at least equal to the height of the WES as measured from the point of attachment to the structure or building to the top of the WES with the blade in the vertical position. Blade arcs created by a WES mounted on a structure shall have a minimum clearance of eight feet.

§ 42-8.30. Wireless communications facilities.

- A. General requirements.
 - (1) Standard A: Wireless communications support structure and equipment is a permitted use of property and is not subject to special land use approval or any other approval if all of the following requirements are met:
 - (a) The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.
 - (b) The existing wireless communications support structure or existing equipment compound is in compliance with the Township Zoning Ordinance or was approved by the Planning Commission.
 - (c) The proposed co-location will not do any of the following:

- [1] Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
 - [2] Increase the width of the wireless communications support structure by more than the minimum necessary to permit co-location.
 - [3] Increase the area of the existing equipment compound to greater than 2,500 square feet.
- (d) The proposed co-location complies with the terms and conditions of any previous final approval by the Planning Commission.
- (2) Standard B: Wireless communications support structure and equipment is subject to special land use approval, in accordance with Article 7.00, if the equipment does not meet requirements "(c)" and "(d)" under Standard A, but meets the requirements "(a)" and "(b)" under Standard A.^[1]
- [1] *Editor's Note: See § 42-8.30A(1)(a), (b), (c) and (d).*
- (3) Standard C: Wireless communications support structure and equipment is subject to special land use approval, in accordance with Article 7.00, if the proposed use does not involve co-location (e.g., a new facility).
- B. Approval procedures. The following procedures have been established to achieve approval of a proposed wireless communications facility:
- (1) Standard A: A wireless communications support structure and equipment proposal requires no zoning approval. However, plans for Standard A improvements shall be submitted to the Township.
 - (2) Standard B: A wireless communications support structure and equipment proposal requires special land use approval. Accordingly, such proposals are subject to the procedures in Article 7.00, including the following:
 - (a) Applicant submits plan and applicable fee.
 - (b) Within 14 days Township administration determines if application is complete.
 - (c) If application is incomplete, administration notifies applicant.
 - (d) If application is complete, administration initiates special land use review by scheduling special land use public hearing. Special land use review must be complete 60 days after the application is considered complete.
 - (e) Planning Commission reviews plan, approves or denies application.
 - (3) Standard C: A wireless communications support structure and equipment proposal requires special land use approval. Accordingly, such proposals are subject to the procedures outlined for Standard B, except that in Step 4^[2] the special land use review must be complete not more than 90 days after the application is considered complete.
- [2] *Editor's Note: See § 42-8.30B(2)(d).*
- C. Regulations and conditions. All applications for wireless communications facilities that require special land use approval shall be reviewed in accordance with the following standards and conditions. If approved, such facilities shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed by the Planning Commission.
- (1) Public health and safety. Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.
 - (2) Harmony with surroundings. To the extent feasible, facilities shall be designed to be harmonious with the surrounding areas.

- (3) Compliance with federal, state and local standards. Wireless communications facilities shall comply with applicable federal and state standards, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless communications support structures shall comply with all applicable building codes.
- (4) Maximum height. Applicants shall demonstrate a justification for the proposed height of the support structures and an evaluation of alternative designs which might result in lower heights. The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure), but shall not exceed 120 feet. Higher support structures may be permitted, however, if necessary to achieve co-location. The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.
- (5) Minimum setbacks. The setback of a new or modified support structure from any residential-zoned district or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto. Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the support structure shall comply with the required setbacks for principal buildings specified for the zoning district in which the facility is located. Buildings and facilities accessory to the wireless communication facility (other than the support structure) shall comply with the required setbacks for principal buildings specified for the zoning district in which the facility is located.
- (6) Access. Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the Planning Commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.
- (7) Division of property. The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements, are met.
- (8) Equipment enclosure. If an equipment enclosure is proposed as a building- or ground-mounted structure, it shall comply with the required setbacks and other requirements specified for principal buildings for the zoning district in which the facility is located. If an equipment enclosure is proposed as a roof appliance on a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.
- (9) Design objectives. The support structure and equipment shall be designed to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Accordingly, support structures shall be grey or white (or another color that is found to be more harmonious with surroundings) and shall not have lights unless required otherwise by the Federal Aviation Administration (FAA). Equipment buildings shall have a brick exterior. No signs or logos visible from off-site shall be permitted on a support structure.
- (10) Fencing. Wireless communications facilities shall be enclosed by an open weave, green or black vinyl-coated, chain link fence having a maximum height of six feet. Barbed wire may be permitted.
- (11) Structural integrity. Wireless communications facilities shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.
- (12) Maintenance. A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance, and shall include a

method of notifying the Township if maintenance responsibilities change.

D. Removal of unused or obsolete facilities.

- (1) A condition of every approval of a wireless communications facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of the following event:
 - (a) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of no use.
 - (b) The situations in which removal of a communications facility is required, as set forth in Subsection **D(1)** above, may be applied and limited to portions of a facility.
 - (c) Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits, and immediately proceed with and complete the demolition, removal, and site restoration.
 - (d) If the required removal of a communications facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the Township may secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

E. Application requirements.

- (1) Site plan and special land use review. A site plan prepared in accordance with § 42-11.02 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures. Where the wireless communications facility is subject to special land use approval the procedures and standards in Article 7.00 shall be followed.
- (2) Landscape plan. A detailed landscaping plan shall be submitted illustrating the number, species, location, and size at the time of planting of all proposed trees and shrubs. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
- (3) Structural specifications. Structural specifications for the support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennae capable of being supported on the structure. A soils report prepared by a geotechnical engineer licensed in the State of Michigan shall also be submitted confirming that the soils on the site will support the structure. Structural plans shall be subject to review and approval by the Township Engineer.

Article 9.00. Supplemental Regulations

§ 42-9.01. Access management.

A. Number of driveways.

- (1) Access for an individual lot or for contiguous lots under the same ownership shall consist of either a single two-way driveway or a paired driveway system wherein one driveway is designed, and appropriately marked, to accommodate ingress traffic and the other egress traffic.

- (2) For developments that can demonstrate that their combined driveway approach volumes (entering and exiting) will exceed 3,000 during an average day (or will be used by 300 vehicles during the peak hour of traffic for either the street or the use), and lacking access to a secondary street, a second driveway may be allowed along the major street provided that the additional driveway can meet the spacing requirements.
- (3) For a lot with frontage exceeding 300 feet, or where a lot has frontage on at least two streets, an additional driveway may be allowed, provided that a traffic analysis is submitted by the applicant showing that conditions warrant an additional driveway and that all driveways meet the spacing requirements.
- (4) Certain developments generate enough traffic to warrant consideration of an additional driveway to reduce delays for exiting motorists. Where possible, these second access points should be located on a side street, shared with adjacent uses or designed for right turn-in, right-turn-out only movements. Development characteristics that warrant consideration of an additional driveway are as follows:
 - (a) Family developments with over 500 units.
 - (b) Grocery store of over 30,000 square feet (GFA).
 - (c) A shopping center with over 40,000 square feet (GFA).
 - (d) A hotel or motel with over 400 rooms.
 - (e) Industrial developments with over 300,000 square feet (GFA) or 350 employees (although a secondary entrance for trucks should be allowed).
 - (f) Warehouses of over 750,000 square feet (GFA) or 350 employees.
 - (g) A mobile home park with over 600 units.
 - (h) General office building of 150,000 square feet (GFA) or 500 employees.
 - (i) Medical office building of 60,000 square feet (GFA) or 200 employees.
 - (j) Fast-food restaurant of over 6,000 square feet (GFA).
 - (k) Sit-down restaurant of over 20,000 square feet (GFA).

B. Driveway spacing.

- (1) Driveway spacing will be based on posted speed limits along the property frontage as indicated in the following table:

Posted Speed Limit (MPH)	Recommended Driveway Spacing (feet)
30	125
35	150
40	185
45	230
50	275
55	350
Measured center line to center line	

- (2) If the amount of street frontage is not sufficient to meet these criteria, the driveway shall be constructed adjacent to the property line furthest from the intersection.

- (3) In order to minimize left-turn conflicts, driveways shall be offset a minimum of 150 feet, measured center line to center line, or aligned with those across the street.
 - (4) Where lots have frontage or access on more than one roadway, access shall be provided from the lesser traveled street. Where spacing requirements can be met, high traffic volumes will be generated, or the subject side street is inappropriate for nonresidential traffic, access onto the main roadway will be considered.
 - (5) In the case of expansion, alteration or redesign of an existing development where existing driveways do not comply with the guidelines set forth herein, the closing, relocation, or redesign of the driveway may be required.
- C. Shared access. Shared access between lots through frontage roads, rear service drives, alleys and shared drives, or driveway placement or closure of an existing driveway so as to facilitate future shared access between lots, shall be encouraged where feasible and appropriate.

§ 42-9.02. Division of land.

No division of land will be allowed that does not comply with the applicable area, width, depth and frontage requirements set forth in this chapter. All lots shall be provided the requisite frontage and individual access on a public street, except as otherwise allowed by this chapter.

§ 42-9.03. Dwellings.

- A. A dwelling shall comply with the minimum square footage requirements of this chapter for the zone in which it is located and have a core living area with a minimum dimension of 20 feet by 20 feet within the principal portion of the building having exterior wall construction, excluding porches, breezeways, garages, etc., which are accessory to the principal structure, and also shall have a minimum width across the front, the side and rear elevations of at least 24 continuous feet of exterior wall.
- B. A dwelling shall comply in all respects with the Township Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different from those imposed by the Township Building Code, then and in that event such federal or state standards or regulations shall apply.
- C. No basement structure shall be used for human occupancy unless a completed story is situated immediately above the basement structure and is used as a dwelling, except underground homes designed and built in accordance with applicable ordinances and laws.
- D. In case an existing single-family dwelling has been partially or totally destroyed by fire or an act of God, the Zoning Board of Appeals shall have the authority, following a duly noticed public hearing, to permit the residents of such dwelling to be temporarily housed, for a period of not to exceed six months, within a mobile home or equally suitable facility located upon the same site of the damaged residence while said residence is being rebuilt, subject to a water supply and sanitary sewer disposal system being available upon the site and have received approval by the Van Buren County Health Department. The Zoning Board of Appeals is authorized to permit up to two three-month extensions beyond the initial six-month period provided that, in the opinion of the Zoning Board of Appeals, there is sufficient evidence of reasonable progress being made in rebuilding the damaged residence.

§ 42-9.04. Essential services.

Essential services, as defined in Article 2.00, shall be permitted as authorized by law and other ordinances in any use district, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this chapter; provided that electric transmission substations (supply voltage over 46KV) and gas transmission regulator stations (supply pressure over 400 PSIG) shall be subject to the provisions of this chapter; and further provided that appropriate permits will be obtained for all construction. Fees will be charged for substations, regulator buildings and auxiliary buildings but not for those elements directly associated with distribution or transmission systems.

§ 42-9.05. Fences and walls.

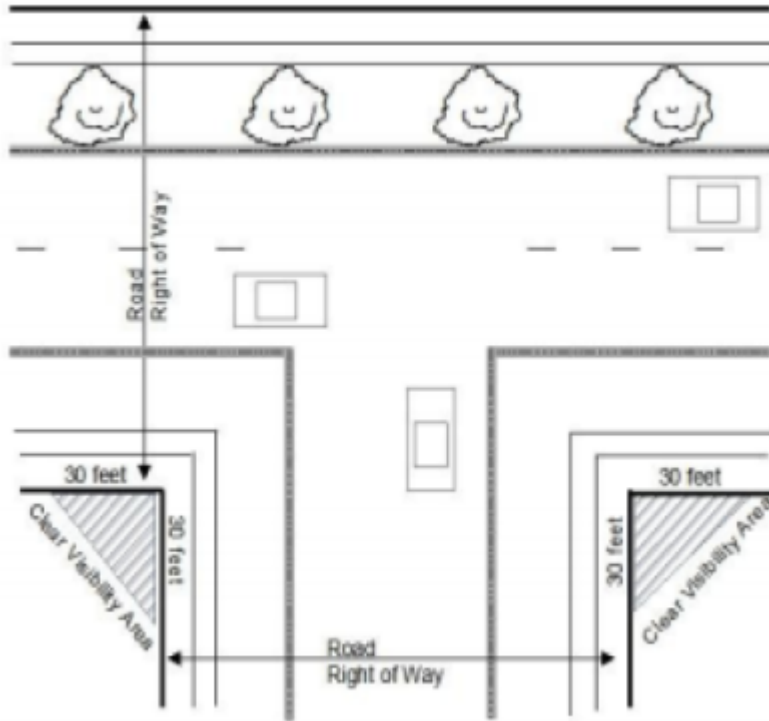
- A. Fences within a rear or side yard of a lot in a residential district shall not be greater than six feet in height.
- B. Fences within a required front yard of a lot in a residential district shall not be greater than four feet in height.
- C. No fence having more than 50% of its surface of solid construction, which obstructs through visibility, shall be greater than three feet in height where said fence may obstruct the necessary view of motorists and interfere with traffic safety.
- D. No fence shall encroach upon the shoulder of the roadway, which would impede necessary snow removal.

§ 42-9.06. Grades and runoff.

- A. No premises shall be filled or graded so as to discharge surface water runoff onto abutting premises.
- B. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.
- C. Leaching ponds, retention or detention basins, or other similar stormwater management methods may be required to adequately retain stormwater on site.
- D. Stormwater management systems should be designed to:
 - (1) Incorporate and/or use natural drainage systems existing on the site;
 - (2) Protect the surrounding natural environment;
 - (3) Retain the natural retention and storage capacity of any wetland or waterway; and
 - (4) Not increase flooding or the possibility of polluting surface water or groundwater.

§ 42-9.07. Intersection visibility.

- A. On any corner lot in any district, no fence, wall, or other structure, including plantings and signs, shall obstruct vision between the heights of two feet and 10 feet within the triangular area formed by the intersecting street right-of-way lines and a street line intersecting them at points which are on said right-of-way lines and 30 feet distant from their point of intersection. Such heights of clear vision area shall be measured from the elevation of the street center lines at the point of intersection.



- B. No fence, wall, or other structure, including plantings and signs, shall obstruct vision between the heights of two feet and 10 feet from a driveway or other entrance or exit onto a public or private road. Such heights of clear vision shall be measured from the elevation of the street center line within 10 feet of the public or private road.

§ 42-9.08. Keeping of animals.

- A. The keeping of not more than four domestic household pets that are six months of age or older is permitted as an accessory use in any zoning classification.
- B. Any land, building or structure where more than four domestic household pets that are six months of age or older are boarded, housed or bred for commercial purposes shall be considered a kennel.
- C. The non-farm keeping of farm animals or livestock is allowed as an accessory use within the CSV, AGR and ARR Districts, but only where conditions of maintenance do not cause one or more of the following:
- (1) Unpleasant odors sufficiently strong to be readily discernible upon adjacent property for any period in excess of 24 hours.
 - (2) Noise sufficiently loud to penetrate indoors upon the property of others for any continuous period in excess of 30 minutes.
 - (3) Flies, insects, or rodents to be attracted to the place where said animals are kept and are thereafter permitted to multiply and escape upon adjoining property.
 - (4) Said animals or any refuse therefrom are permitted to trespass or be carried upon adjacent property.

§ 42-9.09. Lot - building relationships.

A. Limitations on all land and structures.

- (1) No building or structure shall hereafter be erected, razed, altered or moved, nor shall any building or premises hereafter be used for any purpose other than is allowed in the district in which said building or premises are located.
- (2) Every building hereinafter erected shall be located on a lot as herein defined; and, except as herein provided, there shall be not more than one single-family dwelling or two-family dwelling on any one lot.
- (3) Every principal building shall be built upon a lot with frontage upon a public street or approved private road, except that any one lot of record created before the effective date of this chapter without any frontage on a public street or private road but provided with a right-of-way of no less than 66 feet wide, may be granted a building permit providing all other requirements of this chapter can be met.
- (4) Where a single lot is divided by a public street or private road, the divided portions of the lot shall be treated as a single lot in the application of the use limitations of the District. The divided portions of the lot shall be treated as separate lots in the application of lot coverage, setback, and yard area requirements.

B. Limitations on height. No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the district in which such building or structure is located, except the height limitations of this chapter shall not apply to church spires, belfries, cupolas, communication towers/antennas (except as otherwise specifically regulated in this chapter), wind energy system structures (except as otherwise specifically regulated in this chapter), domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, barns, silos, bulkheads and necessary mechanical appurtenances usually carried above the roof level, except where in the opinion of the Building Inspector such may be deemed to interfere with aerial navigation or constitute a fire hazard. Such features, however, shall not exceed in total coverage 20% of the total roof area and shall not exceed a reasonable height to be determined upon reference of all such cases to the Zoning Board of Appeals by the Building Inspector.

C. Limitations on area.

- (1) No building shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot, area and building location regulations hereinafter designated for the district in which such buildings or open space is located, except as otherwise specifically provided.
- (2) No required yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as a required yard or open space for any other building.
- (3) Any lot, as defined herein, which was legally recorded at the time of adoption of this chapter, and which was a buildable lot under the Zoning Ordinance in effect immediately prior to the adoption of this chapter, shall be deemed a buildable lot even though it may have less than the minimum area (and/or frontage/width) requirements, subject to the following:
 - (a) Where two or more contiguous lots or portions of lots are in single ownership, and such lots/portions of lots do not individually comply with the minimum requirements for the district in which they are located, such lots/portions of lots shall be grouped together for zoning purposes sufficient to create a single conforming buildable "zoning lot" (or, as applicable, a single less nonconforming zoning lot). Once a "zoning lot" is created it may not be separated into individual lots or portions of lots for zoning purposes unless all remaining and subsequent lots or portions of lots are conforming with all Zoning Ordinance requirements including minimum area (and/or frontage/width).

- (b) Where two or more contiguous lots or portions of lots are in single ownership, but are not required by the preceding subsection to be grouped together for zoning purposes, the owner of such lots/portions of lots may nevertheless choose to group such lots/portions of lots together to create a larger "zoning lot."
- (c) No lot area or other required space shall be divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this chapter, except where such reduction has been brought about by the expansion or acquisition of public rights-of-way for a street, road or highway. If a required area is already less than the minimum required under this chapter, said area or dimension shall not be further divided or reduced.

§ 42-9.10. Lot requirements.

No building shall be constructed, placed, or moved upon an unplatted lot with any of the following:

- A. Less than the applicable minimum lot frontage/lot width required pursuant to Article 6.00 of this chapter.
- B. Less than the applicable minimum lot area required pursuant to Article 6.00 of this chapter.
- C. A depth of greater than four times the width of the lot; provided that this depth-to-width limitation shall not apply to a lot larger than 10 acres, or to the remainder of a parent parcel or parent tract retained by the proprietor (as determined under the State Land Division Act^[1] and the Paw Paw Township Land Division Ordinance^[2]).

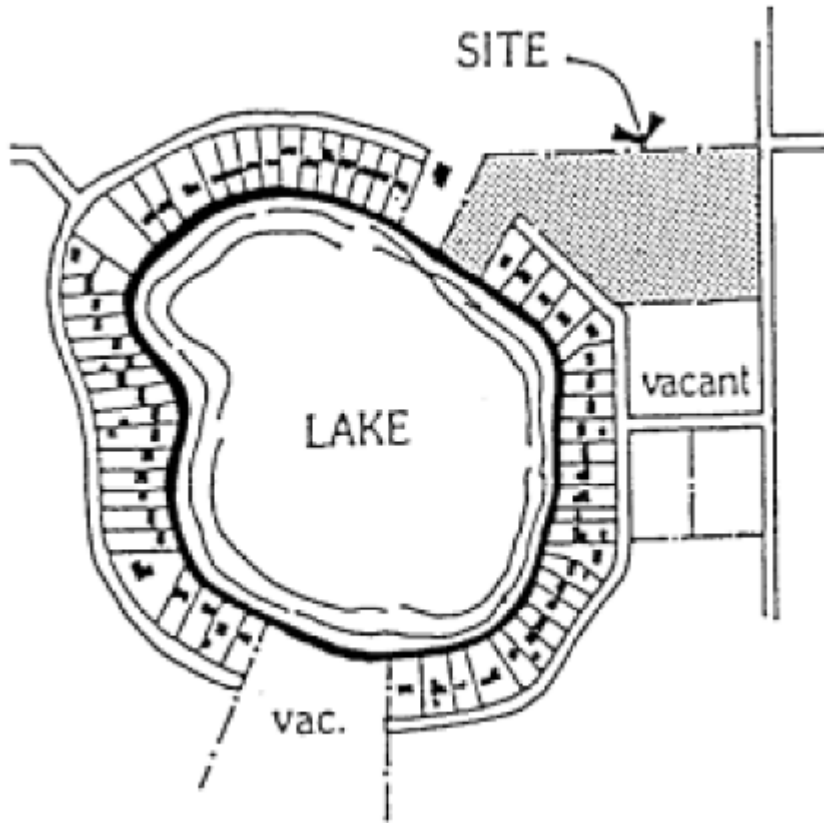
[1] *Editor's Note: See MCL § 560.101 et seq.*

[2] *Editor's Note: Editor's Note: See Ch. 34, Subdivisions.*

§ 42-9.11. Nonpublic waterfront access lots.

No waterfront lot in any zoning district shall be used as an access lot unless it complies with all of the following requirements:

- A. An access lot shall have a minimum waterway frontage, a minimum lot width, a minimum road frontage, and a minimum lot area corresponding to the minimum waterway frontage, lot width, road frontage, and lot area requirements for a lot in the zoning district in which the access lot is situated.
- B. An access lot providing waterway access to more than one access lot beneficiary shall have a minimum lot depth of at least 75 feet and at least an additional 50 feet of waterway frontage, lot width, and road frontage for each additional access lot beneficiary.



- C. Waterway frontage shall be measured by a straight line which connects the boundaries of the access lot that extend from the waterway frontage at the points where they intersect the high water line. Areas consisting of swamp, bog, marsh, or other type of wetland, as commonly defined, shall not be counted towards the minimum waterway frontage required herein, but may be used to meet minimum buffer strip requirements.
- D. An access lot providing access to two or more access lot beneficiaries shall include a buffer strip on each side of the access lot, parallel with each boundary that extends from the waterway frontage. Each buffer strip shall have a minimum width for the entire depth of the access lot corresponding with the amount of minimum side yard setback required for a principal building in the zoning district in which the access lot is situated.
- E. No building or structure of any kind other than fencing shall be constructed or erected upon a required buffer strip. Required buffer strips shall not be used for any motorized vehicular traffic, parking, boat ramps or for storage purposes (including junk, waste or garbage) or other development purpose of any kind, and shall be preserved to provide a natural barrier between the usable portion of an access lot and adjacent lots.
- F. No portion of any dock shall be located within the minimum side setback area required for the zoning district in which the access lot is situated, as measured from the boundaries of the lot as projected into a waterway.
- G. Adequate off-street parking for each access lot beneficiary shall be provided on each access lot.
- H. Site plan review shall be required for all access lots providing access to more than one access lot beneficiary.
- I. An access lot created as part of a plat or condominium development shall be dedicated at the time of recording of the plat/condominium for use solely by the owners/occupants of lots contained within the plat/condominium, or a specified lesser number thereof, consistent with all applicable laws and ordinances.

§ 42-9.12. Off-street parking and loading.

- A. Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto, in each district for all the occupants, employees and patrons of said property.
- B. A plan showing the required parking and loading spaces including the means of access and interior circulation, except for single-family and two-family dwellings, shall be provided at the time of application for a building permit for the erection or enlargement of any building.
- C. Parking space shall be provided in the manner and location herein specified:
- (1) No parking area, parking space or loading space which exists at the time this chapter becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this chapter within 300 feet of the proposed or existing uses for which such parking will be available.
 - (2) Parking of motor vehicles in residential zones shall be limited to passenger vehicles, motor homes, and not more than one commercial vehicle of the light delivery type not exceeding 8,500 pounds of gross vehicle weight (weight of vehicle and load capacity). The parking of any other type of commercial vehicle, including semi-tractor trailers or their related cabs, or busses, except for busses parked on school property, is prohibited on premises in any residential zone; except commercial vehicles used for lawful agricultural production.
 - (3) Off-street parking or storage of vehicles, motor homes, boats, snowmobiles, camping trailers or any similar equipment shall be prohibited in the required setback areas between buildings and the abutting public or private street line or lines in all areas where residences or buildings are located within 200 feet of one another zoned in a residential district classification, except for such parking within private driveways not exceeding 25 feet in width located within such setback areas, provided such driveways are for the principal purpose of access to a garage or entryway to a dwelling.
- D. Requirements for all parking spaces and parking lots in all districts other than single- and two-family are as follows:
- (1) Each automobile parking space shall be not less than 180 square feet nor less than nine feet wide exclusive of driveway and aisle space.
 - (2) All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be hard surfaced with a pavement having asphalt or concrete binder, or other approved surface.
 - (3) Any lighting fixtures used to illuminate any off-street parking area shall be subject to compliance with the outdoor lighting standards set forth in § 42-19.13.
 - (4) No parking space shall be closer than five feet from the property line.
 - (5) Off-street parking facilities in nonresidential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence or compact planting not less than four feet or more than eight feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
 - (6) All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited.
 - (7) Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. Loading and

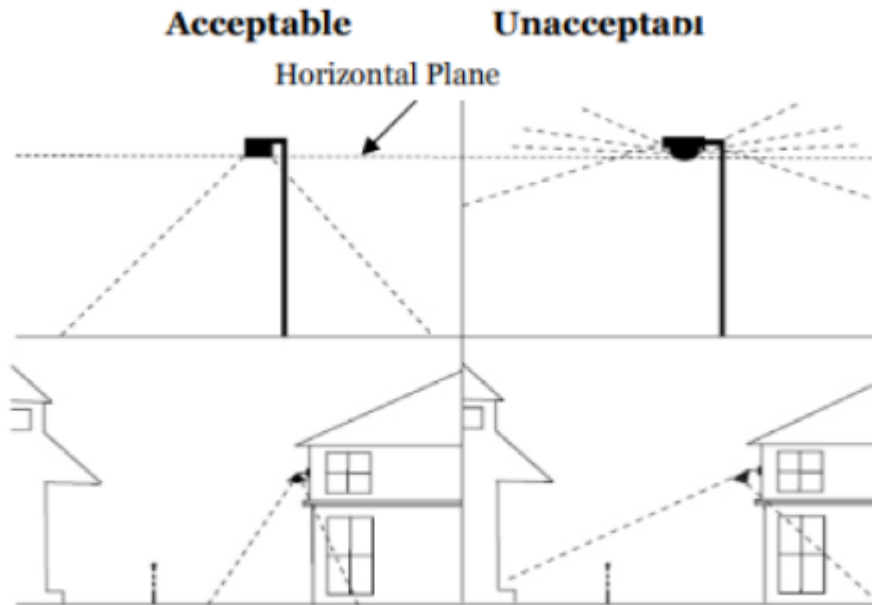
unloading shall be conducted in side or rear area of building only.

- (8) Requirements for the provisions of parking facilities with respect to two or more property uses of the same or different types, may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, providing that the number of spaces designated is not less than the sum of individual requirements and provided, further, that the specifications in regard to locations, plan, etc., are complied with.
 - (9) The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various individual uses, computed in accordance with this section; parking facilities for one use shall not be considered as providing the required parking facilities for any other use.
- E. Minimum required parking space, except where a greater number of parking spaces may be required, depending upon individual circumstances, in order to comply with § 42-9.12A.
- (1) Dwellings, including single- and two-family and multiple: two parking spaces per dwelling unit.
 - (2) Doctors, dentists, and other similar professions: one parking space for each 20 square feet of floor area in waiting room plus one space for each examining room, dental chair or similar use area, and one for each employee.
 - (3) Office buildings: one parking space for each 150 square feet of floor space utilized for workspace of employees.
 - (4) Retail stores, supermarkets, department stores, personnel service shops and shopping centers: one parking space for each 100 square feet area in the basement and on the first floor used for retail sales, and one space for each 150 square feet of floor area on the second floor used for retail sales, and one space for each 300 square feet of floor area on the third floor used for retail sales, and one space for each 400 square feet on any additional floor used for retail sales.
 - (5) Furniture or appliance store, wholesale establishments or equipment sales and service: two parking spaces plus one additional space for each 300 square feet of floor area over 1,000 square feet.
 - (6) Industrial uses: one parking space for each employee plus five additional spaces.
 - (7) Libraries, museums and post offices: one parking space for each 100 square feet of floor area.
 - (8) Bowling alleys: five parking spaces for each alley.
 - (9) Motels and tourist homes: one parking space for each separate unit.
 - (10) Theaters, auditoriums, stadiums and churches: one parking space for each three seats.
 - (11) Dance halls, assembly halls and convention halls without fixed seats: one parking space for each 100 square feet of floor area if to be used for dancing or assembly.
 - (12) Restaurants and nightclubs: one parking space for each 100 square feet of floor area or out-of-doors area used to serve customers.
 - (13) Schools; private or public elementary and junior high schools: one parking space for each employee normally engaged in or about the building grounds; senior high schools and institutions of higher learning: one parking space for each employee normally engaged in or about the building or grounds and one additional space for each five students enrolled in the institution, plus providing sufficient spaces for any event that might be scheduled.
 - (14) Marinas and other enterprises shall provide one parking pace for each boat slip in addition to the required parking for retail sales and service areas.

(15) Hospitals, sanitariums or similar institution: one parking space for every two beds.

§ 42-9.13. Outdoor lighting.

- A. Purpose. The purpose of this section is to regulate the placement and arrangement of outdoor lighting within the Township. These regulations are intended to:
- (1) Protect the public health, safety, and general welfare;
 - (2) Enable the fair and consistent enforcement of these regulations;
 - (3) Control light spillover and glare;
 - (4) Encourage lighting systems which conserve energy and costs;
 - (5) Preserve community character;
 - (6) Provide for nighttime safety, utility, security, and productivity;
 - (7) Minimize the detrimental effect of outdoor lighting on crops, trees, wildlife, and astronomical observations by the general public.
- B. Objectives. Outdoor lighting shall be arranged in the following manner:
- (1) To avoid any light spillover onto any adjacent premises and public streets;
 - (2) So that light from any illuminated source shall be so shaded, shielded or directed that the light intensity or brightness will not be reasonably objectionable to surrounding areas;
 - (3) To control illumination of vertical architectural surfaces;
 - (4) To control spillover of wasted light into the night sky.
- C. Outdoor lighting standards. All outdoor lighting upon any premises, regardless of zoning classification, shall be subject to the following conditions and limitations:
- (1) Site and area lighting. Site and area lighting shall be designed such that light levels do not exceed 0.5 footcandle at any point along the perimeter of the property where adjacent to residential zones or residential uses. Light levels shall not exceed 1.0 footcandle at any point along the perimeter of the property where adjacent to commercial or industrial zones or uses, where the Planning Commission determines during site plan review that the higher light levels are consistent with the purpose and intent of this section.
 - (2) Pole-mounted lighting. Pole-mounted light fixtures used for site and area lighting shall be subject to the following requirements:



- (a) Pole-mounted lighting with a pole height of five feet or less shall not exceed 175 watts per fixture regardless of lamp type. The light shall be so shaded, shielded or directed that the light intensity or brightness will not be reasonably objectionable to surrounding areas.
 - (b) Pole-mounted lighting with a pole height greater than 15 feet and not exceeding 25 feet in height shall include only sharp cutoff fixtures. Such lighting shall not exceed 400 watts per fixture.
 - (c) Pole-mounted lighting with a pole height exceeding 25 feet shall include only sharp cutoff fixtures and shall be subject to site plan approval. Such lighting shall not exceed 400 watts per fixture.
 - (d) Public and private streetlighting shall be reviewed by the Zoning Administrator for compliance with the purpose of this section and shall be consistent with the lighting permitted by Subsections **C(2)(a)**, **(b)** and **(c)** above.
- (3) Building-mounted lighting. Building-mounted lighting shall include only sharp cutoff fixtures and shall not exceed 175 watts per fixture regardless of lamp type. Said lighting shall not exceed a twenty-foot mounting height, as measured from the average grade at the building foundation. Typical residential light fixtures on residential buildings and associated accessory buildings not to include floodlights or security lights, are exempt from the sharp cutoff fixture requirement when mounted at a height of eight feet or less.
 - (4) Building exterior lighting. The illumination of building exteriors shall not exceed the recommended footcandle levels set forth by the Illuminating Engineering Society of North America (IES), not to exceed 20 footcandles. Light fixtures used for the sole purpose of illuminating a building facade may be up to 400 watts per fixture and shall not exceed a mounting height of 15 feet, as measured from the average grade at the building foundation. Light generated from said fixtures shall be appropriately shaded, shielded or directed so that no light is emitted beyond the building facade.
 - (5) Landscaping lighting. Landscape light fixtures, including ground lighting for signs, flag poles and statues, shall not exceed 175 watts per fixture and shall be appropriately shaded, shielded or directed to eliminate glare onto any portion of any adjacent highway or premises, and may not spillover into the night sky. National and state flag illumination is exempted but encouraged to use lighting designed consistent with the purpose of this section.
 - (6) Blinking, flashing, and temporary lighting. There shall be no lighting of a blinking, flashing, rotating or fluttering nature, including changes in light intensity, brightness or color except for

public safety purposes. Beacon and/or search lights shall not be permitted except for public safety purposes. Temporary seasonal/holiday lighting is not prohibited by this subsection.

- (7) Site lighting plan. A site lighting plan shall be submitted for uses requiring site plan review and shall provide the following information:
 - (a) Proposed location on premises of all outdoor light fixtures;
 - (b) Description of illumination devices, fixtures, lamps, supports, reflectors and other devices (e.g., fixture type, mounting height, wattage);
 - (c) An isofootcandle plan;
 - (d) Illumination level data for all building, vertical architectural and landscape lighting proposed.
- (8) Reduced lighting. For uses requiring site plan review, lighting shall be significantly reduced during nonoperational building hours, allowing only lighting necessary for security purposes. The lighting plan submitted for review shall note where this distinction occurs.

§ 42-9.14. Permits.

- A. Building permits and construction codes. See the Paw Paw Township Construction Code Ordinance and the therein referenced constructions codes for regulations applicable to building permits, occupancy permits, and other regulations applicable to the construction and occupancy of buildings and other structures.
- B. Zoning compliance permits. No building or structure which is hereafter constructed, enlarged, altered, moved or reconstructed shall be occupied or otherwise used, in whole or in part, until a zoning compliance permit has been issued by the Zoning Administrator, certifying that the location of the building or structure, and the intended use thereof, is in compliance with the provisions of this chapter.

§ 42-9.15. Private roads.

- A. A private road shall be located upon a sixty-six-foot right-of-way/easement. The Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.
- B. A private road shall be maintained by parties who have an ownership interest in the private road. Maintenance responsibilities shall be specified in a deed restriction. The private road shall be maintained to the minimum standards of the state fire code.
- C. Private roads shall be constructed to Van Buren County Road Commission standards, except a private road shall have a driving surface with a minimum width of 20 feet, exclusive of parking area.
- D. A permit from the Zoning Administrator is required before any construction of any private road may begin. A permit application shall consist of the following:
 - (1) An engineered site plan with cross sections and profile.
 - (2) The seal of the engineer who prepared the plan.
 - (3) Van Buren County soil erosion and sedimentation control permit.
 - (4) Van Buren County Road Commission or Michigan Department of Transportation permit to connect to a public road.

- (5) If applicable, any required permits from the Michigan Department of Environmental Quality.
 - (6) A complete zoning permit application and any applicable fees.
- E. Construction of a private road shall be certified in writing by a licensed civil engineer or surveyor and such certificate shall accompany the maintenance agreement and be submitted to the Township Clerk and approved by the Township Zoning Administrator prior to the creation of any dependent lots.

§ 42-9.16. Refuse disposal.

- A. The outdoor storage and accumulation of junk, discarded material, building materials, metal, or solid waste of any kind is hereby prohibited, except in approved and authorized outdoor trash containers or dumpsters.
- B. Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
- (1) The placement of the container shall be subject to site plan review.
 - (2) Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
 - (3) All containers shall rest on a concrete pad.
 - (4) A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
 - (5) The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.

§ 42-9.17. Screening.

Screening shall be required where a proposed use shares a common lot line with an adjacent district as set forth in Table 9.17A and landscaped in accordance with Table 9.17B.

Table 9.17A				
Buffer Zone Requirements				
Proposed Use	Adjacent to LD or WFR District	Adjacent to VE or MHR District	Adjacent to Commercial or Industrial District	Adjacent to CSV, AGR, or ARR District
Agricultural	None	None	None	None
Single-family and two-family residential	None	None	None	None
Multiple-family residential	B	None	C	C
Mobile home park	B	None	C	C
Commercial	D	C	C	C
Industrial	A	A	C	B
Public/recreational /institutional	None	None	None	None

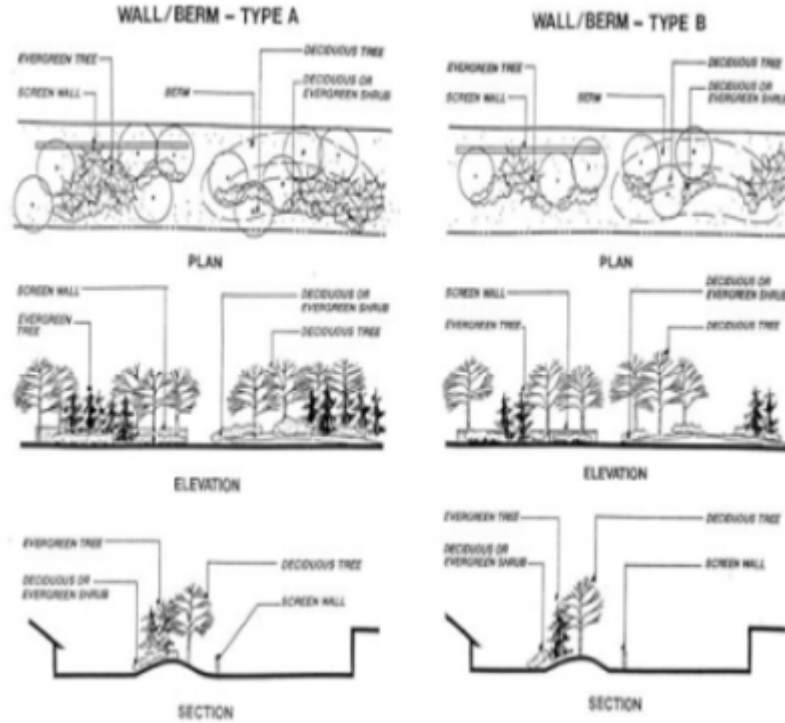
Table 9.17A				
Buffer Zone Requirements				
Proposed Use	Adjacent to LD or WFR District	Adjacent to VE or MHR District	Adjacent to Commercial or Industrial District	Adjacent to CSV, AGR, or ARR District
Planned unit development	Determined during PUD plan approval	Determined during PUD plan approval	Determined during PUD plan approval	Determined during PUD plan approval

Table 9.17B			
Description of Required Buffer Zones			
Buffer Zone	Minimum Width (feet)	Wall/Berm (a)	Minimum Plant Materials (b,c,d)
A	50	6 foot high continuous wall or 4 foot high berm	1 canopy tree, 2 evergreen trees and 4 shrubs per each 20 linear feet along the lot line, rounded upward
B	20	6 foot high continuous wall or 3 foot high berm	1 canopy tree, 1 evergreen tree and 4 shrubs per each 30 linear feet along the lot line, rounded upward
C	10	None required	1 canopy or evergreen tree or 4 shrubs per each 20 linear feet along the lot line, rounded upward
D	10	6 foot high continuous wall or 3 foot high berm	1 canopy or evergreen tree or 4 shrubs per each 20 linear feet along the lot line, rounded upward

Note: The Planning Commission may waive or reduce the above requirements in consideration of an equivalent buffer zone design or if an equivalent buffer is provided by: 1) existing or planned parks or recreation areas; or 2) existing woodlands, topography or other natural conditions on the lot.

Footnotes:

- a. Berms shall have a maximum slope of one foot of vertical rise to three feet of horizontal distance (1:3) with a crest area at least four feet wide.
- b. Canopy trees shall have a minimum caliper of 2.5 inches at time of planting.
- c. Evergreen trees shall have a minimum height of six feet at time of planting.
- d. At least 50% of the shrubs shall be 24 inches tall at time of planting, with the remainder over 18 inches tall at time of planting.



§ 42-9.18. Signs.

A. Purpose. The purpose of this section is to establish regulations for all signs in all zoning districts within the Township in a manner consistent with the following purposes:

- (1) To protect and further the health, safety and welfare of Township residents, property owners and visitors.
- (2) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- (3) To conserve and enhance community character and the Township's aesthetic environment.
- (4) To promote uniformity in the size, number and/or placement of signs within zoning districts.
- (5) To promote the economic viability of commercial areas by minimizing visual clutter and allowing for proper placement of signs to safely direct motorists to their destination.
- (6) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the desire of business and nonbusiness uses to communicate by means of signs.

B. General sign regulations.

- (1) Signs shall be allowed only in accordance with the provisions of this section and any other applicable provisions of this chapter.
- (2) Signs shall be placed, constructed and erected in accordance with good construction practices and shall be maintained in good condition and repair.
- (3) Except as otherwise allowed by this section, all signs shall be constructed of permanent materials and shall be permanently attached to the ground or a building/structure by direct attachment to a rigid wall, frame or structure.

- (4) Signs requiring electrical service shall be constructed and operated in compliance with the electrical code in effect within the Township.
 - (5) Signs shall be placed only on private property except for lawful signs of governmental bodies or agencies. A sign shall not extend beyond any lot lines of the property on which it is located.
 - (6) No sign or sign structure shall be placed, constructed or erected in any location or manner where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating light or flashing illumination resembling a police or emergency light shall be used on or in connection with any sign.
 - (7) Signs may be illuminated; however, such illumination shall be concentrated upon the surface of the sign and the sign shall be so located and arranged as to avoid glare or reflection onto any portion of any adjacent street, or into the path of oncoming vehicles, or onto any adjacent premises. Sign illumination shall also be subject to the lighting standards in § 42-9.13, Outdoor lighting standards.
- C. Prohibited signs. The following signs are prohibited in all zoning districts:
- (1) Abandoned signs.
 - (2) Inflatable signs and balloon signs, except as allowed by Subsection F.
 - (3) Animated signs.
 - (4) Banners and pennants, except as allowed by Subsection F.
 - (5) Portable signs, except as allowed by Subsection F.
 - (6) Roof signs.
 - (7) Signs on vehicles not used during the normal course of business which are parked or located for the primary purpose of displaying the advertising copy.
 - (8) Signs with flashing, moving, oscillating or blinking lights, including window signs.
 - (9) Swinging or moving signs.
 - (10) Temporary signs, except as allowed by Subsection F.
- D. Exempt signs. The following signs are exempt from the provisions of this section:
- (1) Barber poles, animated or not, which are appurtenant to the barber business and affixed directly to the wall of the exterior of the occupied space.
 - (2) Decorative signs or displays used temporarily for holidays, patriotic occasions or public, governmental or charitable purposes or events.
 - (3) Public signs.
 - (4) Memorial signs.
 - (5) Nameplates, provided any such nameplate does not exceed three square feet in area and is located at a property entrance or wall of a principal residence.
 - (6) Signs identifying buildings or sides designated as historical landmarks or centennial farms by state or federal agencies.
 - (7) Signs posted to control or prohibit hunting/trespassing, or other legal postings.
 - (8) Window signs.
- E. District regulations. Signs shall be allowed only in accordance with this section and other applicable provisions of this chapter.

	Wall Signs	Free-stand- ing Signs	Sign Area	Sign Height	Sign Setbacks
CSV, AGR, ARR (for uses other than dwellings)	1 per building per street frontage	1 per parcel per street frontage	32 square feet total; 24 square feet maximum per sign	8 feet	1/2 the required building setback as measured from the abutting street right-of-way line
LDR, WFR (for uses other than dwellings)	1 per building per street frontage	1 per parcel per street frontage	32 square feet total; 24 square feet maximum per sign	8 feet	1/2 the required building setback as measured from the abutting street right-of-way line
MHR, VE, NCC (for uses other than dwellings)	1 per building per street frontage	1 per parcel per street frontage	50 square feet total; 32 square feet maximum per sign	15 feet	1/2 the required building setback as measured from the abutting street right-of-way line
GC, G-PUD (for uses other than dwellings)	1 per building per street frontage	1 per parcel per street frontage	80 square feet total; 50 square feet maximum per sign	15 feet	1/2 the required building setback as measured from the abutting street right-of-way line
HSC, HCI (for uses other than dwellings)	1 wall sign	1 freestanding sign	80 square feet total sign area; 500 square feet maximum per sign	15 feet	1/2 the required building setback as measured from the abutting street right-of-way line

- (1) Minor home occupation/major home occupation signs. For the purpose of identification, one nonilluminated nameplate not exceeding four square feet in area shall be permitted for a minor home occupation, and one nonilluminated nameplate not exceeding 12 square feet in area for a major home occupation. Such identification nameplate shall identify only the name and profession, vocation or trade of the person or person operating the occupation. No other signs shall be utilized in connection with such home occupation.
- (2) Residential development signs. One sign shall be allowed at each entrance to a residential platted subdivision, site condominium or other residential development, not to exceed two signs per development. Each sign shall not exceed 25 square feet in area nor eight feet in height, and shall not be located closer to any property line than 1/2 the distance of the required building setback.
- (3) Billboards. Billboards shall be allowed as a permitted use on properties located along I-94, M-40, M-51, and Red Arrow Highway, within the HSC and HCI Districts. The following standards shall apply:
 - (a) Spacing.
 - [1] No more than two billboards may be located per linear mile of a single street or highway regardless of which side of the street or highway the billboards are located.
 - [2] Billboards shall be located a minimum of 1,500 feet apart, as measured along the street or highway the billboards are located and including billboards on intersecting streets.
 - [3] No billboard shall be located within 300 feet of an existing residential, school, or church building.

[4] These spacing requirements shall not be limited to the boundaries of the Township where the subject roadway extends beyond the Township boundaries.

[5] No billboard shall be located on or over building roofs.

(b) Setbacks.

[1] Billboards may not be located less than 10 feet from the sideline of the property nor closer than 1/2 of the required building setback distance from the abutting street or highway.

(c) Size/height.

[1] The total surface area of any billboard facing one direction shall not exceed 200 square feet.

[2] Double-faced or back-to-back structures shall be considered as two billboards pursuant to the spacing requirement in § 42-9.18E(3)(a)[1] and exempt from the spacing requirement in § 42-9.18E(3)(a)[2].

[3] Billboards shall not exceed 30 feet in height, as measured from the grade of the abutting street or highway.

(d) All billboards shall comply with all applicable requirements and conditions of the Highway Advertising Act, P.A. 106 of 1972,^[1] as amended. Any signage prohibited by the Highway Advertising Act, P.A. 106 of 1972, as amended, is also prohibited within the Township.

[1] *Editor's Note: See MCL § 252.301 et seq.*

(4) Directional signs for public or quasi-public uses in all zoning districts. Signs used only for the purpose of directing persons to particular public or quasi-public uses are allowed. The following standards shall apply:

(a) No sign shall exceed 10 square feet in area or project higher than six feet above the grade of the abutting street.

(b) There shall be no more than four signs per individual use.

(c) Signs shall be located so as not to confuse or obstruct the vision of traffic.

F. Temporary signs.

(1) Temporary signs may be displayed within any residential district subject to the following standards: two temporary signs shall be allowed for the first 100 feet of lot frontage plus an additional temporary sign for each additional 100 feet of lot frontage. Temporary signs shall not exceed 12 square feet in total area or four feet in height per sign, and may not be placed in a prohibited sign area.

(2) Temporary signs may be displayed within any commercial or industrial district subject to the following standards: two temporary signs shall be allowed for the first 66 feet of lot frontage plus an additional temporary sign for each additional 30 feet of lot frontage. Temporary signs shall not exceed 32 square feet in total area or six feet in height per sign, and may not be placed in a prohibited sign area.

G. Changeable copy signs. Any allowed sign may include a manual or electronic changeable copy sign or electronic graphic display sign, subject to compliance with the following requirements:

(1) The area of a changeable copy sign or graphic display sign shall be included in the maximum sign area limitation. The area of a changeable copy sign or graphic display sign shall not exceed 50% of the maximum allowed sign area. Only one changeable copy sign or graphic display sign shall be allowed per lot.

- (2) A changeable copy sign or graphic display sign shall not change its message more frequently than once every 12 seconds.
- (3) The message of a changeable copy sign shall, when changing, appear only in its entirety. The message shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.
- (4) A changeable copy sign shall not display full white copy between sunset and sunrise and otherwise shall not feature a brightness level deemed to be a distraction or injurious to the vision of motorists, as determined by the Township. The changeable copy sign shall be equipped with an ambient light sensor to regulate sign brightness.

H. Nonconforming signs.

- (1) Lawful existing signs. A permanent sign lawfully existing on (date of adoption) which does not fully comply with the provisions of this chapter shall be deemed a lawful nonconforming sign and may be allowed to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare.
- (2) Continuance of nonconforming signs.
 - (a) A nonconforming sign shall not be enlarged or expanded in area, increased in height or changed to another nonconforming sign, in whole or in part.
 - (b) A nonconforming sign shall not be structurally rebuilt or reconstructed so as to change the shape, size, type, placement or design of the structural elements of the sign; or in order to add illumination.
 - (c) A nonconforming sign shall not be removed, in whole or in part, from its current location and then relocated, re-erected or reinstalled at another location, whether on the same site or on another site.
 - (d) A nonconforming sign shall not be repaired, re-erected or reinstalled after being damaged as a result of casualty, if the repair, re-erection or reinstallation of the sign would cost more than 50% of the cost of an identical new sign. The Township shall require submission of reliable proof of such cost. If the cost of repair or replacement exceeds 50% of the cost of an identical new sign, the right to continue using the nonconforming sign shall terminate and the sign shall be brought into compliance with this chapter.
 - (e) A nonconforming sign may be altered or revised as follows: normal and usual maintenance; the replacement of landscaping below the base of the sign; the changing of the sign's background, letters, figures, graphics or other characters; or the repair or replacement of electrical wiring or electrical devices.
 - (f) A sign related to a nonconforming use may be erected subject to compliance with the applicable provisions of this chapter for the zoning district in which the nonconforming use is located.

- I. Abandoned signs. Any sign that the Township determines to be abandoned, as defined by Article 2.00, shall be removed by the owner of the property on which the sign is located. If the property owner cannot be found, the Township may remove the sign and recover from said owner the full costs of removing and disposing of the sign.

J. Sign permits.

- (1) Sign permit required. No sign shall be erected, constructed, relocated or altered, unless specifically exempted by this chapter, until a sign permit has been obtained from the Township. A sign permit shall require payment of a fee as established by resolution of the Township Board.

- (2) Application. Application for a sign permit shall be made to the Township and shall be reviewed in accordance with the following procedures:
 - (a) Required information. A sign permit application shall be completed and accompanied by detailed drawings that demonstrate the design, structure, dimensions and location of each sign. A single application and permit may include multiple signs on the same lot.
 - (b) Issuance or rejection. A completed sign permit application shall be reviewed by the Township for compliance with the requirements of this chapter. A sign permit application that complies with this chapter will be issued a sign permit. A sign permit application that fails to comply with this chapter will be rejected and the applicant so notified.

K. Violations.

- (1) It is a violation of this chapter to install, create, erect or maintain any sign that does not fully comply with the requirements of this chapter.
- (2) Each sign installed, created, erected or maintained in violation of this chapter is considered a separate violation when applying the penalty portions of this chapter.

§ 42-9.19. Swimming pools.

- A. A private or public swimming pool shall be considered a structure for purposes of this chapter and shall therefore require issuance of a permit.
- B. All ground-level swimming pools shall be enclosed by a fence, wall or other structure which shall be at least four feet in height as measured from the outside. Any opening under the fence shall be not more than four inches in height. Any fence or wall enclosure shall be of a type that impedes climbing by small children and shall be equipped with a gate that is self-closing and latching type with the latch on the pool side of the gate. Said entranceway shall lead to the shallow end of the pool. If the entire premises is enclosed by a fence or wall this requirement may be waived.
- C. Aboveground swimming pools need not be fenced, provided that the steps and pool entrance are secured by a self-closing and latching gate with the latch on the pool side of the gate.

§ 42-9.20. Temporary buildings for nonresidential use.

Temporary buildings for nonresidential use incidental to construction work shall be permitted. Said use shall not be in conflict with public health, safety, and welfare regulations. The temporary building(s) and all debris shall be removed within 15 days after completion or abandonment of the work.

§ 42-9.21. Waterfront regulations.

- A. Waterfront lots shall have continuous waterway frontage that is not less than the minimum lot width and road frontage requirement for the zoning district in which the lot is situated. Waterway frontage shall be measured by a straight line which connects the boundaries of the lot that extend from the waterway frontage at the points where they intersect the high-water line.
- B. The front lot line of a waterfront lot shall be that portion of the lot abutting the waterway. The rear lot line of a waterfront lot shall be that portion of the lot immediately adjacent to the street right-of-way.
- C. Notwithstanding the generally applicable setback requirements specified elsewhere in this chapter, all dwellings or other principal buildings and accessory buildings, including any alteration of existing such buildings, on any waterfront lot shall at a minimum be set back from the high-water line of the waterway the greater of:

- (1) Fifty feet; or
 - (2) The average setback of existing, legally constructed dwellings or other principal buildings immediately adjacent to the lot at the time of application for a building permit.
- D. For purposes of this section the term "normal high-water line" shall mean the mark or line that is ascertainable by a visible inspection to identify the highest line where the water/normal wave action and beach type soils/vegetation are distinct from the soils and vegetation of the shore of the waterway. Where necessary the Zoning Administrator shall determine the normal high-water line.
- E. These setback requirements are intended to facilitate reasonable consistency of horizontal sight lines with respect to the development of waterfront lots, based on the average setback of existing adjacent development, but subject in each instance to a minimum setback of 50 feet from the high-water line.
- F. All dwellings and any other principal buildings or accessory buildings shall at a minimum be set back 50 feet from any Flood Hazard Area boundary as shown on the Flood Insurance Rate Map for Paw Paw Township issued by the Federal Emergency Management Agency and from any wetland as defined by Part 303 of Public Act 451 of 1994,^[1] as amended.
- [1] *Editor's Note: See MCL § 324.101 et seq.*
- G. The required minimum rear yard setback for principal buildings located on waterfront lots shall be the same as the minimum front yard setback requirement for the zoning district in which the lot is situated.
- H. The required minimum rear yard setback for accessory buildings located on waterfront lots shall be a minimum of 25 feet from the abutting road right-of-way.
- I. Boathouse and dock regulations.
- (1) Boathouses shall not be permitted to be placed over any waterway or within the minimum required front, side or rear yard area within any district.
 - (2) Docks, as defined in this chapter, are permitted on any lake or other waterway, subject to the following conditions and limitations:
 - (a) No permanent dock shall hereafter be constructed or modified into a waterway until a zoning compliance permit has been issued by the Zoning Administrator, certifying that the dock is in compliance with the provisions of this chapter. Said permanent dock must be in compliance with any state regulations or permitting.
 - (b) The length of any dock shall not be greater than the average length of the nearest docks on either side of the proposed dock.
 - (c) No dock shall extend from the shoreline of any waterway, other than a lake, to within 10 feet of the center of the waterway.
 - (d) No portion of any dock shall be located within the minimum side setback area required for the zoning district in which the lot is situated, as measured from the boundaries of the lot as projected into the waterway.
- J. See § 42-9.11 for additional requirements applicable to access lots providing waterway access for one or more access lot beneficiaries.

§ 42-9.22. Water supply and wastewater disposal.

Every building, permanent or temporary, hereafter erected, altered or moved upon any premises and used in whole or in part for dwelling (year round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools, and other buildings in which persons customarily congregate, shall be provided with safe and sanitary water supply and waste disposal systems. The

written approval of such facilities by the applicable state or county agency shall be filed with the Township.

§ 42-9.23. Yard encroachments.

The yard requirements (setbacks) of all districts are subject to the following permitted encroachments:

- A. Structures having a height of 18 inches or less above ground level may project into a required yard.
- B. Stairways leading to an abutting waterfront area (including any stairway landings not exceeding 50 square feet in area) may project into the required front yard.
- C. Enclosed porches and other enclosed appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.
- D. Chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters and similar features may project into any yard a maximum of 24 inches.
- E. Unenclosed and unroofed fire escapes, outside stairways and balconies may project not more than five feet into the required front and rear yards and three feet into required side yards.

Article 10.00. Nonconformities

§ 42-10.01. Intent.

- A. Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this chapter or a subsequent amendment, but which were lawfully established prior to the time of adoption of the chapter or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this chapter to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.
 - (1) Within the zoning districts established by this chapter and its predecessors, there exist lots, structures and uses which may have been lawful at the time the chapter came into effect, but which would be prohibited, regulated or restricted under its present terms. Such lots, structures and uses are called "nonconforming," i.e., they do not conform to the requirements of the chapter or its amendments. The nonconforming characteristics of these lots, structures and uses may also be known as "nonconformities."
 - (2) Since such nonconformities tend to disrupt the harmony of neighborhoods and adversely affect the public health, safety and welfare, it is the intent of this chapter to permit them to exist only conditionally. Thus, the continuance of nonconformities is discouraged and most changes to lots, structures and uses shall, if possible, eliminate the nonconformity.
 - (3) It is further the intent of this chapter that the nonconforming characteristics of nonconforming lots, structures and uses shall not be enlarged upon, expanded or extended, nor shall they be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.
 - (4) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit has been issued and on which actual construction shall have been diligently carried on for 30 days preceding the date of adoption of this chapter. Actual construction is hereby defined to include

the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such activity shall be deemed to constitute actual construction, provided that works shall be carried on diligently.

B. The following table summarizes the nonconforming regulations contained in this article:

Summary of Nonconformity Regulations	
Issue	Requirements
Change to a different nonconforming use	Not allowed
Period of non-use before nonconformity must cease	Nonconforming use of open land: 180 days Nonconforming use of structure or building: 12 months
Change in ownership	No effect on nonconformity
Expansion of nonconforming use	Not allowed
Expansion of nonconforming building/structure	Allowed by SLU permit; no expansion of non-conformity allowed
Maintenance; structural repairs	Generally allowed
Renovation; modernization	Generally allowed
Rebuilding after catastrophe	Allowed if damage is less than 50% of pre-catastrophe fair market value Allowed by SLU permit if damage is more than 50% of precatastrophe fair market value
Nonconforming contiguous lots under same ownership	Must be combined if vacant

§ 42-10.02. General requirements.

The following regulations shall apply to all nonconforming uses, structures, and lots:

A. Continuation of nonconforming uses and buildings/structures.

- (1) Any lawful nonconforming use existing on the effective date of this chapter or amendment thereto may be continued and shall not be considered to be in violation of this chapter. A nonconforming use may not be changed to another nonconforming use. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be re-established.
- (2) Any lawful nonconforming building or structure existing on the effective date of this chapter or amendment thereto may be continued and shall not be considered in violation of this chapter.

B. Discontinuation of nonconforming uses.

- (1) Nonconforming uses of a structure. When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for 12 consecutive months without a present intention to reinstate the nonconforming use, the structure (or structure and land in combination) shall not thereafter be used except in conformance with the provisions of the district in which it is located.
- (2) Nonconforming uses of open land. If any nonconforming use of open land ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the provisions of the district in which it is located.

- (3) Seasonal uses. In applying this subsection to seasonal uses, the time during the off-season shall not be counted.
- C. Purchase or condemnation. In order to accomplish the elimination of nonconforming uses and buildings/structures which constitute a nuisance or are detrimental to the public health, safety and welfare, Paw Paw Township may acquire, by purchase, condemnation or otherwise, private property for the purpose of removal of a nonconformity pursuant to Section 208(3) of Public Act 110 of 2006,^[1] as amended.
- [1] *Editor's Note: See MCL § 125.3208(3).*
- D. Change of tenancy or ownership. In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or building/structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.

§ 42-10.03. Nonconforming uses or buildings/structures.

No nonconforming use or building/structure shall be enlarged, extended, or structurally altered except as permitted in this section.

- A. Expansion, extension, and enlargement.
- (1) Nonconforming use. The area, density, and/or manner of operation of a nonconforming use shall not be altered by expansion, extension, or enlargement. Any such alteration shall be determined to result in an increase in nonconformity.
 - (2) Nonconforming building/structure. A nonconforming building/structure shall not be altered by expansion, extension, or enlargement unless a special land use permit is granted pursuant to Article 7.00. Any such alteration shall not result in an increase in any nonconformity.
- B. Repairs, improvements, and modernization.
- (1) Such ordinary repairs and maintenance work as may be necessary to keep a nonconforming use or building/structure in sound condition, or as may be required to conform with federal, state or local law, or as is needed to improve or modernize the use or building/structure, may be made provided that no such work shall expand, extend or enlarge the nonconforming use or building/structure.
 - (2) If a nonconforming use or building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of 50% or more of its fair market value at the time of such damage or destruction, said use or building/structure shall not be continued or reestablished unless a special land use permit is granted pursuant to Article 7.00. Any such replacement shall not result in an increase in the initial nonconformity.
 - (3) If a nonconforming use or building/structure is damaged or destroyed by fire, flood, wind, or other calamity to the extent of less than 50% of its fair market value at the time of such damage or destruction, the use or building/structure may be repaired or otherwise restored and reconstructed so as to be no more nonconforming than at the time of the damage or destruction. Any such reconstruction right shall be considered terminated by abandonment if reconstruction is not started within 12 months from the time of the damage or destruction and completed within 18 months from the time the building permit is issued.

§ 42-10.04. Nonconforming single-family and two-family dwellings.

Notwithstanding the foregoing, a single-family or two-family dwelling located in a zoning district which does not permit same may be altered by expansion, extension, enlargement and/or rebuilt. In addition,

one accessory building not exceeding 600 square feet in area may be erected for a nonconforming single-family or two-family dwelling lacking an existing accessory building.

§ 42-10.05. Nonconforming lots of record.

The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this chapter or amendment thereto:

- A. Use of nonconforming lots. Any nonconforming lot shall be used only for a use permitted in the district in which it is located. Notwithstanding limitations imposed by other provisions of this chapter, a permitted use may be erected on any single lot of record in existence at the effective date of adoption or amendment thereto. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, provided that the lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety, and welfare.
- B. Area and bulk requirements. No division of any parcel shall be made which creates a lot with area or width/frontage less than the area or bulk requirements of this chapter for the zoning district in which it is situated.
- C. Nonconforming contiguous lots under the same ownership. If a nonconforming lot of record abuts one or more nonconforming lots of record in the same ownership, such lots shall be combined and considered as one lot for the purposes of this chapter. No portion of the combined lots shall be used, occupied, or sold in a manner which diminishes compliance with lot area or frontage requirements of this chapter, nor shall any division of the combined lot be made which creates a lot with area or width/frontage less than the requirements stated in this chapter. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing principal use/building.
- D. Combination of nonconforming lots. The Township Assessor may permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size requirements established by this chapter, provided that the combination of lots reduces the degree of nonconformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area and setback requirements of this chapter.

Article 11.00. General Procedures and Related Standards

§ 42-11.01. Purpose.

The purposes of this article is to provide procedures and related standards for the processing of all requests for Township action or review under the provisions of this chapter.

§ 42-11.02. Site plan review process.

- A. Intent. The site plan review procedures, standards and required information in this section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained in this chapter and other applicable ordinances and laws to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the Township and applicant so as to facilitate development in accordance with the Township's land use objectives.
- B. Site plan required.

- (1) Site plan required. Except as provided in the following Subsection **B(2)**, or with respect to matters subject to administrative site plan review as designated therein, the following uses shall not be conducted upon any land or in any building/structure until a site plan has been submitted to, reviewed, and approved by the Planning Commission in accordance with the provisions of this chapter:
 - (a) All permitted and special land uses and their accessory uses in all zoning districts, except single-family or two-family dwellings.
 - (b) Planned unit developments.
 - (c) Subdivisions, condominium subdivisions or open space preservation subdivisions.
 - (d) Erection, moving, relocation, conversion or structural alteration to a building or structure, other than a single-family or two-family dwelling.
 - (e) Any change in use or site modification that could affect compliance with the standards set forth in this chapter, other than a single-family or two-family dwelling.
 - (f) Any excavation, filling, removal of trees or other vegetation, soil removal, mining or landfill, construction of improvements, or creation of ponds, except as otherwise specified in this chapter.
 - (2) Site plan not required. Notwithstanding the preceding Subsection **B(1)**, site plan approval is not required for the following activities:
 - (a) Single-family and two-family dwellings and their accessory uses in all zoning districts.
 - (b) General or specialized farming and forestry and their accessory uses, including roadside stands.
 - (c) Construction involving only interior improvements where there is no change in use.
 - (d) Any excavation, filling, removal of trees or other vegetation, soil removal, mining or landfill, construction of improvements, or creation of ponds that are less than one-half acre in area, provided that such activity is incidental to a single-family or two-family residential use.
- C. Site plan review applications and procedures.
- (1) Optional preapplication conference. In order to facilitate processing of a site plan in a timely manner, the applicant may request a preapplication site plan conference with the Zoning Administrator. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant need not present drawings or site plans at a preapplication conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a preapplication conference. At any time during the course of preparation of a site plan prior to submission of a formal application, the Township will upon request provide information concerning the Zoning Ordinance procedures and standards.
 - (2) Optional conceptual review by Planning Commission.
 - (a) An applicant may file a request for conceptual review of a preliminary site plan by the Planning Commission or to evaluate the following:
 - [1] Relationship of the site to nearby properties;
 - [2] Density;
 - [3] Adequacy of landscaping, open space, vehicular drives, parking areas, drainage, and proposed utilities; and
 - [4] Conformance with Township development policies and standards.

- (b) No formal action shall be taken on a site plan submitted for conceptual review, and neither the applicant nor the Planning Commission shall be bound by any comments or suggestions made during the course of the conceptual review.
- (3) Final site plan review.
- (a) In order to initiate formal review by the Planning Commission, the applicant is required to submit the following materials:
 - [1] One completed and signed copy of the application for site plan review.
 - [2] Ten individually folded copies and one digital copy in pdf format of the site plan.
 - [3] Proof that the plan has been submitted for review to all appropriate affected governmental agencies, including but not limited to the Van Buren County Road Commission, Van Buren County Drain Commission, Van Buren County Health Department, Michigan Department of Transportation (where applicable), Michigan Department of Environmental Quality (where applicable) and any other agencies deemed appropriate by the Planning Commission.
 - [4] The required application fee.
 - (b) These materials shall be submitted to the Township no later than 30 calendar days prior to the Planning Commission meeting at which the review is requested.
- (4) Distribution of plans. Upon submission of all required application materials, the site plan proposal shall be placed on the next open Planning Commission agenda. The site plans and application shall be distributed to appropriate Township officials for review.
- (5) Public hearing. Site plans involving uses that are subject to special land use approval require a public hearing. After payment of required review fees, the Township will set the date of the public hearing, subject to the requirements of § 42-11.09.
- (6) Review by Township Planner and Township Engineer. If required, the Township Planner and Township Engineer shall review the plans to determine compliance with the Zoning Ordinance, and shall submit written reports, which shall identify issues which must be resolved as well as all required revisions necessary to obtain site plan approval.
- D. Review and final action.
- (1) Planning Commission review. The Planning Commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations. The Planning Commission shall then make a final decision, based on the requirements and standards of this chapter. The Planning Commission may approve, approve with conditions, deny, or postpone action, as noted below.
 - (a) Approval. Upon determination that a site plan is in compliance with the standards and requirements of this chapter and other applicable ordinances and laws, the Planning Commission shall approve the site plan.
 - (b) Approval subject to conditions. Upon determination that a site plan is in compliance except for minor modifications, the Planning Commission may impose reasonable conditions upon approval of the site plan. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances, obtain approvals from other agencies, or obtain special land use approval. The applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant must resubmit the site plan to the Planning Commission for final approval after conditions have been met, unless the Planning Commission waives its right to review the revised plan, and instead authorizes administrative review after all required conditions have been addressed.

- (c) Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this article or elsewhere in this chapter, or if the site plan requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall deny the site plan.
 - (d) Postponement. Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the Planning Commission may postpone consideration of a site plan until a later meeting.
- (2) Performance guarantee.
- (a) To ensure compliance with this chapter and conditions imposed at the time of granting of the site plan approval, the Planning Commission may require that a performance guarantee (cash deposit; certified check; irrevocable bank letter of credit; or surety bond) acceptable to the Planning Commission, covering estimated costs of improvements associated with a project for which the site plan approval is sought, be deposited with the Township Clerk.
 - (b) If any improvements are not constructed within the time limit established as part of the site plan approval or within any extension thereof, the Planning Commission shall by resolution request the Township Board take appropriate legal steps to ensure completion using as much of the security deposit as necessary for such purpose.
 - (c) As used herein, "improvements" means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.
- (3) Time period for obtaining approval. An applicant shall have a maximum of two years from the date of submittal of a site plan for formal review to achieve final approval. If approval is not achieved within this period, the application becomes null and void and a new application is required to pursue site plan review further.
- (4) Recording of site plan review action. Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission. The grounds for action taken upon each site plan shall also be recorded in the minutes. After final action has been taken on a site plan and all steps have been completed, three copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file in the Township Hall.
- (5) Procedure after site plan approval.
- (a) Application for building permit. Following final approval of the site plan, the applicant may apply for a building permit. It shall be the responsibility of the applicant to obtain all other applicable Township, county, state, or federal permits prior to issuance of a building permit.
 - [1] No permits for construction in a proposed condominium project shall be issued until evidence of a recorded master deed has been provided to the Township.
 - (b) Expiration of site plan approval.
 - [1] If construction has not commenced within 12 months after approval of the site plan, the site plan approval expires and a new application for site plan review shall be required.
 - [2] The applicant may apply in writing to the Planning Commission for an extension of site plan approval. The Planning Commission may grant one or more extensions of

up to 12 months upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to current Zoning Ordinance standards.

- (c) Application for certificate of occupancy. Following completion of site work and building construction, the applicant may apply for a certificate of occupancy from the Building Official in accordance with the procedures set forth in Section. It shall be the applicant's responsibility to obtain this required certificate prior to any occupancy of the property.
- (d) Property maintenance after approval.
 - [1] It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved.
 - [2] Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.
 - [3] With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities regarding maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this chapter and shall be subject to the same penalties appropriate for a use violation.
- (e) Recorded and as-built condominium documents.
 - [1] Upon approval of the site plan for a condominium project involving new construction, the condominium project developer or proprietor shall furnish the Township with the following:
 - [a] One copy of the recorded master deed;
 - [b] One copy of any condominium bylaws and restrictive covenants; and
 - [c] One copy of the recorded condominium subdivision plan.
 - [2] Upon completion of the project, the condominium project developer or proprietor shall furnish the Township with two copies of an "as-built survey." The as-built survey shall be reviewed by the Township Engineer for compliance with Township ordinances. Fees for this review shall be established by the Township Board.
- (6) Site plan violation. In the event that construction is not in compliance with the approved plans, the Zoning Administrator shall take corrective action, unless a revised site plan is submitted for Township review, following the normal site plan review procedures in § 42-11.02. If the builder or developer fails to take corrective action or pursue approval of an amended site plan, the Zoning Administrator may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.
- (7) Modification to approved plan. Minor modifications to an approved site plan may be reviewed by the Township Zoning Administrator.
 - (a) Minor modification defined. Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage

patterns, the demand for public services, or the danger from hazards. Examples of minor modifications include:

- [1] An addition to an existing commercial or industrial building that does not increase or decrease the floor space by more than 25% or 2,000 square feet, whichever is less.
 - [2] Reoccupancy of a vacant building (that does not constitute a change in use) that has been unoccupied for less than 12 months.
 - [3] Changes to building height that do not add an additional floor.
 - [4] Alterations or modifications involving less than 20 parking spaces. The construction of a new building or structure or the addition of curb cuts onto a public road are examples of modifications which are not considered minor.
- (b) Determination of minor modification. The Zoning Administrator shall determine if the proposed modifications are minor in accordance with the guidelines in this section.
- (c) Modifications not deemed "minor."
- [1] If the modifications are not deemed minor by the Zoning Administrator, or if the Zoning Administrator finds that there are characteristics of the site plan that warrant Planning Commission review, the full review and approval by the Planning Commission shall be required.
 - [2] Planning Commission review and approval shall be required for all site plans that involve a request for a variance, a special land use, a proposal that involves a discretionary decision, or a proposal that involves a nonconforming use or structure.
- (d) Recording of action. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file at the Township Hall. The Planning Commission shall be advised of all minor site plan modifications approved by the Zoning Administrator and such modifications shall be noted on the site plan and in the minutes of the Planning Commission.
- E. Required information on site plans. The following information shall be included on all site plans, where applicable:
- (1) Application form. The application form shall contain the following information:
 - (a) Applicant's name and address.
 - (b) Name, address and signature of property owner, if different from applicant.
 - (c) Common description of property and complete legal description including the tax identification number.
 - (d) Dimensions of land and total acreage.
 - (e) Existing zoning of applicant's parcel.
 - (f) Existing use of the applicant's parcel.
 - (g) Proposed use of land and name of proposed development, if applicable.
 - (h) Proof of property ownership.
 - (i) Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
 - (j) Review comments and/or approvals from county, state, and federal agencies. Copies of letters or approval forms should be submitted with the site plan application.
 - (2) Descriptive and identification data.

- (a) A site plan shall consist of an overall plan for the entire development, drawn to a scale of not less than one inch equals 20 feet for property less than one acre, one inch equals 30 feet for property larger than one acre but less than three acres, and one inch equals 50 feet for property larger than three acres, unless another scale is approved by the Zoning Administrator.
- (b) The following descriptive and identification information shall be included on a site plan:
 - [1] Applicant's name and address, and telephone number.
 - [2] Title block indicating the name of the development.
 - [3] Scale.
 - [4] North point.
 - [5] Dates of submission and revisions (month, day, year).
 - [6] Location map drawn to scale with North point.
 - [7] Legal and common description of property, including acreage.
 - [8] The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel the plan should indicate the boundaries of total land holding.
 - [9] A schedule for completing the project, including the phasing or timing of all proposed developments.
 - [10] Identification and seal of the architect, engineer, land surveyor, or landscape architect who prepared or supervised and approved the plan.
 - [11] Written description of proposed land use.
 - [12] Zoning classification of applicant's parcel and all abutting parcels.
 - [13] Proximity to driveways serving adjacent parcels.
 - [14] Proximity to section corner and major thoroughfares.
 - [15] Notation of any variances that have or must be secured.
 - [16] Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.
- (3) Site data.
 - (a) Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
 - (b) Front, side, and rear setback dimensions.
 - (c) Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark.
 - (d) Existing and proposed site features, including buildings, roadway widths and names, and parking areas.
 - (e) Existing structures within 50 feet of the subject property.
 - (f) Dimensions and center lines of existing and proposed roads and road rights-of-way, and acreage of proposed roads and road rights-of-way.
 - (g) Acceleration, deceleration, and passing lanes, where required.

- (h) Proposed vehicular circulation system, including location of driveway entrances, roads, and on-site driveways.
 - (i) Typical cross section of proposed roads and driveways.
 - (j) Location of existing drainage courses, floodplains, lakes and streams, with elevations, and acreage of bodies of water.
 - (k) Boundaries of all wetland areas, with sufficient dimensions between various points on the wetland boundary and buildings, property lines, or other features to allow accurate portrayal of the wetlands. The acreage shall be provided separately for all wetlands, and wetlands regulated by the state shall be identified. Wetlands staking and identification shall be done by a qualified wetlands expert. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
 - (l) Location of existing and proposed interior sidewalks and sidewalks in the road right-of-way.
 - (m) Exterior lighting locations and method of shielding lights from shining off the site.
 - (n) Trash and recycling receptacle locations and method of screening.
 - (o) Transformer pad location and method of screening, if applicable.
 - (p) Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
 - (q) Information needed to calculate required parking in accordance with Zoning Ordinance standards.
 - (r) The location of lawns and landscaped areas, including required landscaped greenbelts.
 - (s) Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.
 - (t) Location and types of land cover, before and after proposed development.
 - (u) Cross section of proposed berms.
 - (v) Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
 - (w) Designation of fire lanes.
 - (x) Loading/unloading areas.
 - (y) The location of any outdoor storage of materials and the manner by which it will be screened.
 - (z) Locations of steep slopes.
- (4) Building and structure details.
- (a) Location, height, and outside dimensions of all proposed buildings or structures.
 - (b) Indication of the number of stores and number of commercial or office units contained in the building, if applicable.
 - (c) Building floor plans.
 - (d) Total floor area.
 - (e) Location, size, height, and lighting of all proposed signs.

- (f) Proposed fences and walls, including typical cross section and height above the ground on both sides.
 - (g) Building facade elevations. Elevations of proposed buildings shall indicate type and color of exterior building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof-located mechanical equipment, such as air-conditioning units, heating units, and transformers.
- (5) Information concerning utilities, drainage, and related issues.
- (a) Schematic layout and description of existing and proposed sanitary sewers, sewage treatment systems, and/or septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and the location of gas, electric, and telephone lines.
 - (b) Layout and description of telecommunications infrastructure.
 - (c) Indication of site grading and drainage patterns.
 - (d) Types of soils and location of floodplains and wetlands, if applicable.
 - (e) Soil erosion and sedimentation control measures.
 - (f) Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
 - (g) Assessment of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable.
- (6) Information concerning residential development.
- (a) The number, type and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.).
 - (b) Density calculations by type of residential unit (dwelling units per acre).
 - (c) Lot coverage calculations.
 - (d) Floor plans of typical buildings with square feet of floor area.
 - (e) Garage and carport locations and details, if proposed.
 - (f) Pedestrian circulation system.
 - (g) Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent roads.
 - (h) Community building locations, dimensions, floor plans, and facade elevations, if applicable.
 - (i) Swimming pool fencing detail, including height and type of fence, if applicable.
 - (j) Location and size of recreation open areas.
 - (k) Indication of type of recreation facilities proposed for recreation area.
 - (l) If common area or community buildings are proposed, then the site plan should indicate the responsibilities of the subdivision or condominium association, property owners, or other public entity, with regard to maintenance of the common areas or community property on a continuing basis.

- (7) Information applicable to mobile home parks.

- (a) Location and number of pads for mobile homes.
 - (b) Distance between mobile homes.
 - (c) Proposed placement of mobile home on each lot.
 - (d) Average and range of size of mobile home lots.
 - (e) Density calculations (dwelling units per acre).
 - (f) Lot coverage calculations.
 - (g) Garage and carport locations and details, if proposed.
 - (h) Pedestrian circulation system.
 - (i) Location and names of roads and internal drives.
 - (j) Community building location, dimensions, floor plans, and facade elevations, if applicable.
 - (k) Swimming pool fencing detail, including height and type of fence, if applicable.
 - (l) Location and size of recreation open areas.
 - (m) Indication of type of recreation facilities proposed for recreation area.
- (8) Additional information.
- (a) Information related to condominium development. The following information shall be provided with all site plans involving condominium development:
 - [1] Condominium documents, including the proposed master deed, condominium bylaws, and condominium subdivision plan.
 - [2] Condominium subdivision plan requirements, as specified in the Condominium Rules promulgated by the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services and Corporations, or successor agency.
 - (b) Items not applicable. The Planning Commission or Zoning Administrator may waive any of the above-enumerated requirements whenever it is determined that such requirement is not necessary for a specific site plan due to the fact that:
 - [1] The condition does not apply and is therefore unnecessary to evaluate the proposal; or
 - [2] There are hardships of a nonmonetary nature in providing the required information.
 - (c) Other data that may be required. Other data may be required if deemed necessary by the Planning Commission to determine compliance with the provisions in this chapter. Such information may include traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.
- F. Standards for site plan approval. The following criteria shall be used as a basis upon which site plans will be reviewed and approved:
- (1) Adequacy of information. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
 - (2) Site design characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to

- impede the normal and orderly development or improvement of surrounding property for uses permitted by this chapter.
- (3) Appearance. Landscaping, earth berms, fencing, signs, wall and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.
 - (4) Compliance with district requirements. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Regulations (Article 6.00) unless otherwise provided in this chapter.
 - (5) Preservation of natural areas. The landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal alteration to the natural drainage course and the amount of cutting, filling, and grading.
 - (6) Emergency vehicle access. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
 - (7) Ingress and egress. Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.
 - (8) Pedestrian circulation. Each site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.
 - (9) Vehicular and pedestrian circulation layout. The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets shall be appropriate for the volume of traffic they will carry, based on Van Buren County Road Commission standards. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.
 - (10) Drainage. Appropriate measures shall be taken to insure that the removal or drainage of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create nuisance ponding in paved areas. Grading and drainage plans shall be subject to review by the Township Engineer.
 - (11) Soil erosion and sedimentation. The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current county and Township standards.
 - (12) Exterior lighting. Exterior lighting shall be designed so that it is focused downward and deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
 - (13) Public services.
 - (a) Adequate services and utilities, including water, sewage disposal, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.
 - (b) All streets and roads, water, sewer, and drainage systems, and similar facilities shall conform to the design and construction standards of the Township or county, as appropriate.
 - (14) Screening. Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be

reviewed in consideration of screening and landscaping objectives.

(15) Danger from hazards.

- (a) The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township.
- (b) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharge of polluting materials to the surface of the ground, groundwater, or nearby water bodies.

(16) Health and safety concerns. Any use in any zoning district shall comply with applicable federal state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and toxic and hazardous materials.

(17) Sequence of development. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

(18) Coordination with adjacent sites. All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.

§ 42-11.03. Appeals, interpretations and variances.

A. Intent. The purpose of this section is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this chapter or state law gives jurisdiction to the ZBA.

B. Authority of the Zoning Board of Appeals.

(1) General authority. The Zoning Board of Appeals (ZBA) shall have the authority to act on those matters where this chapter provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a variance as defined in this chapter and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this chapter.

(2) Administrative review/appeal.

(a) The ZBA shall have authority to hear and decide appeals of administrative decisions where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made in carrying out or enforcing any provisions of this chapter. Such appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed.

(b) In hearing and deciding appeals under this subsection, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official breached a duty or discretion in carrying out this chapter.

- (c) The ZBA shall not have the authority to consider an appeal of a decision concerning a special land use or a planned unit development.
- (3) Interpretation.
- (a) The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the Zoning Map. The ZBA shall make such decisions so that the spirit and intent of this chapter shall be observed.
 - (b) Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the chapter as a whole, and shall not have the effect of amending the chapter. Map interpretations shall be made based upon rules in the chapter, and any relevant historical information.
 - (c) In carrying out its authority to interpret the chapter, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the chapter. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the chapter.
- (4) Variances. The ZBA shall have authority to grant dimensional or "non-use" variances from the strict letter and terms of this chapter by varying or modifying any of its rules or provisions so that the spirit of this chapter is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the chapter. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this chapter. Such authority shall be exercised in accordance with the following standards.
- (a) The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. In determining whether practical difficulties exist, the ZBA shall consider the following factors:
 - [1] Strict compliance with the letter of the Zoning Ordinance will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
 - [2] A grant of the variance will do substantial justice to the applicant, as well as to other property owners.
 - [3] A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 - [4] That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.
 - [5] The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
 - [6] That, in granting a variance, the ZBA is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.
 - (b) In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings.
- (5) Conditions.
- (a) The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements

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.

(b) Conditions imposed shall meet the following requirements:

[1] Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

[2] Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

[3] Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the chapter, be related to the standards established in the chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(c) Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

C. Applications and notices.

(1) Application.

(a) All applications to the ZBA shall be filed with the Township, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board.

(b) Applications shall include three individually folded and one digital copy of all plans, studies and other information and data to be relied upon by the applicant. These materials shall be submitted to the Township no later than 30 days prior to the Zoning Board of Appeals meeting at which the review is requested.

(2) Applications involving an appeal of administrative order. In a case involving an appeal from an action of an administrative official or entity, the administrative official shall transmit to the ZBA copies of all papers constituting the record upon which the action appealed was taken.

(3) Plot plan.

(a) A plot plan shall be required with all variance requests. The plan, which shall accompany all variance requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to § 42-11.02 shall satisfy the requirements of this section.

(b) The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

(4) Consent of property owner required. Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

(5) Notice. Notice of a public hearing concerning a request for a variance shall be given following the procedures of § 42-11.09. Notice of a public hearing concerning a request for an

interpretation of the Zoning Ordinance, or an appeal of an administrative decision shall be given as follows:

- (a) A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Township and sent to the person requesting the interpretation not less than 15 days before the public hearing.
 - (b) If the request for interpretation or appeal involves a specific parcel, written notice stating the nature of the request and the time, date, and place of the public hearing shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- (6) Stay of proceedings. An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.
 - (7) Decision by the Zoning Board of Appeals. The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the administration of this chapter, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this chapter, or to grant a "non-use" variance from the terms of this chapter.

D. Disposition and duration of approval.

- (1) ZBA powers. The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this chapter and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.
- (2) Decision final. A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, a ZBA decision form will be completed at the meeting by the Chair of the ZBA, and shall constitute the certification of decision.
- (3) Period of validity. Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.
- (4) Record of proceedings. The Township administrative staff, under the supervision of the Secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority and shall be the responsibility of the Secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA Secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.
- (5) Appeal of a ZBA decision. Appeals of a ZBA decision shall be taken in the manner provided by law.

- (6) New application for variance. If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of one year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

§ 42-11.04. Amendments.

- A. Initiation of amendment. Upon recommendation by the Planning Commission, the Township Board may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Public Act 110 of 2006,^[1] as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

[1] *Editor's Note: See MCL § 125.3101 et seq.*

- B. Application for amendment.

- (1) A request for an amendment to the text of this chapter or an amendment to change the zoning classification of a particular property shall be commenced by filing an application on the forms provided by the Township and accompanied by the fees specified. The application shall describe the proposed amendment and shall be signed by the applicant. Applications for rezoning of a specific site shall be accompanied by a plot plan or survey. These materials shall be submitted to the Township no later than 30 calendar days prior to the Planning Commission meeting at which the review is requested.

- (2) A required plot plan or survey shall contain the following information:

- (a) Applicant's name, address, and telephone number.
- (b) Scale, North point, and dates of submittal and revisions.
- (c) Zoning classification of petitioner's parcel and all abutting parcels.
- (d) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 50 feet of the site.
- (e) Dimensions, center lines, and right-of-way widths of all abutting streets and alleys, both public and private.
- (f) General location of existing drainage courses, floodplains, lakes and streams, and woodlots.
- (g) All existing and proposed easements.
- (h) Location of existing sanitary sewer or septic systems, water mains, and well sites.

- C. Review procedures. After the completed application form and all required supporting materials have been received and fees paid, the request shall be reviewed in accordance with the following procedures:

- (1) Planning Commission review. The request shall be placed on the agenda of the next regularly scheduled meeting of the Planning Commission. The Planning Commission shall review the request for amendment in accordance with the procedures and public hearing and notice requirements set forth in Michigan Public Act 110 of 2006,^[2] as amended, and schedule a public hearing for the request on the next available Planning Commission agenda. Notice of the public hearing shall be given following the procedures listed in § 42-11.09.

[2] *Editor's Note: See MCL § 125.3101 et seq.*

- (2) Action by the Planning Commission. Following the hearing on the proposed amendment, the Planning Commission shall make written findings of fact which it shall transmit to the Township Board, together with the comments made at the public hearing and its recommendations.
- (3) Action by the County Planning Commission. Following the hearing on the proposed amendment, the Township shall submit the proposed amendment and the recommendations of the Planning Commission to the Van Buren County Planning Commission for review and recommendation. The county will have waived its right for review if the recommendation of the county is not received by the Township within 30 days from the date the proposed amendment is received by the county.
- (4) Action by the Township Board. The Township Board may hold additional hearings if the Board considers it necessary, following the hearing and notice requirements of Michigan Public Act 110 of 2006,^[3] as amended. The Township Board may by majority vote of its membership adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the Planning Commission for further review and recommendation within a specified time period. Thereafter, the Township Board may either adopt the amendment with or without the recommended revisions, or reject it.
[3] Editor's Note: See MCL § 125.3101 et seq.
- (5) Review considerations. The Planning Commission and Township Board shall, at minimum, consider the following before taking action on any proposed amendment:
 - (a) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
 - (b) Will the proposed amendment further the comprehensive planning goals of the Township as reflected in the Master Plan?
 - (c) Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment?
 - (d) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
 - (e) Will the amendment result in unlawful exclusionary zoning?
 - (f) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
 - (g) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
 - (h) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?
 - (i) If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?
 - (j) Will the proposed amendment be consistent with the purposes of this chapter and, in particular, will the proposed amendment promote the public health, safety and welfare?
- (6) Notice of record of amendment adoption. Following adoption of an amendment by the Township Board, one notice of adoption shall be filed with the Township Clerk and one notice shall be published in newspaper of general circulation in the Township within 15 days after adoption, in accordance with Michigan Public Act 110 of 2006,^[4] as amended. A record of all amendments shall be maintained by the Township Clerk. A master Zoning Map shall be maintained by the Township, which shall identify all map amendments.

[4] Editor's Note: See MCL § 125.3101 et seq.

- D. Referendum. Within 30 days following the passage of the Zoning Ordinance, a petition signed by a number of qualified and registered voters as specified in Section 402 of Public Act 110 of 2006,^[5] as amended, may be filed with the Township Clerk requesting submission of an ordinance or part of an ordinance to the electors for their approval, in accordance with Section 402(2) of Michigan Public Act 110 of 2006, as amended.
- [5] *Editor's Note: See MCL § 125.3402.*

§ 42-11.05. Conditional rezoning.

- A. Intent. The Planning Commission and Township Board recognize that, in certain instances, it would be an advantage to the Township and to property owners seeking rezoning if the application for rezoning was accompanied by a site plan and was subject to certain conditions. Accordingly, it is the intent of this section of the Zoning Ordinance to provide a conditional rezoning option to property owners in connection with the submission of an application for rezoning.
- B. Definitions. The following definitions shall apply in the interpretation of this section:

APPLICANT

The property owner, or a person acting with the written and signed authorization of the property owner to make application under this section.

CONDITIONAL REZONING AGREEMENT (CR AGREEMENT)

A written agreement approved and executed by the Township and property owner, incorporating a CR plan, and setting forth rezoning conditions and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a conditional rezoning.

CONDITIONAL REZONING PLAN (CR PLAN)

A plan of the property which is the subject of a conditional rezoning, prepared by a licensed engineer or architect, that shows the location, size, height, design, and other measures or features of buildings, structures and improvements on and adjacent to the property. The details to be offered for inclusion on a CR plan shall be determined by the applicant, subject to approval of the Township Board after recommendation by the Planning Commission.

REZONING CONDITIONS

Conditions proposed by the applicant and approved by the Township as part of an approval under this section, which shall constitute regulations in connection with the development and use of property for which conditional approval has been granted. Such rezoning conditions shall not:

- (1) Authorize uses or developments of greater intensity or density than are permitted in the district proposed by the rezoning.
- (2) Authorize uses that are not permitted in the district proposed by the rezoning.
- (3) Permit uses or development expressly or implicitly prohibited in the CR agreement.

REZONING

The amendment of this chapter to change the Zoning Map classification on property from its existing district to a new district classification.

- C. Authorization and eligibility.
- (1) Application for optional conditional rezoning. A property owner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. The conditional rezoning option shall be selected by filing an application for conditional rezoning review. Conditional rezoning represents a legislative amendment to the

Zoning Ordinance, pursuant to Section 405 of Michigan Public Act 110 of 2006,^[1] as amended.

[1] *Editor's Note: See MCL § 125.3405.*

- (2) Site-specific regulations. In order to be eligible for review of an application for conditional rezoning, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR plan and in a CR agreement) which are equally or more strict or limiting than the regulations that would apply to the land under the proposed zoning district.

D. Review and approval procedures.

- (1) Preapplication meeting. Prior to submitting an application for conditional rezoning, the applicant may schedule a preapplication meeting with the Township Planner to review the conditional rezoning guidelines and expectations. The applicant shall pay the expenses incurred by the Township for this meeting.
- (2) Application. A property owner or his/her designated agent may submit an application for conditional rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The application, which may be amended during the review process, shall include a CR plan proposed by the applicant and a list of rezoning conditions proposed by the applicant, recognizing that the rezoning conditions shall not authorize uses or development not permitted in the proposed zoning district.
- (3) Planning Commission review. After the completed application and all required supporting materials have been received and fees paid, the petition shall be reviewed by the Planning Commission in accordance with the procedures outlined in § 42-11.04.
- (4) Township Board consideration. Upon receipt of the recommendation of the Planning Commission, the Township Board shall deliberate on the proposed conditional rezoning. If the Township Board determines that it may approve the conditional rezoning, then the Township Board shall work with the landowner to clarify tentative conditions so that the applicant (or designee) can develop a draft CR agreement.
- (5) Township Board action. Upon completion of the CR agreement, the Township Board, by majority vote of its membership, shall make a final determination to approve or deny the conditional rezoning.
- (6) Zoning district designation. If approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR, Conditional Rezoning." The use of property so designated shall be restricted to the uses specified in the CR agreement, and no other development or use shall be permitted.
- (7) Effects of approval. The use of property in question shall conform with all regulations governing development and use in the zoning district to which the property has been rezoned, subject to the following:
 - (a) Development subject to conditional rezoning requirements. Development and use of the property shall be subject to the more restrictive requirements specified on the CR plan, in the rezoning conditions and in the CR agreement, required as part of the conditional rezoning approval. Such requirements shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
 - (b) Site plan review and other approvals required. Approval of the CR plan and agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR plan. Site plan, special land use, plat, and condominium approval, as appropriate, shall be required, pursuant to procedures in Article 11.00, prior to any improvements to the property. Any use or development proposed as part of any offer of conditions that would require a variance under the terms of this chapter may only be

commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.

- (c) Recordation and publication of CR agreement. A conditional rezoning shall become effective following publication in the manner provided by law, and, after recordation of the CR agreement, whichever is later.
 - (8) Amendment of CR agreement. Amendment of a CR agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.
 - (9) Expiration of CR agreement. The conditional rezoning approval shall expire following a period of two years from the effective date of the rezoning unless: 1) approved development of the property commences within such two-year period and proceeds without delay and in good faith as required by ordinance toward substantial completion; or 2) the rezoning is extended for good cause by the Township Board as provided herein.
 - (a) Extension of approval. In the event that a development has not commenced within two years from the effective date of the rezoning, the Township Board shall initiate reversion of the zoning to its former classification. However, the landowner may apply to the Township Board for a one-year extension one time. The request for extension must be submitted to the Township Clerk before the two-year time limit expires. The landowner must show good cause why the extension should be granted.
 - (b) Reversion of zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in MCL § 125.286i.^[2] The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

[2] Editor's Note: MCL §§ 125.271 to 125.296 were repealed by P.A. 2006, No. 110, § 702, effective 7-1-2006. See now MCL § 125.3405.
 - (10) Violations of the CR agreement. If development or actions are undertaken on or with respect to the property in violation of the CR agreement, such development or actions shall constitute a nuisance per se. In such case, the Township may issue a stop-work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the CR agreement, the Township may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
- E. Elements of a conditional rezoning application. As an integral part of the conditional rezoning, the following elements shall be provided by the applicant for review by the Township.
- (1) CR plan. A CR plan, with such detail as proposed by the applicant and approved by the Township Board in accordance with this section. The CR plan shall not replace the requirements for site plan, subdivision or condominium approval, as the case may be.
 - (2) Rezoning conditions. Rezoning conditions, which shall not authorize uses or development not permitted in the proposed zoning district and which shall not permit uses or development expressly or implicitly prohibited in the CR agreement. Rezoning conditions may include some or all of the following:
 - (3) CR agreement. A CR agreement, which is voluntarily offered by the applicant (or designee), shall incorporate the CR plan and set forth the rezoning conditions, together with any other term mutually agreed upon by the parties, including the following terms:
 - (a) Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon

such proposal and would not have granted the rezoning but for the terms in the CR agreement.

- (b) Agreement and acknowledgement that the conditions and CR agreement are authorized by all applicable state and federal laws and constitution, and that the CR agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
 - (c) Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR plan and CR agreement.
 - (d) Agreement and understanding that the approval and CR agreement shall be binding upon and inure to the benefit of the property owner and the Township, and their respective heirs, successors, assigns, and transferees.
 - (e) Agreement and understanding that, if a conditional zoning expires in the manner provided in this section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
 - (f) Agreement and understanding that each of the requirements and conditions in the CR agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
 - (g) Any other agreement voluntarily proposed by the applicant (or designee) that is consistent with all applicable state and federal laws and is agreed to by the Township.
- F. Approval criteria. The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR plan, rezoning conditions, and CR agreement:
- (1) Enhancement of the project area. The Township Board, upon recommendation from the Planning Commission, shall determine that approval of the conditional rezoning shall accomplish the integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning.
 - (2) In the public interest. The Township Board, upon recommendation from the Planning Commission, shall determine that, in considering the site-specific land use proposed by the applicant, sufficient conditions have been included in the CR plan and CR agreement so that it would be in the public interest to grant the conditional rezoning. In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles.
 - (3) Consistency with the master plan. The proposed rezoning shall be consistent with the Master Plan and Future Land Use Map for the Township.
 - (4) Review considerations. The Planning Commission and Township Board shall consider the review considerations set forth in § 42-11.04C(5).

§ 42-11.06. Fees.

- A. All applications shall be accompanied by a filing fee which shall be established by resolution of the Township Board, in accordance with Section 406 of Public Act 110 of 2006,^[1] as amended. This filing fee may include a deposit toward the costs of any consultants retained by the Township for

reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reported services, or similar services.

[1] *Editor's Note: See MCL § 125.3406.*

- B. The filing fee and deposit shall be paid before the review process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the chapter shall suspend further review of the application. Any deposit toward the cost of any consultants shall be credited against the expense to the Township of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within 30 days of final action on the application.
- C. A schedule of the current filing fees and deposit requirements shall be made available in the office of the Zoning Administrator.
- D. The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in Section.
- E. There shall be no fee in the case of application filed in the public interest by a municipal department or Township official.

§ 42-11.07. Violations and penalties.

- A. Nuisance per se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which begun, maintained or changed in violation of any provision of this chapter are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.
- B. Violation defined. Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this chapter, any administrative decision made under the chapter, or any permit or approval issued under the chapter, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this chapter.

C. Penalties.

- (1) Any violation of this chapter shall constitute municipal civil infraction (as defined by Michigan Statute). The penalty for a municipal civil infraction shall be a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st offense	\$75	\$500
2nd offense	\$150	\$500
3rd or subsequent offense	\$350	\$500

- (2) In addition, the violator shall pay costs which may include all expenses, direct and indirect, which Paw Paw Township has incurred in connection with the municipal civil infraction.
- (3) Upon notice of a violation, the appropriate Township employee shall investigate any violation and then make a determination as to whether the penalty shall be imposed. This municipal civil infraction ticket shall serve as notice of the alleged violation. The imposition of a municipal civil infraction fine for any violation shall not excuse the violation or permit it to continue. Further violations subject the owner or occupant, or person or persons, agent, firm or corporation to subsequent municipal civil infraction violations. Furthermore, the owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participants in, assists in, or maintains any violation of the chapter may each be found responsible for a separate offense

and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator. The imposition of any sentence shall not exempt the offense from compliance with the requirement of this chapter.

- D. Authority to commence court action. The Township Board or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain or prevent any noncompliance with or violation of any of the provisions of this chapter, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Township Board in such a suit to abate the violation.
- E. Other remedies. The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceedings in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this chapter, or to correct, remedy, or abate such noncompliance.
- F. Rights and remedies preserved. Any failure or omission to enforce the provisions of this chapter, and failure or omission to prosecute any violations of this chapter, shall not constitute a waiver of any rights and remedies provided by this chapter or by law, and shall not constitute a waiver nor prevent any further prosecution of violations of this chapter.

§ 42-11.08. Records.

The Township shall keep accurate records of all decisions on all applications submitted pursuant to this chapter.

§ 42-11.09. Public notice.

Any application process requiring a public hearing shall comply with the noticing requirements of PA 110 of 2006,^[1] as amended, and the procedures of this article.

[1] *Editor's Note: See MCL § 125.3101 et seq.*

Article 12.00. Administrative Organization

§ 42-12.01. Overview.

- A. The Township Board of Trustees or its duly authorized representatives as specified in this article is hereby charged with the duty of enforcing the provisions of this chapter. Accordingly, the administration of this chapter is hereby vested in the following Township entities:
 - (1) Township Board of Trustees.
 - (2) Township Planning Commission.
 - (3) Township Zoning Board of Appeals.
 - (4) Township Zoning Administrator.
- B. The purpose of this article of the Zoning Ordinance is to set forth the responsibilities and scope of authority of these entities.

§ 42-12.02. Township Board of Trustees.

The Township Board of Trustees shall have the following responsibilities and authority pursuant to this chapter.

- A. Adoption of Zoning Ordinance and amendments. Pursuant to the authority conferred by Michigan Public Act 110 of 2006, as amended (MCL § 125.3101 et seq.), the Township Board of Trustees shall have the authority to adopt this chapter, as well as amendments, including map amendments and conditional rezoning agreements, previously considered by the Planning Commission or at a hearing or as decreed by a court of competent jurisdiction.
- B. Adoption of a master plan. In accordance with Michigan Public Act 33 of 2008, as amended (MCL § 125.3801 et seq.), the Township Board may adopt a master plan. Specifically, Section 43(3) provides that where it has been asserted by resolution, after approval of the proposed master plan by the Planning Commission, the Township Board shall approve or reject the proposed master plan.
- C. Setting of fees. In accordance with § 42-11.06 of this chapter and Section 406 of Michigan Public Act 110 of 2006,^[1] as amended, the Township Board shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this chapter. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the appropriate Township administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
 [1] *Editor's Note: See MCL § 125.3406.*
- D. Appointment of Planning Commission members. In accordance with Michigan Public Act 33 of 2008,^[2] as amended, members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board.
 [2] *Editor's Note: See MCL § 125.3801 et seq.*
- E. Appointment of Zoning Board of Appeals members. In accordance with Michigan Public Act 110 of 2006,^[3] as amended, members of the Zoning Board of Appeals shall be appointed by the Township Supervisor with the approval of the Township Board.
 [3] *Editor's Note: See MCL § 125.3101 et seq.*

§ 42-12.03. Township Planning Commission.

The Township Planning Commission shall have the following responsibilities and authority pursuant to this chapter.

- A. Creation. The Township Planning Commission is created pursuant to Michigan Public Act 33 of 2008,^[1] as amended, the Michigan Planning Enabling Act, and Township ordinance.
 [1] *Editor's Note: See MCL § 125.3801 et seq.*
- B. Membership and operation.
 - (1) Members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the Planning Commission shall be in accordance with Michigan Public Act 33 of 2008,^[2] as amended, and Township ordinance.
 [2] *Editor's Note: See MCL § 125.3801 et seq.*
 - (2) The Planning Commission by resolution shall determine the time and place of meetings. A special meeting may be called by either two members upon written request to the Secretary, or by the Chairperson. The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

- C. Jurisdiction. The Planning Commission shall discharge the following duties pursuant to this chapter:
- (1) Formulation of Zoning Ordinance and amendments. The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Township Board.
 - (2) Site plan review. The Planning Commission shall be responsible for review of applications for site plan approval in accordance with § 42-11.02. The Planning Commission shall be responsible for granting approval, approval with conditions, or denial of a site plan.
 - (3) Special land use permit. The Planning Commission shall be responsible for holding hearings regarding all applications for special land use approval in accordance with section. The Planning Commission shall be responsible for granting approval, approval with conditions, or denial of a special land use permit.
 - (4) Planned unit development review. The Planning Commission shall be responsible for holding hearings and review of all applications for planned unit development in accordance with section. The Planning Commission shall be responsible for granting approval, approval with conditions, or denial of a planned unit development proposal.
 - (5) Formulation of a master plan. The Planning Commission shall be responsible for formulation and recommendation of a master plan to guide the development of the Township, in accordance with Michigan Public Act 33 of 2008,^[3] as amended.
^[3] *Editor's Note: See MCL § 125.3801 et seq.*
 - (6) Review of matters referred by the Township Board. The Planning Commission shall be responsible for review of plats or other matters relating to land development referred to it by the Township Board. The Planning Commission shall recommend appropriate regulations and action on such matters.
 - (7) Report on operation of the Zoning Ordinance. In accordance with Section 308(2) of Michigan Public Act 110 of 2006,^[4] as amended, the Planning Commission shall periodically prepare for the Township Board a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the chapter.
^[4] *Editor's Note: See MCL § 125.3308(2).*

§ 42-12.04. Township Zoning Board of Appeals.

The Township Zoning Board of Appeals (hereinafter referred to as "ZBA") is created pursuant to Michigan Public Act 110 of 2006,^[1] as amended.

- A. Membership and operation. Members of the ZBA shall be appointed by a majority vote of the members of the Township Board. The qualifications of members, the term of each member, filling of vacancies, removal of members, compensation of members, and operation of the ZBA shall be in accordance with Michigan Public Act 110 of 2006,^[2] as amended.
- (1) The ZBA shall consist of five members. One member shall be a member of the Township Planning Commission.
 - (2) The remaining members (including any alternate members) shall be electors of the Township residing outside of incorporated cities and villages, and shall be representative of the population distribution and of the various interests present in the Township.
 - (3) A member of the Township Board may be a regular member of the ZBA, but shall not serve as Chair.

- (4) No employee or contractor of the Township may be a member or employee of the ZBA.
 - (5) The ZBA shall not conduct business unless a majority of the members of the Board are present.
 - (6) The Township Board may appoint up to two alternate members for the same term as regular members to the ZBA. An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the ZBA.
 - (7) Meetings of the ZBA shall be held in accordance with an adopted schedule, or at the call of the Chairperson, or at such other times as the ZBA may specify in its rules and procedures.
 - (8) The ZBA shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk.
- [2] *Editor's Note: See MCL § 125.3101 et seq.*
- B. Jurisdiction. The ZBA shall have all the powers and jurisdiction granted by applicable laws and prescribed in this chapter, including the following:
- (1) Appeals.
 - (a) The ZBA has the jurisdiction and power to hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be done, and to that end it shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.
 - (b) The ZBA shall not have the authority to consider an appeal of a decision concerning a special land use or a planned unit development.
 - (2) Interpretation. The ZBA has the jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this chapter, including the interpretation of the Zoning Map.
 - (3) Non-use variance. The ZBA has the jurisdiction and power to authorize a non-use variance relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this chapter or to any other non-use-related requirement in this chapter.
- [1] *Editor's Note: See MCL § 125.3101 et seq.*

§ 42-12.05. Township Zoning Administrator.

- A. Overview. As specified throughout this chapter, certain actions necessary for the implementation of this chapter shall be administered by the Township Zoning Administrator, or their duly authorized assistants, agents or representatives. In carrying out their designated duties, all such enforcement officers shall administer the chapter precisely as it is written and shall not make changes or vary the terms of the chapter.
- B. Responsibilities of the Township Zoning Administrator. In addition to specific responsibilities outlined elsewhere in this chapter, the Zoning Administrator shall have the following responsibilities:
 - (1) Provide citizens and public officials with information relative to this chapter and related matters.

- (2) Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.
- (3) Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance.
- (4) Issue appropriate permits upon compliance with provisions of this chapter and other applicable ordinances.
- (5) Inform the Building Official of all issued and denied zoning compliance permits, and otherwise coordinate with the Building Official regarding all permit applications reviewed that may have implications for the responsibilities of the Building Official.
- (6) Perform inspections of property to insure proposed land use changes or improvements are in compliance with this chapter.
- (7) Investigate alleged violations of this chapter and enforce appropriate corrective measures in accordance with policies established by the Township Board and otherwise provided by law.
- (8) Perform other related duties required to administer this chapter.
- (9) Maintain records of all inspections, applications and permits issued, with all special conditions recorded.

Article 13.00. Severability; Repeal; Effective Date; Adoption

§ 42-13.01. Severability.

- A. This chapter and the various parts, sentences, paragraphs, sections and clauses it contains are hereby declared to be severable. Should any part, sentence, paragraph, section or clause be declared unconstitutional or invalid by any court for any reason, such judgment shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.
- B. Furthermore, should the application of any provision of this chapter to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure in the Township, unless otherwise stated in the judgment.

§ 42-13.02. Repealer and savings.

- A. The previously adopted Paw Paw Township Zoning Ordinance text and map, and all amendments thereto, shall be repealed on the effective date of this chapter. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or any liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted, or inflicted.
- B. The repeal of the previously adopted Paw Paw Township Zoning Ordinance shall not release any penalty or liability incurred under said ordinance, and such ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

§ 42-13.03. Effective date.

Made and passed by the Paw Paw Township Board, Van Buren County, Michigan, on September 9, 2019, and effective on September 29, 2019, this chapter shall be in full force and effect from and after September 29, 2019.

§ 42-13.04. Adoption.

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the Township Board of Trustees:

- A. Public hearing by Planning Commission: June 27, 2019.
- B. Recommendation of Planning Commission to approve the Zoning Ordinance text and map to the Township Board: June 27, 2019.
- C. Review by Van Buren County Planning Commission: August 28, 2019.
- D. Township Board adoption of the Zoning Ordinance text and map: September 9, 2019.
- E. Date the chapter text and map shall take effect: September 29, 2019.