

Birch Run Township Zoning Board of Appeals Special Meeting Minutes February 20, 2007

The special meeting of the Birch Run Township Zoning Board of Appeals was called to order at 7:00p.m. by Chair Beverly Nelson with the Pledge of Allegiance.

Roll was called. Present were Chair Beverly Nelson, Secretary Rosemary Manchester, and Members Ed Magnus and Dennis Bronner. Absent was Vice-Chair Debbie Doll. A quorum was present. Also present was Zoning Administrator Mike Setzer. No members of the public attended.

Moved by Bronner, **supported** by Magnus, to excuse the absent member.

Yeas: Bronner, Magnus, Manchester, Nelson

Nays: none

Motion carried

Discussion was held regarding the minutes for ZBA meetings. It is the consensus of this board that there be more detail included in these minutes regarding the discussion leading to the decisions of this board.

Moved by Magnus, **supported** by Manchester, to approve the Minutes of the January 24, 2007 meeting, with the following changes:

1. The votes of Bronner and Nelson regarding the Minutes of the November 13, 2006 meeting of the Zoning Board of Appeals are changed from Yea to Abstain.
2. The votes of Bronner and Nelson regarding the Minutes of the November 13, 2006 meeting of the Sign Board of Appeals are changed from Yea to Abstain.

Yeas: Manchester, Bronner, Magnus, Nelson

Nays: none

Motion carried

Moved by Magnus, **supported** by Manchester, to approve the Agenda for the February 20, 2007 meeting of the Birch Run Township Zoning Board of Appeals as presented.

Yeas: Magnus, Manchester, Bronner, Nelson

Nays: none

Motion carried

NEW BUSINESS: Mike Setzer presented the members with a packet of material regarding Zoning Board of Appeals procedure from the Michigan Townships Association for general information.

Moved by Bronner, **supported** by Magnus, to adjourn at 7:55p.m.

Motion carried by voice vote

Respectfully Submitted,

Kenneth R. Macleod
Recorder

Approved at the meeting held _____,

Rosemary Manchester
Secretary

**BIRCH RUN TOWNSHIP BOARD OF TRUSTEES
SPECIAL JOINT MEETING BETWEEN THE PLANNING COMMISSION/ TOWNSHIP
BOARD AND ZBA
SEPTEMBER 29, 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 7:02 P.M. Present for the Birch Run Township Board were Earl Schlegel, Supervisor; Debbie Trevino, Treasurer; Dave Stewart, Ed Magnus, Joanne Strahm, and Jeff Putnam, Trustees. Present for the Planning Commission were Al Hunter, Diane Timmons, Wyn Wilson, Jim Totten, and Bob Scharrer. Present for the ZBA were Jerry Cook and Mike Marr. There was no one in the audience.

A quorum was present for all Boards.

Motion by Ed Magnus supported by Jerry Cook to approve the September 8, 2003 minutes.
Motion carried 3-0

The handout attached dated August 29, 2003 *Birch Run Township Zoning Ordinance Draft Portions* will be the document in which to refer to for the remainder of the minutes.

Discussion was done by Documents

Article 1: TITLE AND PURPOSE.
No changes or concerns

Article 2: INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL, AND EFFECTIVE DATE.
The year was changed from 2003 to 2004

Article 3: ADMINISTRATION, ZONING PERMITS, ENFORCEMENT, AND PENALTIES.
Section 3.03 (4), Code Enforcer should handle records of complaints. Mark will come back with a comprehensive list of what the Code Enforcer will handle.

Section 3.04 B, Occupancy Permit was discussed regarding the title of the Building Official. Mark will suggest alternate language.

Section 3.05 D, Township Board Hearing was deleted but after discussion was put back in.

Section 3.06 A, Purpose. Requires a performance guarantee or bond may be requested.

Article 4: PROCEDURES FOR PLOT PLAN AND SITE PLAN REVIEW.
Section 4.04 A, Make the correction in the last sentence "listed in Section 4.02 (A)."

Section 4.04 B, Reference is made to the Fire Department, but there is no requirement that they get a copy of the Site Plan. Section 4.04 B, 2. Corrections to the sentence making "Scale is 1 inch equals one-hundred (100) feet."

Section 4.04 C (2), Section C-2 was deleted by a show of hands.

Article 5: PROCEDURES AND STANDARDS FOR SPECIAL LAND USES.

Section 5.04 Change "No application for a zoning permit for a special land use which has been denied wholly or in part by the Township Board....." to "No application for a zoning permit for a special land use which has been denied wholly or in part by the Planning Commission."

Article 6: ZONING BOARD OF APPEALS (ZBA)

No changes

Article 7: PROCEDURES FOR AMENDMENTS

No changes

Article 8: RESERVED FOR FUTURE USE.

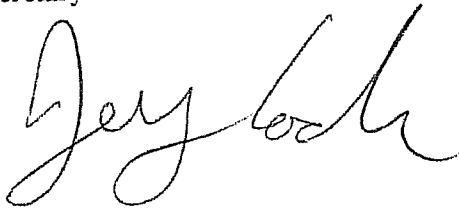
Definition #2 was preferred for Extractions Operations with the provision against the creation of unsafe conditions.

Another meeting is scheduled for Monday, October 20, 2003, 7:00 pm.

Motion by Earl Schlegel supported by Jerry Cook to Adjourn at 10:04 pm.

Motion carried

Jerry Cook
ZBA Secretary

A handwritten signature in cursive script that reads "Jerry Cook". The signature is written in black ink and is positioned below the typed name and title.

Date: August 29, 2003
To: Birch Run Township Planning Commission, Township Board, ZBA, and Zoning Administrator
From: Mark A. Eidelson, AICP
Re: **Initial Draft Portions of the New Zoning Ordinance, Articles 1 – 8**

Attached please find the first submittal of the initial portions of the draft Zoning Ordinance. This submittal is the first of what will be three separate submittals. The accompanying materials consist largely of the administrative and procedural provisions and is comprised of Articles 1 - 8. Article 8 is reserved for future use should the Township wish to use the Article (in the future) to address additional administrative or procedural provisions which may not "fit" neatly in one of the other Articles. There are several places in the text which may reference Articles or Sections which you have not received yet. You may want to highlight these references for future review.

I have 3-hole punched the attached submittal so that you can insert the materials in a 3-ringed binder. This will facilitate ease of use, particularly as subsequent submittals are forwarded to you and page insertions are necessary.

This material is based, in part, on our first orientation workshop and the decisions made during that evening. 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. Please note the following as you review the material:

Article 1: Title and Purpose

This short Article identifies the purpose of the Zoning Ordinance, as referenced in the Township Zoning Act (TZA). The language generally mirrors selected portions of the TZA.

Article 2: Interpretation, Severability, Vested Rights, Repeal, and Effective Date

The provisions of this Article address miscellaneous legal aspects of the Zoning Ordinance and are substantively similar to Chapter 1 of the current Birch Run Township Zoning Ordinance.

Article 3: General Administration, Enforcement, And Penalties

The TZA stipulates that a zoning ordinance must specify the manner of administering and enforcing the zoning ordinance. Beyond that requirement, the Act does not generally make specific requirements as to how the administration is to be carried out. This Article presents the general administrative scheme for the Ordinance. In reviewing this Article, please note the following:

- 1) Section 3.04(A) clarifies that a Zoning Permit and/or Building Permit is required, and that a permit application must be accompanied by either a plot plan or site plan according to Article 4.
- 2) The current Birch Run Township Zoning Ordinance includes what I believe to be an excessive and repetitious set of provisions regarding permits. Article 3 strives to set forth the same substance in a clearer and more streamlined fashion.
- 3) Sections 3.04(C)(Application Fees), 3.06(Performance Guarantee for Compliance), and 3.07 (Timely Action on Applications) are included in Article 3 so that similar sections need not be replicated in subsequent Articles.

Article 4: Procedures for Plot Plan and Site Plan Review

Plot Plan and Site Plan review provisions require the submittal and approval of a plan as a condition for Zoning Permit approval. This Article provides for two types of submittals: 1) a comparatively simple plot plan for less complex projects, such as a single family dwelling, for review and approval by the Zoning Administrator; and 2) a more complex site plan for more complicated projects, such as commercial uses, for review and approval by the Planning Commission. This Article is intended to present provisions in a clearer and more user-friendly manner as compared to the current Ordinance. Still, site plan review provisions can be a bit complex and/or lengthy due to the matter that they address.

Article 5: Procedures for Special Land Uses

This Article establishes the provisions for the review and approval of special land uses. The Planning Commission continues to be the approving body. This Article provides a greater level of detail to assist both local officials and the public. Please note Section 5.02 presents the procedures for review and approval of special land uses and references the necessity for the submittal of a site plan pursuant to Article 4. Please also note that while Section 5.06 presents general approval standards for all special land uses, Section 5.07 and subsequent sections addressing specific site development standards for specific special land uses will be forthcoming in the next draft ordinance submittal. Such sections could not be developed at this time as they must be coordinated with the various uses permitted in each District. All public hearing requirements are in conformance with the Township Zoning Act.

Article 6: Procedures for Zoning Board Of Appeals

Article 6 is largely substantively similar to Section 1704 of the current Ordinance. However, the format and text is intended to be clearer and more user-friendly. Contrary to the decision made at our first Orientation Meeting, Article 6 provides for a hearing for all ZBA decisions (appeals, variances, and interpretations). The Township had initially wanted only variances to be subject to a hearing. However, the Township Zoning Act requires hearings for administrative appeals. Also, "interpretations" can impact adjacent properties where specific to a certain site plan. Thus, for consistency purposes, all three actions are subject to a hearing as currently drafted. Of course, this can be modified if desired provided it conforms to the law. Please note that Section 6.08 references the same hearing notice requirements as are required for special land uses (as in the current ordinance).

Article 7: Procedures for Amendments

Article 7 is largely substantively similar to Section 1703 of the current Ordinance except for the standards of review presented in Section 7.03(C)(2). Again, the format and text is intended to be clearer and more user-friendly. All references to time frames regarding hearing notices and amendment adoption notices comply with current law.

Please do not hesitate to call if you have any questions.

BIRCH RUN TOWNSHIP ZONING ORDINANCE

Draft Portions

**Birch Run Township
Saginaw County, Michigan**

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PREAMBLE

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

Article 1 **TITLE and PURPOSE**

Section 1.01 Title

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

Section 1.02 Purpose

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

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Birch Run Township Zoning Ordinance
DRAFT: August 29, 2003

End of Article 1

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

Section 2.01 Interpretation

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

Section 2.02 Severance Clause

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

Section 2.03 Vested Right

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

Section 2.04 Repeal

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

Section 2.05 Effective Date

This Ordinance shall take effect seven (7) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Township Zoning Act, PA 184 of 1943, as amended.

Made and passed by the Township Board of the Township of Birch Run, Saginaw County, Michigan on this ___ day of _____, 2003.

Birch Run Township Zoning Ordinance
DRAFT: August 29, 2003

End of Article 2

Article 3
ADMINISTRATION, ZONING PERMITS,
ENFORCEMENT, and PENALTIES

Section 3.01 Purpose

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

Section 3.02 Responsibility for Administration

The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, the Planning Commission, and such personnel as designated by the Township Board in accordance with P.A. 184 of 1943, as amended, the "Township Zoning Act"; and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance.

Section 3.03 Duties of the Zoning Administrator

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

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

Section 3.04 General Zoning Permit Procedures and Regulations

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

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

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

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

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

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

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

Section 3.05 Violations

- A. **Nuisances Per Se:** Violations of any provisions of this Ordinance are declared to be nuisances per se.
- B. **Notice of Violation:** The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a Notice of Violation, in writing, which specifies all circumstances found to be in violation. Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, addressed to such owner or party in interest at the address shown on the tax records. A Notice of Violation posted by the Zoning Administrator on a structure shall not be removed without written authorization from the Zoning Administrator.
- C. **Violation Correction Period:** All violations shall be corrected within the time period specified on the Notice of Violation, as deemed appropriate in the reasonable discretion of the Zoning Administrator, but not less than 5 days nor more than 6 months.
- D. **Township Board Hearing:** Should a violation not be corrected within this time period specified, the Zoning Administrator shall notify the owner, or party of interest in writing, of the time and place of a hearing to be held before the Township Board on the conditions causing the notice of violation. At said hearing the person to whom the notice is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said action would cause an undue hardship. The Township Board may extend the correction period for a period not to exceed 6 months.
- E. **Legal Action:** If the owner or party in interest fails to appear at the hearing, or establishes no reasonable basis for the Township Board to extend the correction period, or neglects to correct the violation within the time period specified, the Township Board shall direct the Township Attorney to take appropriate legal action. The Township Attorney may then initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township Board may initiate injunctive action in Circuit Court or any such other remedy provided by Law.
- F. **Penalties:** The owner of record or tenant of any premises, building, structure, premises, or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, assists in, or maintains a violation of this Ordinance may each be found guilty of a separate offense and suffer the penalties herein provided. Such person or bodies found to be in violation of this Ordinance shall be responsible for a municipal civil infraction and shall be subject to the payment of civil fines and other penalties in accordance with the Birch Run Township "Municipal Civil Infraction Ordinance." Each and every day of violation shall be a separate offense. In addition, the Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this Ordinance.

Section 3.06 Performance Guarantee for Compliance

- A. **Purpose:** In authorizing any zoning permit, the body or official which approves the zoning permit application, as designated by this Ordinance, may require that a performance guarantee or bond be furnished to: (1) ensure compliance with the requirements, specifications and conditions imposed with the grant of such zoning permit; and (2) provide sufficient resources for the Township to complete required improvements or conditions in the event the zoning permit holder does not.
- B. **Requirements of Guarantee:** The performance guarantee shall meet the following requirements:
1. **Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect the natural resources or the health, safety and welfare of residents of the Township and future uses or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening and drainage.
 2. **Form:** The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, or surety bond, acceptable to the Township Clerk, which names the property owner as the obligor and the Township as the obligee. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an account in a financial institution with which the Township regularly conducts business.
 3. **Amount and Time Required:** The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of improvements for which the performance guarantee or bond is to cover, according to a detailed cost estimate submitted by the applicant and approved by the Planning Commission. After approval of the detailed cost

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estimate by the Planning Commission, the performance guarantee or bond shall be submitted at the time of issuance of the zoning permit authorizing the activity of the project.

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

1. **Request for Payment:** As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Township Clerk of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit a recommendation to the Planning Commission indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejection. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.
2. **Approval of Payment:** The Planning Commission shall either approve, partially approve or reject the request for return of the performance guarantee for the improvements or conditions, after consideration of the recommendation of the Zoning Administrator's written statement, and shall notify the obligor in writing of the action of the Planning Commission within forty-five (45) days after receipt of the notice from the obligor of the completion of improvements. Where approval or partial approval is granted, the Planning Commission shall notify the Township Clerk of such approval and the Township Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.
 - a. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
3. **Lack of Full Completion:** Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the Township may complete the necessary improvements or conditions itself or by contract to an independent developer or contractor, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining shall be returned to the applicant.

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

Section 3.07 Timely Action on Applications

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

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

End of Article 3

Article 4
PROCEDURES for PLOT PLAN and SITE PLAN REVIEW

Section 4.01 Purpose

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

Section 4.02 Approval of Site Plan or Plot Plan Required

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

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

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

Section 4.03 Plot Plan Review Procedures

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

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

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

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

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D. Approved Plot Plans: At least three (3) copies of an approved plot plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. For identification of the approved plans, each copy shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the plot plan and delivered to the applicant for information and direction.

Section 4.04 Site Plan Review Procedures

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

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

1. Twenty (20) copies of a completed application form supplied by the Zoning Administrator.
2. Twenty (20) copies of the preliminary site plan at a scale of not less than one (1) inch equals one-hundred (200) feet. The preliminary site plan shall be provided on a professional quality drawing and all information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and the seal of such designer shall be affixed. The plan shall provide the following minimum information:
 - a. Name, address and telephone number of the applicant (and owner if different).
 - b. A survey showing property dimensions, angles, lot area, and an arrow pointing north, accompanied by a legal description.
 - c. Existing natural features such as woodlands, streams, flood plains, county drains, lakes or ponds, and general topography, extending within one hundred fifty (150) feet of the site.
 - d. Existing public rights-of-way, private easements of record, and deed restrictions.
 - e. Project description, including the approximate location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the property; the total number of structures, units, bedrooms, and offices; the square feet associated with each building and use including total and usable floor area; carports and garages; employees by shift; amount of recreational and open space and the type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Ordinance.
 - f. Proposed roads and alleys.
 - g. Approximate location and dimensions of proposed accessory structures, including trash receptacles.
 - h. Approximate location, shape and size of proposed free stranding signs.
 - i. A conceptual landscape plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing, and lighting.
 - j. A conceptual plan addressing how storm water is to be collected and discharged, including general location of any retention and/or detention areas and approximate points of discharge for all drains, and approximately elevations of roads, parking areas, and buildings.
 - k. Conceptual elevation drawings of all buildings and structures.
 - l. A vicinity sketch showing the location of the site in relation to the surrounding street system, extending a minimum one (1) mile from the site, and the identification of surrounding land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any roads.
 - m. Such other information as may be necessary to enable the Planning Commission to determine whether the proposed site plan will conform to the provisions of this Ordinance.

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

1. Approval of the preliminary site plan is valid for a period of one (1) year. If a complete final site plan for the development, or any phase of the development, has not been submitted during that period, the approval of the preliminary site plan shall be null and void. This time limit may be extended by the Planning Commission upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the layout and/or design of the development. Preliminary site plans whose approval has expired shall be required to resubmit and be processed for approval according to this Section.
2. The Planning Commission shall have the authority to approve a preliminary site plan as a final site plan if it finds that the preliminary plan includes all necessary data and portrays such data in sufficient detail and accuracy to verify that such plans are in compliance with all requirements and standards of the Ordinance, including the submittal requirements of (D) below and the approval standards of Section 4.05.

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

1. Twenty (20) copies of a completed application form supplied by the Township Clerk.
2. Twenty (20) copies of the final site plan at a scale of not less than one (1) inch equals one-hundred (100) feet. The final site plan shall be provided on a professional quality drawing and all information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and the seal of such designer shall be affixed. The plan shall provide the following minimum information:
 - a. Name, address and telephone number of the applicant (and owner if different).
 - b. A survey showing property dimensions and legal description, including angles, lot area and dimensions, and an arrow pointing north.
 - c. Existing natural features such as woodlands, streams, flood plains, county drains, lakes or ponds, and topography (at two-foot intervals on-site and within one hundred fifty (150) feet of the site).
 - d. Existing public right-of-way, private easements of record, and deed restrictions, and existing improvements on the site including but not limited to roads, driveways, structures, and buildings.
 - e. Project description, including the location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered, or moved on the property; the total number of structures, units, bedrooms, and offices; the square feet associated with each building and use including total and usable floor area; carports and garages; employees by shift; amount of recreational and open space and the type of recreation facilities to be provided, and related information as pertinent or otherwise required by this Ordinance.
 - f. Proposed location and dimensions of accessory structures, including trash receptacles.
 - g. Proposed location of free stranding and wall signs, and dimensions and construction details of such signs.
 - h. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing, and lighting in compliance with the requirements of Article 17, Landscaping and Screening. Also, proposed locations of common open spaces, if applicable.
 - i. Final construction plans that ensure proper construction of roads and alleys including plan/profiles, cross-sections, acceleration, deceleration or right turn lanes, driveways, parking spaces, sidewalks, with indication of direction of travel, and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, and dimensions of a typical individual parking space and associated aisles shall be identified. Proposed traffic control measures (including signs) and proposed street or road names shall also be indicated.
 - j. Final construction plans that ensure proper construction of facilities designed to manage storm water including location of any retention and/or detention areas and points of discharge for all drains, and engineering specifications including dimensions and elevations of all pipes and drains. The point of discharge for all drains and pipes shall be specified on the site plan.

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- k. Final construction plans that ensure proper construction of facilities designed to provide, collect, store, dispose of, and/or transport potable water, waste water and sewage, including but not necessarily limited to the locations, specifications and elevations of pipes, drains, sumps, holding tanks, and easements that exist or are proposed to be established for installation, repair and maintenance of such utilities.
- l. Final construction plans that ensure proper location of other utilities not otherwise addressed in (j) and (k) above, and any easements that exist or are proposed to be established for installation, repair and maintenance of utilities.
- m. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
- n. A statement from the applicant identifying all federal, state, county, and local permits required, if any.
- o. Elevation drawings of all buildings and structures
- p. A vicinity sketch showing the location of the site in relation to the surrounding street system, extending a minimum one (1) mile from the site, and the identification of surrounding land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any roads.
- q. Such other information as may be necessary to enable the Planning Commission to determine whether the proposed site plan will conform to the provisions of this Ordinance.

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

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

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

Section 4.05 Plot Plan and Site Plan Approval Standards

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

- 1. Article 15, Signs
- 2. Article 16, Off-Street Parking and Loading
- 3. Article 17, Landscaping and Screening
- 4. Article 18, Environmental Protection
- 5. Article 20, General Provisions

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

- 1. Applicable provisions of:
 - a. Article 15, Signs
 - b. Article 16, Off-Street Parking and Loading
 - c. Article 17, Landscaping and Screening
 - d. Article 19, Private Roads and Shared Driveways
 - e. Article 20, General Provisions

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2. All elements of the Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
3. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material, and soil removal, and by topographic modifications which are in keeping with the general appearance of adjacent and surrounding uses and development.
4. The removal of storm waters shall not increase off-site sedimentation or otherwise adversely affect neighboring properties due to flooding.
5. All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
6. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
7. The arrangement of public or common ways for vehicular and pedestrian circulation shall ensure the public health, safety and welfare including coordination with the pattern of existing or planned streets and pedestrian or bicycle pathways in the area, compatibility with adjacent land uses, and design capacities. Roads and drives which are part of an existing or planned road pattern which serve adjacent development shall be of a width appropriate to the traffic volume they will carry.
8. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at access and egress points to intersecting roads, including the use of service drives as appropriate, and minimize the negative impacts of such parking areas.
9. Development shall not include unnecessary curb cuts and shall use shared drives and/or service drives unless precluded by substantial practical difficulties.
10. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
11. Site plans shall conform to all applicable requirements of state and federal statutes.
12. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:
 - a. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan ground water discharge permit.
 - b. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

Section 4.06 Conformity To Approved Site Plan and Plot Plan

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

Section 4.07 Appeals

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

Section 4.08 Changes to Approved Site Plan and Plot Plan

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

1. **Major Changes:** Major changes to an approved site plan shall include changes in excess of fifty (50) square feet in gross floor area or in excess of five (5) feet in the location of walkways, vehicular circulation ways and parking areas, or exterior building and structure walls; changes in the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces or an increase of more than two (2) parking spaces; an increase in the heights of buildings or number of dwelling units; a reduction in open space; the addition or alteration of signage, and similar changes. Major changes shall require approval in the same manner as the original site plan application was submitted, reviewed, and approved and subject to the finding of all of the following:
 - a. Such changes will not adversely affect the initial basis for granting approval;
 - b. Such changes will not adversely affect the overall project in light of the intent and purpose of such development as set forth in this Article; and
 - c. Such changes shall not result in the reduction of open space area as required herein.
2. **Minor Changes:** Minor changes to an approved site plan shall include changes not otherwise included as a major change in (A)(1) above and may be approved by the Zoning Administrator. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action to the Planning Commission.

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

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

A. Plot Plan/Final Site Plan Submitted Prior to the Effective Date of This Ordinance: Any application for final site plan approval or for plot plan approval filed with the Township Clerk, and containing all information required by the Ordinance in effect at the time of submittal and accompanied by all required fees, prior to the effective date of this Ordinance, shall be reviewed using the procedures and substantive standards under the ordinance in effect at the time of submission.

B. Preliminary Site Plan Submitted Prior to the Effective Date of This Ordinance: Any application for preliminary site plan approval filed with the Township Clerk, and containing all information required by the Ordinance in effect at the time of submittal and accompanied by all required fees, prior to the effective date of this Ordinance, shall be reviewed using the procedures and substantive standards under the ordinance in effect at the time of submission. Approval of such plan shall be effective for a period of one (1) year from the effective date of this Ordinance, during which time an application for final site plan approval shall be submitted and the final site plan shall be considered for approval using the procedures and substantive standards under the ordinance in effect at the time of submission of the preliminary site plan.

1. In the case of a preliminary site plan that has been approved prior to the effective date of this Ordinance, but for which an application for final site plan approval has not been submitted, the preliminary site plan approval shall be effective for a period of one (1) year from the effective date of this Ordinance, during which time an application for final site plan approval shall be submitted and such final site plan shall be considered for approval using the procedures and substantive standards under the ordinance in effect at the time of submission of the preliminary site plan. In the event a final site plan is not submitted within the one (1) year periods described above, the preliminary site plan approval shall expire and any subsequent request for site plan approval shall comport with and be reviewed under the procedures and standards of this Ordinance."

End of Article 4

**Article 5
PROCEDURES and STANDARDS for SPECIAL LAND USES**

Section 5.01 Purpose

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

Section 5.02 Procedures

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

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

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

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

B. Planning Commission Action:

1. **Review:** The Planning Commission shall review the application and plans and any comments received by reviewing parties, and determine their conformity with the applicable provisions of this Ordinance including Sections 4.05 and 5.06.
2. **Public Hearing:**
 - a. Upon certification that the application materials are complete, the Planning Commission shall publish a notice of public hearing on the special land use application which shall:
 - 1) Describe the nature of the special land use request.
 - 2) Indicate the property which is the subject of the special land use request.
 - 3) State when and where the request will be considered.
 - 4) Indicate when and where written comments will be received concerning the request.
 - b. Notice shall be published in a newspaper of general circulation in the Township and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to which real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Notice shall be given not less than five (5) and not more than fifteen (15) days before the public hearing.
 - 1) If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains

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more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

3. Planning Commission Action/Preliminary Site Plan: Upon review of the preliminary special land use application including the preliminary site plan, all supporting materials, and the public hearing comments, the Planning Commission shall deny, approve, or approve with conditions the preliminary application for special land use approval including the preliminary site plan. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the Planning Commission shall refer to and be guided by the site plan standards set forth in Section 4.05, the general special land use standards set forth in Section 5.06, and the specific special land use standards set forth elsewhere in this Article. A request for approval of a land use or activity which is in compliance with those standards, other applicable ordinances, and state and federal statutes shall be approved. See Section 20.01 regarding conditional approvals.
4. Final Site Plan Approval Required: No construction activities shall be initiated nor shall any zoning permit be issued for a special land use for which preliminary approval has been granted under (3) above until a final site plan for such special land use has been approved pursuant to Section 4.04 . Approval of such site plan may include conditions to ensure the intent of spirit of the approval granted under (3) above is maintained. See Section 20.01 regarding conditional approvals.

Section 5.03 Appeals

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

Section 5.04 Reapplication

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

Section 5.05 Changes

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

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

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

Section 5.06 Approval Standards

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

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

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

*Additional Sections to be Forthcoming Addressing Specific Development Standards
for Specific Special Land Uses.*

End of Article 5

Article 6
ZONING BOARD of APPEALS (ZBA)

Section 6.01 Purpose

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

Section 6.02 Creation and Membership

A. Establishment and Appointment of Members: The ZBA first established by the Birch Run Township Zoning Ordinance adopted on August ____, 1984 is hereby retained in accordance with Act 184 of the Public Acts of 1943, as amended, and shall consist of five members: a member of the Planning Commission; and the remaining members appointed by the Township Board from the electors residing in the Township outside of incorporated cities and villages. A member of the Township Board may serve on the ZBA but not serve as the chairperson. The Zoning Administrator or other employee or contractor of the Township Board may not serve on the ZBA.

1. **Alternate Members:** The Township Board may appoint not more than two (2) alternate members for the same term as regular members of the ZBA. No alternate member may be either a member of the Township Board or the Planning Commission. The alternate members may be called as needed, on a rotating basis, to sit as regular members of the ZBA in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the ZBA or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

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

C. Conflict of Interest: A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office.

Section 6.03 Organization

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

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

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

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

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

Section 6.04 Jurisdiction

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The Board shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters so specified in this Ordinance including appeals regarding an administrative review, interpretations, and variances.

Section 6.05 Appeals for Administrative Reviews

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

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

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

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

Section 6.06 Interpretations

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

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

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

Section 6.07 Variances

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

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

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

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

Section 6.08 Procedures

A. Application

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

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stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the ZBA, or, on application, by court of record.

B. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall be given in the same general manner as required by Section 5.02(B)(2)(b) for special land uses. In the case of an application for a variance or appeal for an administrative review, notice shall be given to all owners of an interest in lots, as recorded on the Township tax roll, within three-hundred (300) feet of the boundary of the property in question. Notice shall provide the date, time and place of the hearing at which the matter will be considered. Upon the hearing, any party may appear in person or by agent or attorney.

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

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

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

Section 6.09 Review By Circuit Court

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

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

End of Article 6

Article 7
PROCEDURES FOR AMENDMENTS

Section 7.01 Purpose

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

Section 7.02 Initiation Of Amendments

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

Section 7.03 Procedures

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

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

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

C. Planning Commission Action

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactory and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. The Township Clerk shall give notice of the public hearing in the following manner:
 - a. By two (2) publications in a newspaper of general circulation in the Township, the first to be printed not more than thirty (30) days, nor less than twenty (20) days and the second no more than eight (8) days before the date of the hearing.
 - b. For any proposed amendment to the Zoning Map affecting an individual property or several adjacent properties, written notice of the time, place, date and purpose of the hearing shall be delivered by mail, or personally, to the owner or owners of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of single and two family dwellings within three hundred (300) feet of the premises in question. The notice shall be delivered at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. The notice shall be made at least eight (8) days prior to the hearing. Requirements of written notice to property owners shall not apply to comprehensive revisions to the Zoning Ordinance.

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- c. Written notice of the date, time and place of the hearing shall also be provided not less than twenty (20) days before the hearing to each electric, gas, pipeline, and telephone public utility company who registers its name and mailing address with the Planning Commission for the purpose of receiving the notice.
 - d. All notices shall also include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined.
 - e. An affidavit of all mailings shall be maintained.
2. Planning Commission Review: In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application. Findings of fact shall be gathered and shall be made a part of the public records of the meetings of the Planning Commission.
- a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
 - 1) What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?
 - 2) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
 - 3) What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
 - 4) Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property?
 - 5) Is the site's physical, geological, hydrological and other environmental features compatible with the host of uses permitted in the proposed district?
 - 6) Is the subject property able to be put to a reasonable economic use in the District in which it is presently located?
 - 7) Does the petitioned district change generally comply with the Birch Run Township Master Plan and other planning goals and policies of the Township?
 - 8) Is the proposed rezoning consistent with the zoning classification of surrounding land?
 - 9) Can all requirements in the proposed zoning classification be complied with on the subject parcel?
 - b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
 - 1) Is the proposed amendment supported by documentation, such as from the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
 - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively deal with certain zoning issues?
 - 3) Is the proposed amendment supported by significant case law?
 - c. In determining the above mentioned findings of fact, the Planning Commission may solicit information and testimony from officials of, but not limited to, the County Health Department, County Road Commission, County Drain Commission, County Sheriff Department, and any school district affected.
3. Planning Commission Recommendation: The Planning Commission shall transmit its findings of fact, recommendations for disposition of the application, and a summary of comments received at the public hearing to the Township Board. The Planning Commission shall simultaneously transmit its recommendations for disposition of the application to the Saginaw County Metropolitan Planning Commission (SCMPC) pursuant to the Township Zoning Act. If the Planning Commission has not received comments from the SCMPC within thirty (30) days after receipt of the Planning Commission's findings of fact and recommendations for disposition of the application, it shall be conclusively presumed that the SCMPC has waived its right for review and recommendation of the amendment.

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D. Township Board Action

1. After receiving and reviewing the findings and recommendations of the Township Planning Commission, and the recommendations of the SCMPC, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
 - a. The Township Board may hold additional public hearings if the Township Board considers it necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper which circulates in the township. The notice shall be published not more than fifteen (15) days nor less than five (5) days before the hearing.
2. The Township Board shall not deviate from the recommendation of the Township Planning Commission without first referring the application back to the Township Planning Commission to make further recommendation to the Township Board, after which the Township Board shall take such action as it determines. In the event that the Township Board considers amendments advisable, the Board shall refer the amendments to the Planning Commission for a report thereon within the time specified.
 - a. After receiving the report specified in (D)(2) above, the Township Board shall grant a hearing on the proposed amendment to any property owner who has filed a written request to be heard. This written request shall take the form of a certified mail letter from the property owner to the Township Clerk. The Planning Commission shall be requested to attend the hearing, which may be held at a regular meeting or at a special meeting called for that purpose.

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

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

Section 7.05 Resubmittal

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

Section 7.06 Comprehensive Review Of Zoning Ordinance

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

End of Article 7

Article 8
RESERVED for FUTURE USE

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End of Article 8

Date: September 20, 2003
To: Birch Run Township Planning Commission, Township Board, and Zoning Board of Appeals
From: Mark A. Eidelson, AICP
Re: *Extraction Operations*

As I have previously noted in my 8-25-03 correspondence, and as we discussed at our 9-8-03 meeting, the current Birch Run Township Zoning Ordinance regulates mineral extraction/quarries as a special land use and includes the provisions of Section 16.14(9). However, the Ordinance lacks any definition for "Sand, Clay, or Gravel Pits, Quarries." I raised the issue at the meeting that without a definition for these activities, it is open for variable interpretation as to if and under what circumstances the provisions of Section 16.14(9) apply. I had offered to present alternative definitions for consideration by the Township. Please find below several definitions for "extraction operations" for your consideration. It is my hope that we can identify at our 9-29-03 meeting a suitable definition, whether it is one of the below or some version thereof.

Definition #1

Extraction Operation: The removal, extraction, or mining of sand, gravel or similar material on a parcel, for commercial gain and/or use on another parcel(s) where the total yearly cubic yards of extracted material exceeds ten thousand (10,000) or where the total surface area disturbed by such extraction activities exceeds two (2) acres during any twelve (12) month period.

Definition #2

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

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

Definition #3

Extraction Operation: The removal, extraction, or mining of sand, gravel or similar material on a parcel, for use on another parcel(s) or site(s)

Definition #4

Extraction Operation: The removal, extraction, or mining of sand, gravel or similar material for purposes other than household gardening, general farming, erection of a structure or building for which a zoning permit has been issued

As you review the above definitions please note that the definitions generally increase in applicability. For example, Definition #4 is the most encompassing definition while under Definition #1, small extraction operations may not necessarily fall under the definition and the ordinance's regulations pertaining to such activities. As a general rule, I recommend pursuing Definition #4 (or some similar version thereof) as it most effectively minimizes unintended consequences and negative impacts associated with supposedly "small" or "every now and then" operations (some of which seem to grow to major enterprises). Please call if you have any questions.

