

**BIRCH RUN TOWNSHIP BOARD OF TRUSTEES
SPECIAL JOINT MEETING BETWEEN THE PLANNING COMMISSION/ TOWNSHIP
BOARD AND ZBA
NOVEMBER 12, 2003**

The Planning Commission Chairman for the purpose of rewriting the Zoning Ordinance Book called a special joint meeting. Chairman Al Hunter called the Special Joint Meeting/Workshop to order at 7:05 P.M. Present for the Birch Run Township Board were Earl Schlegel, Supervisor; Amy Cook, Clerk; Dave Stewart, Ed Magnus, and Jeff Putnam, Trustees. Present for the Planning Commission were Al Hunter, Diane Timmons (8:46 pm), Wyn Wilson, Dennis Bronner, and Jim Totten. Present for the ZBA were Jerry Cook and Mike Marr. Mike Setzer the Building Administrator was also present. There was no one in the audience.

A quorum was present for the Township and ZBA Boards. At 8:46 pm a quorum was present for the Planning Commission.

Motion by Magnus supported by Schlegel to approve the October 20, 2003 minutes.
Yeas: Putnam, Schlegel, Stewart, Cook, and Magnus
Nays: None

The handout attached dated October 7, 2003 *Additional Draft Portions of the New Zoning Ordinance, Articles 9-14, 21* and the handout dated November 3, 2003 *Balance of Article 5 of the New Zoning Ordinance* will be the document in which to refer to for the remainder of the minutes.

ARTICLE 11: PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

Section 11.01 thru 11.06 there were no concerns or amendments.

ARTICLE 13: NONCONFORMING LOTS, USES, AND STRUCTURES

13.01-No concerns

13.02A(1)-Delete this section

13.03-No concerns

13.04A(2)-Add the wording "Zoning Administrator shall seek a written opinion from a qualified building appraiser. Remove the letter T from the end of the final sentence.

13.05B-Delete the sentence "No structural alterations shall be made to bearing walls or foundations.

13.06-No concerns

13.07-No concerns

13.08-Delete this section

13.09-Rename this 13.08

ARTICLE 21: DEFINITIONS

21.01-No concerns

21.02-

Communication Towers: Clarify definition.

Kennel: Reduce the number of domesticated animals allowed to five (5).

Setback: Change that the setback is from the right-of-way, not the centerline of the road right-of-way.

Sign: Change the definition to mirror the definition in the newly adopted non-zoning sign ordinance.

ARTICLE 5: SITE DEVELOPMENT STANDARDS CONTINUED

5.07-No changes

5.08A(3)-Limit commercial stables in A-1 and A-2 Districts

5.09A(1)-Open bays are permitted if impact on neighboring community can be minimized.

5.10A(5)-Driveways shall be adequately spaced to prohibit conflicting turning patterns.

5.11-The wording of "Shooting Ranges and Hunt Clubs" needs clarification

B(2)-Change "The Township Board..." to "The Planning Commission..."

5.12-No changes

5.13-No changes

5.14-No changes

5.15-No changes

5.16-Add the word "signage" in the last sentence

Mini storage facilities are allowed as special land uses in the Industrial District only.

5.17-The numbers need to be adjusted to fit the slope of 20:1

Motion by Magnus supported by Bronner to adjourn at 10:15 pm.

Motion carried

**Amy Cook
Township Clerk**

Date: November 3, 2003
To: Birch Run Township Planning Commission, Township Board, ZBA, and Zoning Administrator
From: Mark A. Eidelson, AICP
Re: **Balance of Article 5 of the New Zoning Ordinance**

Attached please find the balance of Article 5, consisting of specific site development standards for specific special land uses. Please review these materials carefully and identify any revisions you would like to see made, provisions you feel need further discussion and exploration, or questions you may have. As you review this material, please note the following:

- 1) I had originally suggested packaging these provisions as a separate Article due to the length, rather than putting the provisions in the procedural portion (Articles 1 - 8) of the Zoning Ordinance. In light of the lengthiness of these provisions, and the fact that all other site development standards are located in the second half of the Ordinance, officials may want to revisit this issue.
- 2) When preparing these provisions, I continually considered the applicable provisions of Chapter 16 of the current Birch Run Township Zoning Ordinance. However, you will notice that there is considerable difference between the attached provisions and those of Chapter 16. These differences are primarily due to the following:
 - a) Many of the provisions that are addressed in the current Chapter 16 will be addressed in the final portion of the Ordinance (to be submitted in approximately one month), including such matters as signage, parking, and screening.
 - b) Many of the provisions that are addressed in Chapter 16 are unnecessary as the subject matter is already addressed by the discretionary standards of Sections 4.05 and 5.06.
 - c) I have concerns regarding the legality or reasonableness of certain provisions included in Chapter 16, such as those pertaining to the regulation of correctional facilities and foster care facilities, minimum lot size standards for various uses, and certain setback requirements.
- 3) In the interest of simplifying provisions addressing water bodies, without undermining their intent, the draft Ordinance does not differentiate between minor and major water bodies but rather regulates all such water bodies as "artificial ponds." The regulations generally parallel those of the current ordinance except where such provisions appear arbitrary, such as in the requirement that large water bodies be a minimum depth of 10 feet. Please see Section 5.21 and the definition for "artificial pond" in Article 21.
- 4) This material does not address wind powered electrical generating devices. I will be providing you with draft provisions addressing this matter in the near future.

We are scheduled to meet next on November 12. The agenda of the meeting will be to begin reviewing Articles 11, 13 and 21 (previously submitted) and, if time permits, begin the review of the attached material. I will provide greater detail regarding the principal differences between the attached material and the applicable provisions of Chapter 16 of the current Ordinance during our review of the attached material. Please call if you have any questions.

MEMORANDUM

TO : THE PRESIDENT

FROM : [Illegible]

SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

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Article 5
(Continued)

The following pages (5-5 through 5-17) are a continuation of the initial portion of Article 5 dated 8-29-03, and should be inserted at the end of the previously submitted Article 5. These additional pages present specific site development standards for certain special land uses. The special land uses addressed in these pages are as follows:

Section 5.07	Bed And Breakfast	5-5
Section 5.08	Commercial Stables	5-6
Section 5.09	Vehicle/Car Wash Establishment	5-6
Section 5.10	Vehicle Repair Shops and Service Stations	5-6
Section 5.11	Shooting Ranges and Hunt Clubs	5-7
Section 5.12	Day Care Facility, Group Home	5-7
Section 5.13	Agricultural Labor Housing	5-8
Section 5.14	Junkyards	5-8
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Section 5.16	Mini Storage Facilities	5-9
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Section 5.23	Extraction Operations	5-13
Section 5.24	Communication Towers, Class 1	5-14

Section 5.07 Bed and Breakfast

A. The following site and developmental requirements shall apply:

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

B Special Performance Standards:

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

Section 5.08 Commercial Stables

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards:

1. The facility shall be constructed and maintained so that dust and drainage from the stable will not create a nuisance or hazard to adjoining property or uses.
2. Manure shall be removed and/or applied so as to prevent a nuisance.
3. No special events such as shows, exhibitions, and contests shall be permitted within one hundred (100) feet of a residentially used or residentially zoned property, including viewing areas.

Section 5.09 Vehicle / Car Wash Establishment

A. The following site and developmental requirements shall apply:

1. All washing activities shall be carried on within an enclosed building, or under a covered structure with side walls separating individual washing bays.
2. Vacuuming activities shall be set back a minimum of one hundred (100) feet from property zoned or used for residential purposes.
3. All maneuvering lanes and stacking lanes shall be located on the site and shall provide sufficient room to avoid waiting cars encroaching into a road right-of-way.

B Special Performance Standards:

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

Section 5.10 Vehicle Repair Shops and Service Stations

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards:

1. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
2. Vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall not be maintained on the property for more than thirty (30) days. Such vehicles shall not be parked or stored in a front or side yard, and shall be screened.
3. A car wash may be established as part of the principal structure or as a separate structure but shall conform to all setback requirements for a principal structure.
4. Vehicle renting or leasing in association with a repair facility may exist only as an accessory use to the principal repair activities, and only upon approval of a site plan delineating such rental/lease area and the type and maximum number of vehicles to be stored on the site for such purpose.

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5. The application materials shall identify the extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used or created, and the measures to be used for proper handling, storage, and disposal of such materials.
6. All provisions for the storing and disposing of fuels, oils, and waste products, including daily generated garbage, shall meet county, state, and federal regulations. The applicant shall document the availability and capacity of sewage facilities to handle the anticipated volumes and types of wastes.

Section 5.11 Shooting Ranges and Hunt Clubs

A. The following site and developmental requirements shall apply:

1. Minimum lot area shall be forty (40) acres for outdoor shooting activities.
2. Minimum front, side and rear yard setbacks for outdoor shooting ranges shall be two hundred fifty (250) feet.
3. A minimum eight (8) foot high fence shall be provided around the entire area devoted to or used for the outdoor shooting of firearms to assure that individuals will not unknowingly trespass on the property.

B. Special Performance Standards:

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

Section 5.12 Day Care Facility, Group Home

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards:

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

Section 5.13 Agricultural Labor Housing

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards

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

Section 5.14 Junkyards

A. The following site and developmental requirements shall apply:

1. The minimum lot size shall be five (5) acres.
2. A solid fence or wall at least eight (8) feet in height shall be provided around all sides of the area used to store junk. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
3. All enclosed areas shall be set back at least one-hundred (100) feet from any lot line, but in no case shall such enclosed area be less than two-hundred (200) feet from a Conservation or Residential District. A landscaped buffer area shall be provided adjacent to such enclosed areas.

B. Special Performance Standards:

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

Section 5.15 Kennels

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards:

1. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
2. All animals must be licensed and maintained in a healthful and careful manner.
3. The kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
4. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.

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5. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
6. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.

Section 5.16 Mini Storage Facilities

A. The following site and developmental requirements shall apply:

1. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee.
2. There shall be a minimum of thirty-five (35) feet (forty-five (45) feet if the driveway is two-way) between warehouses for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, said building separation need only be twenty five (25) feet. Traffic direction and parking shall be designated by signaling or painting.

B. Special Performance Standards:

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

Section 5.17 Private Landing Strips

A. The following site and developmental requirements shall apply:

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

B. Special Performance Standards:

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

Section 5.18 Campgrounds

A. The following site and developmental requirements shall apply:

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

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

B. Special Performance Standards:

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

Section 5.19 Adult Entertainment Business

A. The following site and developmental requirements shall apply:

1. No adult entertainment business shall be established on any premises where there exists another adult entertainment business within one thousand (1,000) feet, measured as a straight line distance between the closest property lines.
2. The property on which an adult entertainment business is located shall be situated at least one thousand (1,000) feet from a state licensed child care facility, religious institution, public school, public building, public park, or any Residential District or residential use, measured as a straight line distance between the closest property lines.

B. Special Performance Standards

1. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner which include "specified anatomical areas" or "specified sexual activities." (See definitions under "Adult Entertainment Business" in Article 21)
2. Adult entertainment businesses shall not be located within, or otherwise be attached to, a building in which one (1) or more dwelling units or sleeping quarters are located, or on the same lot where one (1) or more dwelling units or sleeping quarters are located.
3. Operational hours are permitted between 11:00 a.m. and 1:00 a.m. only.
4. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
5. The applicant shall submit a diagram of the premises showing a plan thereof and specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and illumination intensity of each. A manager's station shall not exceed thirty (30) square feet of floor area.
6. The premises shall be so configured and designed to provide an unobstructed view of each area of the premises to which any person is permitted access for any purpose from at least one (1) of the manager's stations.
7. Activities conducted within buildings housing the aforementioned uses shall be shielded in such a manner that no person outside the building can see said activities, provided however that such shielding shall not consist of a curtain alone, shall not obstruct the exit sign or directional or instructional signs regarding emergency egress, nor be constructed in such a way as to block an exit.
8. All changing of attire by employees or performers shall be within a completely enclosed room into which access by patrons is prohibited.

Section 5.20 Golf Courses, Country Clubs, and Driving Ranges

A. The following site and developmental requirements shall apply:

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

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of the location of trees, sand traps, berms, or other features, a narrower fairway will not compromise safety. The minimum length of a driving range shall be three hundred (300) yards, measured from the tee to the end of the range.

B. Special Performance standards:

1. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.
2. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.
3. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable, and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with the Township. Plans for emergency containment and clean-up shall also be provided.
4. Accessory uses may include clubhouse/pro shop, managerial facilities, maintenance sheds, toilets, lockers, and other accessory uses directly incidental to the golf course. Accessory uses shall not include restaurants and drinking establishments; tennis, racket sport, or swimming facilities; or other uses having no direct reliance upon the sport of golf. This limitation shall not prohibit concession stands and grills provided no food or beverages are sold to the general public. The design of the clubhouse and other accessory buildings shall be of a residential character and exterior materials shall be primarily wood or brick.
5. Golf course hours, including those for general operations and public admission, shall not exceed dawn to dusk.
6. All motorized equipment, excluding golf carts and equipment of lesser size, shall be stored within a building when not in use.

Section 5.21 Artificial Ponds

A. The following site and developmental requirements shall apply:

1. The minimum size of a parcel on which an artificial pond is to be established shall be five (5) acres.
2. An artificial pond shall be set back a minimum of fifty (50) feet from all lot lines.
3. No artificial pond shall be less than eighteen (18) inches deep except along its banks, which shall be at a minimum grade of 1:10 but no greater than 1:1. However, all artificial ponds shall include an exit ramp extending from the edge of the pond to the lowest feasible water level, of a minimum width of ten (10) feet and a maximum slope of 4:1 (horizontal to vertical)
4. No artificial pond shall be created within fifty (50) feet of ecologically sensitive sites, including wetlands and streams, unless all applicable county, state and federal permits are obtained.
5. No artificial pond shall cover more than twenty percent (20%) of the area of a lot.

B. Special Performance Standards:

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

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

Section 5.22 Sale of Fireworks

- A. The following site and developmental requirements shall apply:
 1. All storage and sales of fireworks shall be from within a building.
 2. Any building used for the sale or storage of fireworks shall be a minimum of one hundred (100) feet from the nearest property line, and the sales and storage of fireworks shall comply with all state regulations regarding setbacks including those from railways, roads, and inhabited buildings.
 3. Any building used for the sale or storage of fireworks shall be a minimum of one thousand (1,000) feet from the nearest property line of any facility that has a principal function or operation involving the storage and/or sale of explosive material including, but not limited to, the storage and/or sale of fuels, pesticides, fertilizers, and fireworks.
- B. Special Performance Standards:
 1. Where required by separate ordinance, law, or statute, the owner of a fireworks business shall be township, county, state and federally licensed to sell such materials.
 2. A fireworks business shall have public access doors of at least thirty-six (36) inches in width, and have at least one (1) such door on two (2) separate building walls.
 3. No smoking shall be permitted in a fireworks business. Signs stating in bold letters "NO SMOKING OR OPEN FLAME - FIREWORKS" shall be prominently displayed inside and outside the business.
 4. The discharging of fireworks on the same lot as the sale of fireworks is prohibited.
 5. A fireworks business shall not have on its premises any hazardous materials that are unrelated to the sale of fireworks.
 6. No dwelling shall be located above, below, or otherwise attached to or be part of a building devoted in whole or part to the sale of fireworks.

Section 5.23 Extraction Operations

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

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

B. The following site and developmental requirements shall apply:

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

C. Special Performance Standards:

1. The approving body may require fencing in designated areas where it determines necessary to ensure the public health, safety and welfare, including any locations that may be subject to ponding or inundation by water. Fences shall be of adequate design and location to effectively discourage trespassing and shall include "KEEP OUT-DANGER" or similar signage.
2. No area under excavation shall exceed a slope of 1:1 (horizontal to vertical).
3. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extractive use site shall be kept reasonably clear of mud, dirt and debris from vehicles exiting the site.
4. No topsoil shall be removed from the extraction site except in the immediate area of current extraction activities.
5. The extraction shall be graded in a fashion which will not cause water to accumulate in stagnant pools.

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6. Air pollution, noise and vibrations shall be minimized from any effect upon adjacent properties by adequate soundproofed equipment and buildings designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens.
7. Truck or heavy vehicle traffic related to extraction operations shall use major thoroughfares for access to the greatest extent feasible.
8. No machinery or equipment shall operate, and no trucks, trailers, or toner conveyances shall enter, leave, or operate before 7:00 a.m. or after 8:00 p.m.
9. Reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with extraction activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas. Excavated areas shall be reclaimed pursuant to the approved reclamation plan.
10. The excavator may be required to post an acceptable performance bond pursuant to Section 3.06 of this Ordinance to address the reclamation costs for each five (5) acres of land to be disturbed or excavated or fraction thereof. Extraction activities shall not be initiated on any location of the site until such performance bond or letter of credit has been posted for that area of the site.
11. Extraction processing or storage shall not be conducted as to cause the pollution by any material of any surface or subsurface water-course, or body of water outside the lines of the lot on which such use shall be located.
12. When activities on or use of the area subjected to extraction, or any portion thereof, have ceased for more than one (1) year, the operation shall be considered abandoned and a new permit necessary before additional extraction activities can occur. Cessation may be determined by any of the following events:
 - a. The completion of the extraction.
 - b. The Planning Commission determines that no substantial work has occurred on the site for more than one (1) year.
 - c. The Planning Commission has received notification from the owner that operations are complete.
 - d. A zoning permit for the extraction has expired.

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

Section 5.24 Communication Towers, Class 1

A. The following site and developmental requirements shall apply:

1. The maximum height of a communication tower shall not exceed one hundred eighty (180) feet. The approving body may waive this standard upon the applicant successfully demonstrating that a greater height is necessary for reasonable communication by the applicant (and by other entities to collocate on the structure). Applicants shall present an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within the respective District.
2. The setback of the support structure from any adjacent property shall be no less than the height of the tower, or the minimum distance necessary so that if it were to fall or collapse, it would remain within the confines of the parcel.
3. The base of the tower shall be fenced with a minimum eight (8) foot chain-link fence.
4. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and a statement confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
5. All structures shall be located at least two hundred (200) feet from any dwelling and five hundred (500) feet from a residence.
6. Communication towers shall be constructed no closer than two (2) miles apart. This requirement may be waived by the approving body upon a finding by the approving body that establishing a new tower within a lesser setback shall, because of the particular conditions, more effectively minimize negative impacts of telecommunication facilities on the Township as a whole. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located irrespective of municipal, township and county jurisdictional boundaries.

B. Special Performance Standards:

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

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5. Removal

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

C. Special Application Requirements

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

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

1. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within Birch Run Township or one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. Such information may be shared with other applicants applying for approvals under this Section or other organizations seeking to locate towers or antennas within the jurisdiction of Birch Run Township, provided, however, that the sharing of such information in no way constitutes a representation or warrant by the Township that such sites are available or suitable.
2. Elevation drawings of the proposed tower and any other structures.
3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
4. The separation distance from other towers described in the inventory of existing sites submitted pursuant to (A)(1) above shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner(s)/operator(s) of the existing tower(s), if known.
5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
6. A notarized, sworn statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
7. For wireless communication systems, identification of the entities providing the backhaul network (i.e., the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long

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- distance providers, and/or the public switched telephone network) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.
8. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services proposed through the use of the proposed new tower.
 9. A description of the feasible location(s) of future towers or antennae within the Township based on existing physical, engineering, technological, or geographical limitations.

End of Article 5

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