

**BIRCH RUN TOWNSHIP BOARD OF TRUSTEES
SPECIAL JOINT MEETING BETWEEN THE PLANNING COMMISSION/ TOWNSHIP
BOARD AND ZBA
OCTOBER 20, 2003**

The Planning Commission Chairman for the purpose of rewriting the Zoning Ordinance Book called a special joint meeting. Chairman Al Hunter called the Special Joint Meeting/Workshop to order at 7:05 P.M. Present for the Birch Run Township Board were Amy Cook, Clerk; Debbie Trevino, Treasurer; Dave Stewart, Ed Magnus, and Joanne Strahm, Trustees. Present for the Planning Commission were Al Hunter, Diane Timmons, and, Jim Totten. Present for the ZBA were Jerry Cook and Mike Marr. Mike Setzer the Building Administrator was also present. There was no one in the audience.

A quorum was present for the Township and ZBA Boards.

Motion by Ed Magnus supported by Joanne Strahm to approve the September 29, 2003 minutes.

Motion carried 5-0

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

Article 9: ESTABLISHMENT OF DISTRICTS

9.04 (7) INTERPRETATION OF DISTRICT BOUNDARIES: Mark will add a section that will define what restrictive means.

9.06 (B) SITE DEVELOPMENT REQUIREMENTS OF ZONING DISTRICTS: Change sentence from "Article 14" to "Article 13."

9.07 (B) SPECIAL DISTRICT PROVISIONS: Forward a copy of this section to the Mobile Home Commission

TABLE 9-1 PURPOSES OF ZONING DISTRICTS

No changes made

TABLE 9-2 PERMITTED PRINCIPAL USES IN CONSERVATION AND RESIDENTIAL DISTRICTS

No changes made

TABLE 9-3 PERMITTED PRINCIPAL USES IN COMMERCIAL AND INDUSTRIAL DISTRICTS

#1 Uses of a Primarily Residential Character: Delete this line.

Insert racetrack as a special land use in the C-1 District.

#11 Mini-storage facilities: Delete this line.

#1 Uses of a Primarily Commercial Character: Add to this section that big retail businesses will be allowed in the I-1 District by special land use as long as they are over 10,000 square feet.

#22 Delete the word "indoor" that is used before the word theaters

TABLE 10-4 SITE DEVELOPMENT REQUIREMENTS

Change the table name to 9-4 SITE DEVELOPMENT REQUIREMENTS

Zoning District A-1 and A-2: Increase minimum lot width to meet the 4-1 ratio

Footnotes #5: Include M-83 as a road that requires a minimum lot width and frontage of 300 feet to gain direct access to it.

Footnotes #6: Delete the phrase "buildings and" from this sentence.

Article 10: OPEN SPACE COMMUNITY (OSC) OVERLAY DISTRICT

10.01 PURPOSE: Change wording from "site can be largely undisturbed.." to "site will be largely disturbed.."

10.03 PROCEDURES FOR OPEN SPACE COMMUNITIES:

A. Paying fees will be set by the Township Board

#3 Recording of Approval Action and Permit Issuance: Change the wording that a plan is "approved by the Township Board" to "approved by the Planning Commission."

10.05 OSC DESIGN STANDARDS

M. SCHEDULED PHASING: A section will be added that a builder must commence construction of the initial building within twenty four months from the day that the permit is issued or the builder will have to resubmit for a site plan.

Another meeting is scheduled for Wednesday, October 12, 2003, 7:00 pm and Monday, December 1, 2003.

Motion by Debbie Trevino supported by Jerry Cook to Adjourn at 10:04 pm.

Motion carried

**Amy Cook
Township Clerk**

Date: October 7, 2003
To: Birch Run Township Planning Commission, Township Board, ZBA, and Zoning Administrator
From: Mark A. Eidelson, AICP
Re: Additional Draft Portions of the New Zoning Ordinance, Articles 9 – 14, 21

Attached please find the second portion of the new draft Zoning Ordinance. The accompanying materials, comprised of Articles 9 – 14, and 21, consist of the zoning district regulations, open space communities (OSCs), planned unit developments (PUDs), nonconformities, and definitions. As you review this material, please note the following:

1. **Article 9:** Article 9 includes very important tables. Table 9-1 identifies the purpose of each proposed District. Table 9-2 and 9-3 identify the uses permitted in each District. Table 9-4 identifies the basic site development requirements for each District. The overall scheme for the Districts is based upon the decisions made at the previous orientation meetings. A community can exercise considerable discretion regarding what uses should be permitted in each District, and which should be “permitted by right” and by “special land use.” Tables 9-2 and 9-3, delineating permitted uses in each District, is based upon the Master Plan, comments during the orientation meetings, and my professional discretion. Table 9-4 presents basic site development requirements for each District. I have attempted to carry over the current Ordinance's standards into this Table except where doing so would be contrary to our discussions during the orientation meetings.
2. **Article 10, Open Space Communities Overlay District:** This Article is the vehicle to facilitate what we have been referring to as “clustering” and “open space developments.” The Article establishes the procedure for reviewing such an application and the standards that must be met for approval. This Article also addresses the requirements of PA 177 of 2001.
3. **Article 11, Planned Unit Development District:** Planned unit developments (PUDs) allow for development projects that are viewed as beneficial to the Township but, because of the limitations of the zoning district standards, could not be pursued (such as a mixed use development consisting of commercial and residential uses). Nearly all modern zoning ordinances incorporate PUD provisions, and they are expressly authorized by the Township Zoning Act. This is not to suggest that the Township is under any legal obligation to include such provisions. I recommend the Township consider these provisions as a means to more effectively encourage “good” development and provide flexibility in the Ordinance without undermining the Township's development goals.
4. **Article 21, Definitions:** Article 21 includes important terms and definitions. The majority of the definitions are not identical to the current Ordinance, although they are very similar in substance. I have tried, in many cases, to simplify and clarify definitions, and maintain consistency between the definitions and how the terms are used in the text of the Ordinance. Refer to this Article frequently to assure you are interpreting terms correctly. It may be beneficial for you to review or skim through this Article first so you have a general understanding of the scope of terms it addresses.

As I customarily point out, this material is DRAFT and serves as a starting point to clarify specific District provisions. 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. We are scheduled to meet again on October 20 to begin our review of this material. For the purposes of this meeting, I recommend you focus your review on Articles 9, 14, and 21 as I am sure we will not get to Articles 11 or 12 at the next meeting. As I noted at our last meeting, I will be bringing the balance of Article 5 (development standards for special land uses) and an updated Table of Contents to the October 20 meeting. Please do not hesitate to call if you have any questions.

Article 9
ZONING DISTRICTS, REGULATIONS, and MAP

Section 9.01 Establishment of Districts

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

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

Section 9.02 Purposes of Zoning Districts

See Table 9-1.

Section 9.03 Zoning District Map

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

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

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

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

Section 9.04 Interpretation Of District Boundaries

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

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

Section 9.05 Permitted Uses in Zoning Districts

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

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

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

C. **Accessory Uses:** Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to, and customarily associated with the principal use of the property, are permitted in all Districts and shall conform to all applicable standards of this Ordinance, including Section 20.____ (Keeping of Animals), Section 20.____ (Accessory Uses, Buildings, and Structures), and Section 20.____ (Home Occupations).

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

that use. If the Ordinance is amended to include the new regulations, then an application can be processed to establish that use.

Section 9.06 Site Development Requirements of Zoning Districts

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

1. Article 15: Signs
2. Article 16: Off-Street Parking and Loading
3. Article 17: Landscaping and Screening
4. Article 18: Environmental Standards
5. Article 19: Access Controls and Private Roads
6. Article 20: General Provisions

B. Variances from required site development standards may be granted by the Zoning Board of Appeals according to Article 6. Owners of nonconforming lots of record, structures, or uses should refer to Article 14.

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

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

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

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

Section 9.07 Special District Provisions

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

A. R-MF: Multiple Family District

1. Minimum lot size shall be one (1) acre for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit. In the case where public sewer is available, the minimum lot size shall be twenty thousand (20,000) sq. ft. for the first three (3) dwelling units, and an additional two thousand five hundred (2,500) square feet for each additional dwelling unit.
2. All buildings shall be set back from all lot lines a minimum of forty (40) feet.
3. Maximum building heights shall not exceed forty (40) feet, except that maximum building heights shall not exceed two (2) stories or thirty (30) feet where such buildings exceed two-hundred (200) feet in length or are within one hundred fifty (150) feet of an R-1 District.
4. The distance between any two (2) residential structures which occupy the same lot shall be not less than thirty (30) feet if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations.
5. There shall be provided easily accessible and usable open space in the development in an amount of ten percent (10%) or more of the site area or five hundred (500) square feet per four dwelling units, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided.
6. All access drives shall have a minimum pavement width of thirteen (13) feet for one-way streets, and twenty-four (24) feet for two-way streets.
7. Accessory buildings, structures, and uses that are clearly customary and incidental to the functioning of the development are permitted, including an office for conducting the business of the development, utility areas for

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laundry facilities and auxiliary storage for tenants, recreation areas such as community buildings, playgrounds, and open space for tenants, and administrative offices.

8. All developments shall provide for underground installation of all utilities where feasible.
9. The minimum floor area for multiple family dwelling units shall be as follows:
 - a. Efficiencies: 400 sq. ft. of heated living area.
 - b. One bedroom units: 750 sq. ft. of heated living area.
 - c. Two bedroom units: 850 sq. ft. of heated living area.
 - d. Three bedroom units: 950 sq. ft. of heated living area.
 - e. Four or more bedroom units: 1,050 sq. ft. of heated living area, plus 100 sq. ft. of heated living area for each additional bedroom in excess of the fourth bedroom.

B. R-MHC: Manufactured Housing Community District

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, a preliminary plan shall be submitted to the Township for review by the Township Board. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and Township Board shall generally follow the procedures and requirements in Article 4 of this Ordinance, where applicable, except where said procedures and requirements are superseded by the requirements in P.A. 96 of 1987, as amended, or the Mobile Home Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Township Board shall take action on the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission pursuant to the authority vested in the Mobile Home Commission by such Act. The construction of a mobile home park shall not be initiated, nor shall a mobile home park be inhabited or operated until all necessary permits have been acquired from state agencies and all other agencies pursuant to the Mobile Home Commission Act.
3. In addition to complying with the provisions of P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Mobile Home Commission, the following standards and provisions shall apply:
 - a. Minimum Parcel Size: The minimum parcel size for a manufactured housing community shall be ten (10) acres.
 - b. Minimum Site Size: The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square foot standard for any one site may be reduced by twenty (20) percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941, Rules 941 and 944 of the Michigan Mobile Home Commission General Rules.

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

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

Table 9-1 Continued on Next Page

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Table 9-1 (Purpose of Zoning Districts) Continued:

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

End of Table 9-1

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

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

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

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

See Footnote #1 at End of Table.

Table 9-2 Continued on Next Page.

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(Table 9-2 continued)

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

Footnotes for Table 9-2

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

End of Table 9-2

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

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

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

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

See Footnote #1 at End of Table.

Table 9-3 Continued on Next Page.

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Table 9-3 Continued (Permitted Principal Uses in Commercial and Industrial Districts)

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

Table 9-3 Continued on Next Page.

1. See Footnote #1 at End of Table.

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Table 9-3 Continued (Permitted Principal Uses in Commercial and Industrial Districts)

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

Footnotes for Table 9-3

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

End of Table 9-3

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Table 10-4
Site Development Requirements¹

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage ²	Maximum Building Height	Minimum Floor Area Per Dwelling (sq. ft.)	Maximum Lot Coverage	Minimum Yard Setback		
						Front ³	Side	Rear
A-1	5 acres	200 ft. ⁵	35 ft.	1,200 ⁷	5%	50 ft.	15 ft. each ⁴	40 ft.
A-2	3 acres	175 ft. ⁵	35 ft.	1,200 ⁷	10%	50 ft.	15 ft. each ⁴	40 ft.
R-1	1 acre	150 ft. ⁵	35 ft.	1,200 ⁷	10%	30 ft.	10 ft. each ⁴	30 ft.
R-2	<u>SFD</u> : 1 acre w/o public sewer, otherwise 12,500 sq. ft.; <u>TFD</u> : 1 acre w/o public sewer, otherwise 15,000 sq. ft.	150 ft. w/o public sewer, otherwise: <u>SFD</u> : 70 ft. <u>TFD</u> : 75 ft.	35 ft.	<u>SFD</u> : 1,200 ⁷ <u>TFD</u> : 900 ⁷	25%	30 ft.	10 ft. each ⁴	30 ft.
R-3	<u>SFD</u> : 1 acre w/o public sewer, otherwise 8,000 sq. ft.; <u>TFD</u> : 1 acre w/o public sewer, otherwise 10,000 sq. ft.	150 ft. w/o public sewer, otherwise: <u>SFD</u> : 55 ft. <u>TFD</u> : 65 ft.	35 ft.	<u>SFD</u> : 1,200 ⁷ <u>TFD</u> : 900 ⁷	35%	30 ft.	10 ft. each ⁴	30 ft.
R-MF	See Section 9.07(A)							
R-MHC	See Section 9.07(B)							
C-1	1.50 acres	200 ft. ⁵	40 ft.	NA	50%	40 ft.	10 ft. ⁹	20 ft. ⁹
C-2	1.50 acres	200 ft. ⁵	40 ft.	NA	50%	50 ft.	10 ft. ⁹	20 ft. ⁹
I-1	1.50 acres	200 ft. ^{5,8}	35 ft.	NA	50%	40 ft.	20 ft. ⁹	20 ft. ⁹

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

See Following Page for Footnotes

Footnotes for Table 9-4

1. All uses shall comply with the site development requirements in Table 9-4, unless otherwise specified by Article 5 – Standards for Specific Special Land Uses or Article 20 – General Provisions, or otherwise authorized pursuant to Article 12 – Open Space Communities Overlay District or Article 12 – Planned Unit Development District. In addition, all uses shall comply with all other applicable site development provisions of this Ordinance, including, but not limited to, the following Articles: Article 15 - Signs; Article 16 - Off-Street Parking and Loading; Article 17 - Landscaping and Screening; Article 18 -- Environmental Protection, Article 19 – Access and Private Roads.
2. The depth of a lot shall not exceed 4 times its width. A lot served by a shared driveway shall have frontage on such shared driveway for a minimum continuous length of sixty-six (66) feet.
3. Front yard setback shall be measured from the road right-of-way.
4. On a corner lot, a minimum 25' side yard setback shall be maintained along the side yard abutting the road.
5. The minimum lot width and frontage shall be increased to three-hundred (300) feet for any lot that gains direct access to M-54 or Dixie Highway.
6. The maximum height of farm buildings and structures shall be eighty-five (85) feet. See Section 20.____ for additional height exceptions.
7. The minimum floor area of dwelling units shall comply with the following:
 - a. Single Family Dwellings: Each dwelling unit shall have a minimum of one thousand two hundred (1,200) square feet of heated living area. In the case of a dwelling unit composed of two (2) or more stories, the dwelling unit shall have a minimum of seven hundred fifty (750) square feet of heated living area on the first story.
 - b. Two Family Dwellings: Each dwelling unit shall have a minimum of nine hundred (900) square feet of heated living area. In the case of a dwelling unit composed of two (2) or more stories, the dwelling unit shall have a minimum of six hundred (600) square feet of heated living area on the first story.
8. The minimum lot width/frontage requirement may be reduced by 50% where a lot is located within an industrial park and gains direct access from a road serving the interior of such park.
9. Minimum setback to be increased to 100 feet where the yard abuts a Conservation or Residential District.

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End of Article 9

Article 10
OPEN SPACE COMMUNITY (OSC) OVERLAY DISTRICT

Section 10.01 Purpose

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

Section 10.02 Overlay District

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

Section 10.03 Procedures For Open Space Communities

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

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

Section 10.04 Approval Standards

A. **Design and Compatibility Standards**: An application for an OSC shall comply with the following:

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

Section 10.05 OSC Design Standards:

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

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

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

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

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

D. Permitted Accessory Uses:

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

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

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

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

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

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

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

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

I. Utilities:

1. The OSC shall provide for underground installation of all utilities.
2. An OSC permit shall not be issued unless public water and sanitary sewer service is provided to the development if such service is available.
3. Provisions shall be made for appropriate storm water management, including the construction of necessary storm water facilities. The storm water system may include the establishment of detention or retention basins, and

associated infrastructure. Storm water management systems shall minimize alterations to the natural topography and drainage patterns of the site.

4. Fire protection measures shall be provided in all OSCs which provide public water, and in OSCs which are generally characterized by lots of approximately one half (1/2) acre or less in size where such lots are clustered or otherwise generally adjacent to one another. Fire protection measures shall include an adequate on-site source of water for use by the local fire department and associated infrastructure to enable the local fire department to effectively respond to a fire emergency.

J. Access and Circulation:

1. Access:

- a. The nearest edge of any entrance or exit drive for a OSC shall be located no closer than two hundred (200) feet from any existing street or road intersection, as measured from the nearest intersection right-of-way line.
- b. All dwellings shall gain access from an interior road within the OSC.
- c. An OSC may include private roads provided such roads meet the review and approval requirements of this Ordinance (see Article 19).

2. Pedestrian Circulation: A pedestrian circulation system may be required along one side of, or all of, the internal roads of the OSC. The exact location, alignment and design features of the pedestrian ways shall be jointly agreed upon by the applicant and the approving body, and shall be coordinated with existing or planned pedestrian ways and roads in the area. The pedestrian circulation network shall assure ease of access from residences to the designated open space areas.

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

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

M. Scheduled Phasing:

1. Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.
2. Timing of Phases: Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved final site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted following review of a formal request for extension by the owner and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the case of fraud or violation of the terms of the original approval.

Section 10.06 Waiver of Standards

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

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

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

End of Article 10

Article 11 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

Section 11.01 Purpose

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

Section 11.02 PUD Is A Separate District

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

Section 11.03 Minimum Eligibility Criteria

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

Section 11.04 Use and Design Standards

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

B. General Site Development Standards and Waivers: The site development standards for all proposed individual land uses and facilities in a PUD shall conform to this Ordinance, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road widths, and similar requirements, except that the Township Board may waive such standards where such modifications will result in a higher quality of development than would be possible without the modifications.

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

Section 11.05 Approval Standards

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

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

Section 11.06 Procedure for Review and Approval

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

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

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

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

C. Final Plan and Permit Issuance

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

Section 11.07 Phasing

- A. Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PUD and residents of the surrounding area.
- B. In developments which include residential and nonresidential components, the phasing plan shall provide for completion of at least thirty-five percent (35%) of all proposed residential units concurrent with the first phase of any nonresidential construction; completion of at least seventy-five percent (75%) of all proposed residential construction, concurrent with the second phase of nonresidential construction; and completion of one hundred percent (100%) of all residential construction prior to the third phase of nonresidential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined at the discretion of the Planning Commission. Such percentages may be modified should the Planning Commission determine that the applicant presented adequate assurance that the residential component or components of the project will be completed within the specified time period.

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End of Article 11

Article 12
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Article 13
NONCONFORMING LOTS, USES, and STRUCTURES

Section 13.01 Purpose

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

Section 13.02 Nonconforming Lots

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

1. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for area, width, and/or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used or divided in a manner which diminishes compliance with lot area, width, and/or frontage requirements established by this Ordinance.

Section 13.03 Nonconforming Uses

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

1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
2. No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
4. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of less nonconformance, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
5. If a nonconforming use of a parcel or lot ceases for any reason for a period of more than one hundred and eighty (180) consecutive days, the subsequent use of such parcel or lot shall conform to the regulations and provisions of this Ordinance for the District in which such lot or parcel is located.

6. Any use of land or structure, or combination thereof, that is superseded by a permitted use, shall thereafter conform to the regulations for the District in which such use is located, and the nonconforming use may not thereafter be resumed.

Section 13.04 Nonconforming Structures

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

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

Section 13.05 Repairs and Maintenance

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

B. Nonconforming Use: On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten (10) percent of the then building's replacement cost prior to the initiation of repairs, exclusive of foundations, provided that the cubic content of the building as it existed at the time of passage or amendment of this Article shall not be increased. No structural alterations shall be made to bearing walls or foundations.

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

Section 13.06 District Changes

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

Section 13.07 Illegal Nonconformities

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

Section 13.08 Nonconforming Signs

The provisions of this Article shall not apply to nonconforming signs. See Article 15.

Section 13.09 Hardship Cases

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

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Article 21
DEFINITIONS

Section 21.01 Construction of Language

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

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

Section 21.02 DEFINITIONS

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

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

Adult Entertainment Business: Any business, club or organization where one or more persons display "*specified anatomical areas*" or engage in "*specified sexual activities*", either in person or by photograph, motion picture, television or other type of image. This definition includes the following: "*adult book store*," "*adult cabaret*," "*adult motel*," "*adult novelty shop*," "*adult theater*," "*massage parlor*," "*public bath*" and "*taxi dance hall*." Additional terms and definitions applicable to "adult entertainment business" shall be as follows:

- 1. **Adult Book Store:** An establishment partly or wholly devoted to the display, sale or rental of books, magazines or other periodicals, video tapes, photographs or motion picture films which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "*specified sexual activities*" or "*specified anatomical areas*" as defined by this Section, where the floor area or shelf space devoted to such material and accessible to customers exceeds fifteen percent (15%) of the total floor area or shelf space accessible to customers, or where

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- more than thirty percent (30%) of the total floor area is devoted to such material, irrespective of the public's ability to access all such floor area or shelf space.
2. Adult Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - a. persons who appear in a state of semi-nudity or nudity; or
 - b. live performances which are characterized by the exposure of "specified sexual activities" or by "specified anatomical areas;" or
 - c. films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of "specified sexual activities" or by "specified anatomical areas;" or
 - d. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
 3. Adult Motel: A hotel, motel or similar commercial establishment which:
 - a. offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 - b. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - c. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.
 4. Adult Novelty Shop: Any establishment where the floor area or shelf space devoted to the sale of devices which stimulate human genitals or devices designed for sexual stimulation accounts for more than fifteen percent (15%) of the total floor area or shelf space accessible to customers, or where more than thirty percent (30%) of the total floor area is devoted to such material, irrespective of the public's ability to access all such floor area or shelf space.
 5. Adult Theater: Any establishment where, for any form of consideration:
 - a. films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
 - b. regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".
 6. Massage Parlor: An establishment in which a substantial or significant portion of the business conducted involves the administration of non-therapeutic massage, erotic touching, or fondling of such body areas as human genitals, pubic region, buttock, or breasts. The term "*massage parlor*" does not include medical or therapeutic massage services or any state licensed practitioners or medical or related services such as chiropractors or physical therapists.
 7. Nudity or State of Nudity: The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.
 8. Public Bath: An establishment providing common bathing facilities or hot tubs for use for a fee. Shower facilities, swimming pools, saunas and similar facilities intended as accessory uses in a school, health club, motel, or similar facility are not "*public baths*."
 9. Semi-Nude: A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.
 10. Specified Anatomical Areas: Human genitals, pubic regions, buttock, or any portion of the female breast below a point immediately above the top of the areola when less than completely and opaquely covered, in addition to human genitals in a discernibly turgid state, even if completely and opaquely covered.
 11. Specified Sexual Activities: Human genitals in a state of stimulation or arousal; acts of human or animal masturbation, sexual intercourse (homosexual or heterosexual), or sodomy; fondling of or erotic touching of human genitals, pubic region, buttock or female breast; bestiality; fellatio or cunnilingus; sadomasochistic abuse; and human excretory functions.
 12. Taxi Dance Hall: An establishment which provides dance partners for one or more dances as the direct or indirect result of payment of a fee.

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

Agricultural Service Establishments: Establishments which engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; veterinary services; and facilities used in the research and testing of farm products and techniques.

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

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

Artificial Pond: A body of water created other than by natural environmental conditions to cover, or be designed to cover, more than five thousand (5,000) square feet of land area. The term "artificial pond" shall also include such land areas subsequently inundated as a result of the artificial or man-made extension of a natural water body or artificial pond.

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

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

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

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

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

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

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

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

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

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

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

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

Collocation: The location by two or more communication providers on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the

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

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

Concentrated Livestock Operation: A farm operation which exceeds a total of one thousand (1,000) animal units for more than forty-five (45) days, continuously or intermittently, in any twelve (12) month period:

The number of animal units shall be measured as follows

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

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

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

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

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

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

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than 3 hours per day for an indefinite period, or not greater than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not greater than 3 hours while persons responsible for the children are attending religious services.

Day Care, Family Home: A private home in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by

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blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Day Care, Group Home: A private home in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to more than six unrelated minor children for more than 4 weeks during a calendar year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Family:

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

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

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

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

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

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

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

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

1. Family Home: A facility which provides foster care to six (6) or fewer persons.
2. Group Home: A facility which provides foster care to seven (7) or more persons.

Frontage: The total continuous length of the line separating said lot from the public or private right-of-way, and frequently identical to the front lot line. In the case of a lot that gains access from a shared driveway, the frontage shall be the line separating said lot from the shared driveway.

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

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

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

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

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

Hotel: See "Motel."

Hunt Club: Any indoor or outdoor facility, whether operated for profit or not, and whether public or private, which is principally designed for the use of bow and arrow or firearms for animal hunting or the shooting of moving targets such as skeet.

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

Kennel: A lot or premises on which seven (7) or more dogs, cats or similar domesticated animals, one (1) year of age or older, are kept either permanently or temporarily for the purposes of grooming, breeding, boarding, leasing, training, transfer, or sale.

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

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

Lot: A tract of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. *(see Figure 21-1 at end of this Section).*

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

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

Lot Coverage: The amount of a lot, stated in terms of percentage, that is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

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

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

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

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

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

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

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

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

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

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

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

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

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

Motel: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and

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similar appellations which are designed as integrated units of individual rooms under common ownership. A motel shall not be considered or construed to be a multiple family dwelling.

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

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

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

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

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

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

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

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

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

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

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

Planned Unit Development: A tract of land or lot, developed under single ownership or management as a separate neighborhood, community unit, or non-residential use, based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

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

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

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

Principal Use: The main use to which the premises are devoted and the main purpose for which the premises exist.

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

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

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

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

Restaurant, Drive-In: A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-in restaurant may or may not also have indoor seating, and may also be referred to as a drive-through restaurant.

Restaurant, Standard: An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

1. customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed;
2. a cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

The term "standard restaurant" shall not be interpreted to mean or include a drive-through restaurant.

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

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

Right-of-Way: A public or private street, road, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries referred to as right-of-way lines.

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

Road, Private: Any private way or means of approach, not dedicated for general public use.

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

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

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

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

Shooting Range: Any indoor or outdoor facility, whether operated for profit or not, and whether public or private, which is principally designed for the use of bow and arrow or firearms which are aimed at non-living and non-moving targets.

Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which is located upon any land or on or in any building, in such manner as to attract attention from outside the premises. *(Refer to Article 15: Signs, for additional definitions pertaining to signs.)*

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

Special Land Use: Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within a zoning district, but could present potential injurious effects upon the primary uses and

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structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing. Refer to Article 5: Procedures for Special Land Uses.

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

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

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

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

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

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

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

Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

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

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

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

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

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

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

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

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Figure 21-1
LOT TYPES

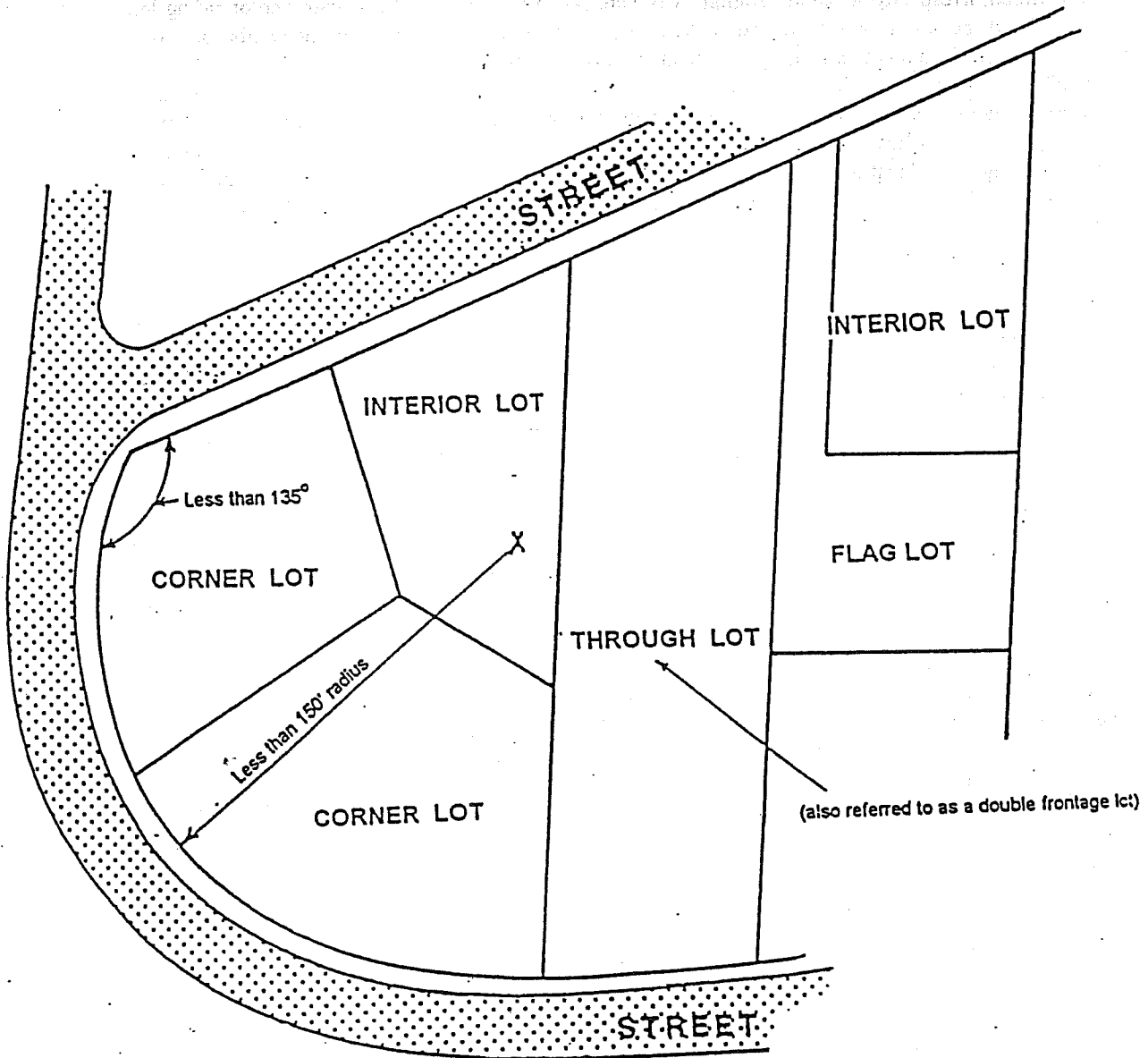
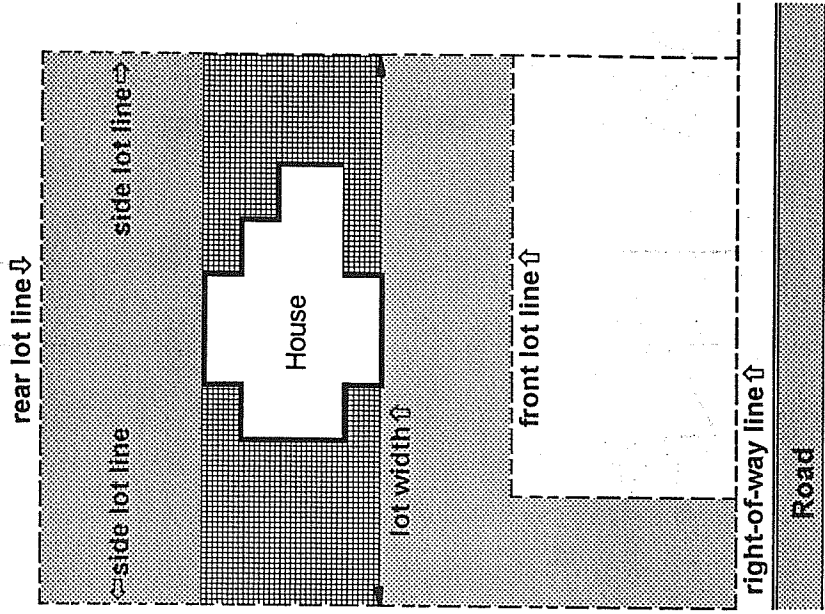
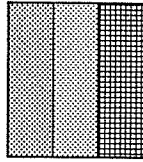


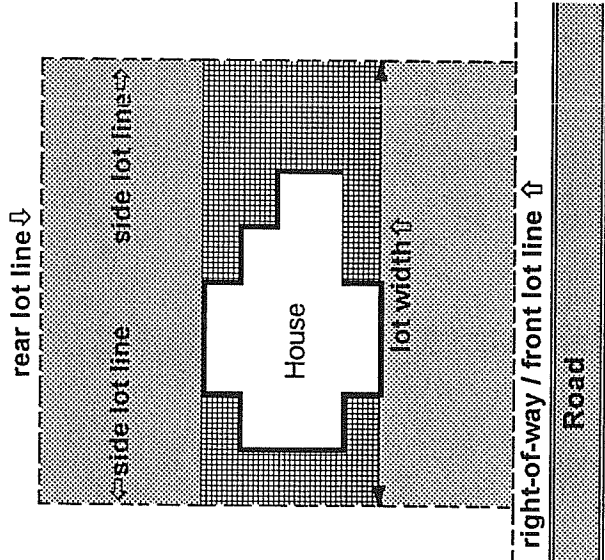
Figure 21-2
 LOT LINES and YARDS



FLAG LOT / PARCEL

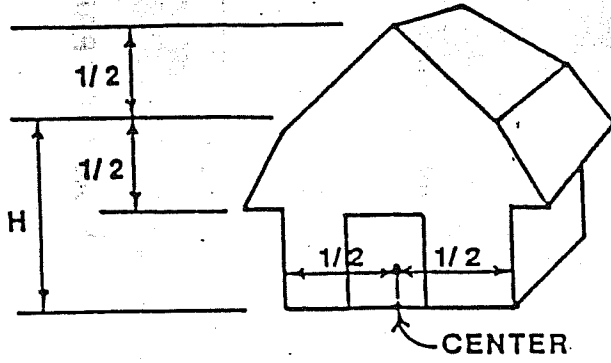


rear yard
 front yard
 side yard

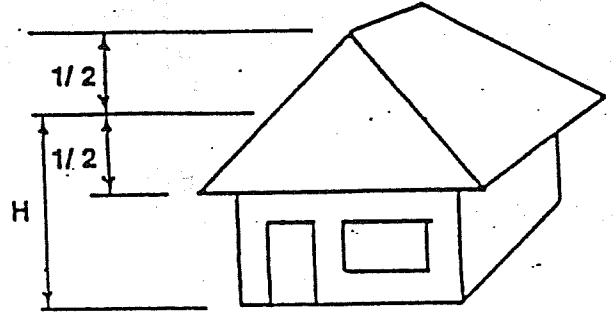


TYPICAL LOT / PARCEL

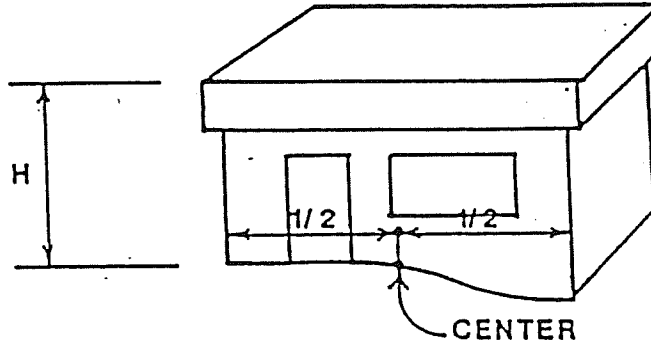
Figure 21-3
BUILDING HEIGHTS



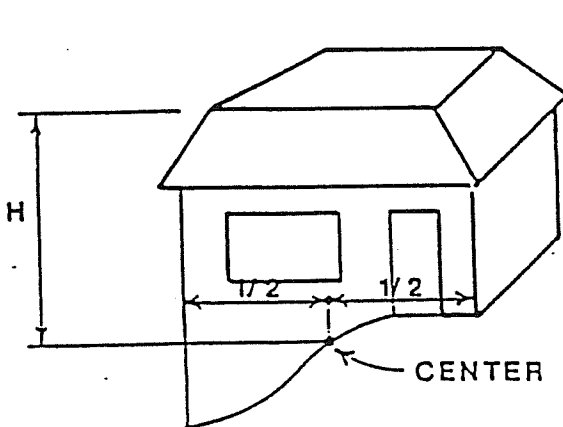
GAMBREL ROOF



HIP ROOF



FLAT ROOF



MANSARD ROOF



GABLE ROOF

End of Article 21