



# ZONING ORDINANCE

CHIKAMING TOWNSHIP · BERRIEN COUNTY, MICHIGAN

---

ADOPTED VERSION ·  
INCLUDING AMENDMENTS THROUGH MAY 29, 2020

# **Chikaming Township Zoning Ordinance**

**ADOPTED: October 24, 2019**

**EFFECTIVE: January 1, 2020**

**AMENDMENTS EFFECTIVE:**

**May 29, 2020**



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# **Article 1   Zoning Map**

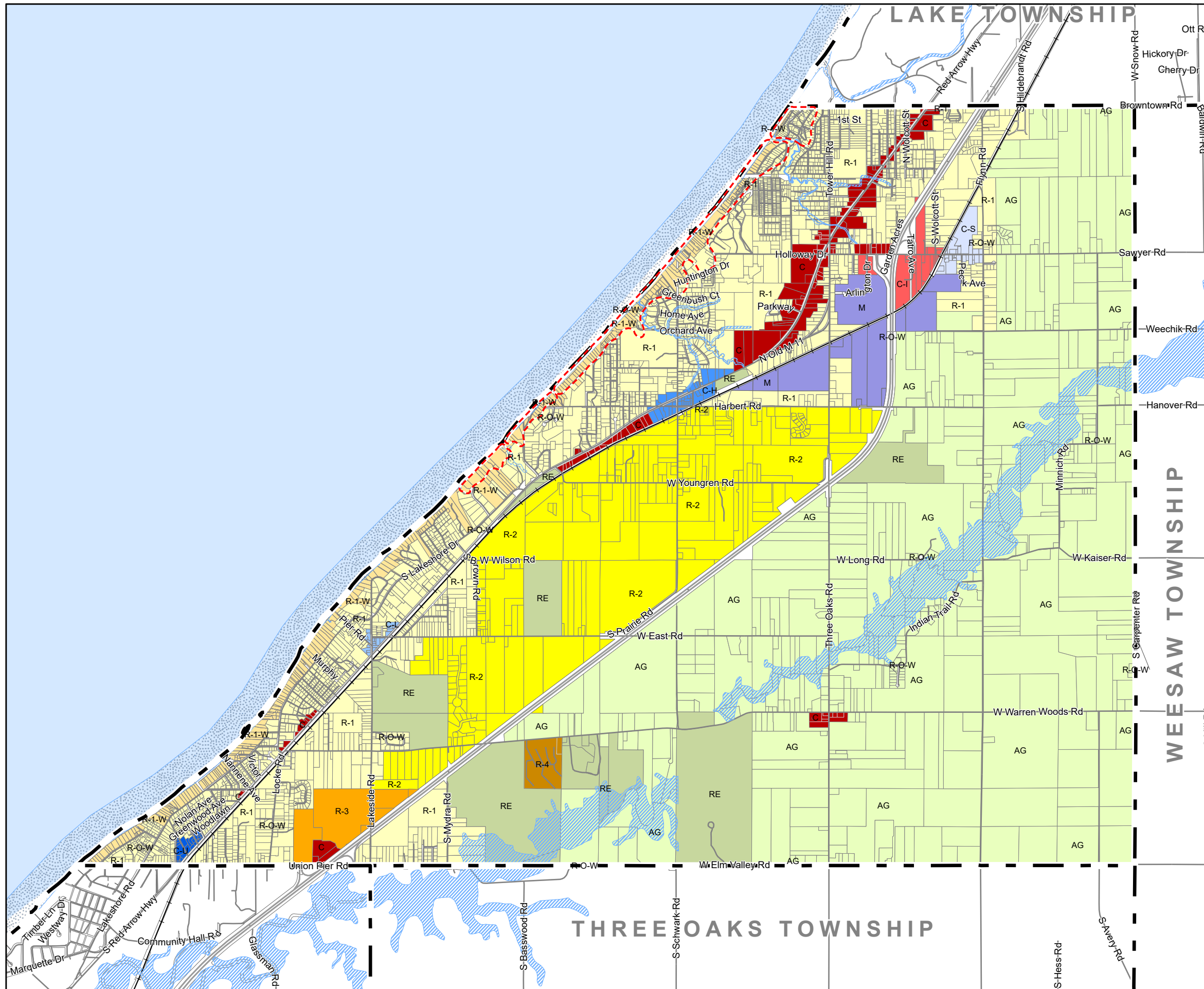


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# Zoning Map

Chikaming Township, Berrien County, MI

Effective May 29, 2020



## LEGEND

- R-1-W Waterfront Single Family
- R-1 Single Family
- R-2 Rural Estate
- R-3 Multiple Family
- R-4 Mobile Home Park
- C-1 Interchange Commercial
- C Commercial
- C-S Sawyer Mixed Use
- C-L Lake Side Mixed Use
- C-H Harbert Mixed Use
- C-U Union Pier Mixed Use
- M Light Industrial
- RE Recreation
- AG Agriculture
- Critical Dune Areas
- Floodplain (Flood Zone A)
- Floodplain (Flood Zone AE)



Basemap Source: Michigan Center for Geographic Information, Version 17a.  
Data Source: Chikaming Township 2020. McKenna 2020.

Insert Zoning Map Here

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## Article 2 Title, Purpose, and Scope

### Section 2.01 Title

This Ordinance shall be known as the “Zoning Ordinance of Chikaming Township.” Within the following text, it may be referred to as the “Ordinance” or the “Zoning Ordinance.”

### Section 2.02 Purpose

This Ordinance is based on the Chikaming Township Master Land Use Plan, approved by the Board of Trustees on June 12, 2015, and adopted on September 3, 2015 by the [Planning Commission](#), as the same may be amended from time to time, and is intended and designed to regulate the [use](#) of land, and to accomplish all of the following: to promote the public health, safety, and welfare; to designate land in appropriate locations for residence, recreation, industry, trade, service and other uses; to limit the inappropriate overcrowding of land and congestion of population, transportation, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs; to encourage the use of lands and [natural resources](#) in the Township in accordance with their character and adaptability; to limit the improper use of land; to meet the needs of the state's citizens for food, fiber, energy and other [natural resources](#), to provide for the orderly [development](#) of the Township; and to reduce hazards to life and property. This Ordinance is adopted with reasonable consideration, among other things, of the character and natural features of various areas of the Township, the suitability of each area for particular uses, the support of property values and the conservation of the natural character and features of the Township.

The intent of this Zoning Ordinance is to reflect the values of the Chikaming Township [Master Plan](#) which include:

1. Encourage [developments](#) with compact, walkable and economically sustainable commercial nodes.
2. Foster and maintain residential areas that are civil, beautiful, and peaceful.
3. Maintain and promote an environment that is vegetated and wooded.

### Section 2.03 Scope

- (A) The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this Ordinance are at [variance](#) with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.
- (B) Where any provision of this Ordinance conflicts with the provisions of an [easement](#), covenant, master deed, or other private agreement, whichever imposes a higher standard or requirement, as determined by the Zoning Administrator, shall apply.
- (C) The enforcement of regulations in this ordinance does not preclude the enforcement of private deed or plat restrictions by those who benefit from such restrictions, provided there is no conflict with the zoning regulations contained herein.. The Township shall have no authority or responsibility to enforce the provisions of deed or plat restrictions.
- (D) Zoning applies to every [building](#), [structure](#) or [use](#). No [building](#), [structure](#) or land shall be used or [occupied](#), and no [building](#) or [structure](#) or part thereof shall be [erected](#), moved; placed; reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.
- (E) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

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# Article 3 Table of Permitted Uses

## Section 3.01 Table of Permitted Uses

Use	AG	R-1	R-1-W	R-2	R-3	R-4	C	C-I	C-S	C-L	C-H	C-U	M	RE	Standards or Definition
P= Permitted By Right			S=Permitted by Special Use Permit						Blank = Prohibited						
Adult Day Care Home	P	P	P	P	P	P									<a href="#">6.02</a>
Agritourism	S			S			P	P						P	<a href="#">6.03</a>
Art Studio	P	S					P	P	P	P	P	P			<a href="#">6.04</a>
Bank							P	P	P	P	P	P			<a href="#">6.05</a>
Barber Shops/Beauty Shops							P	P	P	P	P	P			<a href="#">6.06</a>
Boarding Kennels (Commercial)	P			S			S	S							<a href="#">7.07</a>
Breeding Kennels (Commercial)	S														<a href="#">7.07</a>
Brewpub/Microbrewery/Distillery							P	P	P	P	P	P	S		<a href="#">6.07</a>
Bus Station							S	S	S	S	S	S			<a href="#">6.08</a>
Cemetery	S	S	S	S	S	S								S	<a href="#">6.09</a>
Child Care Center (Non-Home-Based)							S	P	S	S	S	S		S	<a href="#">6.10</a>
Child Day Care Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">6.11</a>
Commercial Livestock	P														<a href="#">7.07</a>
Commercial Lodging															<a href="#">6.12</a>
Bed and Breakfast	S	S	S	S	S	S	P	S	P	P	P	P			<a href="#">6.12.D</a>
Boarding House	S	S		S	S	S	S	S	S	S	S	S			<a href="#">6.12.E</a>
Boutique Hotel							P	P	P	P	P	P			<a href="#">6.12.C</a>
Campground	S							S						P	<a href="#">6.12.F</a>
Resort (including Detached Unit Resorts)	S	S		S	S		S	P			P				<a href="#">6.12.G</a>
Hotel/Motel							S	P							<a href="#">6.12.B</a>
Crop Cultivation	P	P		P	P								P	P	<a href="#">6.13</a>
Domestic Livestock	See <a href="#">Section 7.07</a>														
Drive-Thru								S							<a href="#">6.14</a>
Dwelling Units															<a href="#">6.15</a>
Single Family	P	P	P	P	P	P	P		P	P	P	P			<a href="#">6.15.A</a>

**Article 3: Table of Permitted Uses**  
Section 3.01

Use	AG	R-1	R-1-W	R-2	R-3	R-4	C	C-I	C-S	C-L	C-H	C-U	M	RE	Standards or Definition
P= Permitted By Right			S=Permitted by Special Use Permit						Blank = Prohibited						
Multiple Family (including Senior Housing)					P		S		S	S	S	S			<a href="#">6.15.B</a>
Above First Floor in Mixed Use Buildings							P	P	P	P	P	P			<a href="#">6.15.C</a>
Manufactured Housing - Mobile						P									<a href="#">6.15.D</a>
Manufactured Housing - Permanent	P	P		P	P										<a href="#">6.15.E</a>
Model Home		P		P	P										<a href="#">6.15.F</a>
Accessory Dwelling Unit	S	S	S	S	S	S	S								<a href="#">6.15.G</a>
State-Licensed Residential Facility (non-Daycare)	P	P	P	P	P	P									<a href="#">6.15.H</a>
Essential Services	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">7.03</a>
Farmer's Market	P						P	P	S	S	S	S			<a href="#">7.13.B</a>
Funeral Home and Mortuary							P	P	P	P	P	P			<a href="#">6.16</a>
Government and Public Building	S						S	S	S	S	S	S	S	S	<a href="#">6.17</a>
Group Day Care Home	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">6.18</a>
Home Based Businesses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">7.06</a>
Hospitals							S	S					S		<a href="#">6.19</a>
Institution of Higher Education	S						S	S	S	S	S	S	S	S	<a href="#">6.20</a>
Manufacturing													P		<a href="#">6.21</a>
Medical or Dental Clinic							P	P	P	P	P	P	S		<a href="#">6.22</a>
Mini-Warehouse or Portable Storage Unit							S	P					P		<a href="#">6.23</a>
Rescue/Foster/Personal Kennel	P	P	P	P	P	P									<a href="#">7.07</a>
Office							P	P	P	P	P	P	P		<a href="#">6.24</a>
Open Air Business	S						S	S	S	S	S	S	S		<a href="#">6.25</a>
Outdoor Event	S						S	S	S	S	S	S	S	S	<a href="#">6.26</a>
Parking Lot with No Other Principal Use								S	S	S	S	S	S		<a href="#">6.27</a>
Pet Shop and Pet Grooming	S						S	S	S	S	S	S			<a href="#">6.28</a>
Preserve/Conservation Area	P	P	P	P	P									P	<a href="#">6.29</a>
Primary/Secondary School	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">6.30</a>
Recreation - Indoor	S	S	S	S	S	S	P	P	S	S	S	S	S	S	<a href="#">6.31</a>



**Article 3:** Table of Permitted Uses  
Section 3.01

Use	AG	R-1	R-1-W	R-2	R-3	R-4	C	C-I	C-S	C-L	C-H	C-U	M	RE	Standards or Definition
P= Permitted By Right			S=Permitted by Special Use Permit						Blank = Prohibited						
Recreation - Outdoor	S	S	S	S	S	S	S	S	S	S	S	S	S	P	<a href="#">6.32</a>
Recycling Collection Station	See Section <a href="#">6.33</a>														
Religious Institution	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">6.34</a>
Restaurant/Bar							P	P	P	P	P	P			<a href="#">6.35</a>
Retail Store							P	P	P	P	P	P			<a href="#">6.36</a>
Roadside Farm Stands	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">7.13.B</a>
Sexually Oriented Businesses								S							<a href="#">6.37</a>
Shooting Range								S						S	<a href="#">6.38</a>
Solar Energy System – Small	P	P	P	P	P	P	P	P	P	P	P	P	P	P	<a href="#">6.39</a>
Solar Energy System – Large	S														<a href="#">6.39</a>
Stables (Horses)	P			S										S	<a href="#">7.07</a>
Theater							S	P	S	S	S	S			<a href="#">6.40</a>
Utility Structures and Substations	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">6.41</a>
Vehicle Dealership								S							<a href="#">6.42</a>
Vehicle Filling Stations (Gas Stations)								S							<a href="#">6.43</a>
Vehicle Repair							S	S							<a href="#">6.44</a>
Vehicle Wash								S							<a href="#">6.45</a>
Veterinary Clinics	S						S	S	S	S	S	S			<a href="#">6.46</a>
Warehousing													P		<a href="#">6.47</a>
Wholesale							P	P	P	P	P	P			<a href="#">6.48</a>
Wind Energy Conversion Systems	S														<a href="#">6.49</a>
Wireless Telecommunications	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<a href="#">6.50</a>

(A) The Planning Commission shall have the authority to determine that a use not listed above is similar in character and intensity to the uses permitted in a given district, and therefore permit that use by Special Land Use Approval. In determining the “character and intensity” of a use, the Planning Commission shall determine that the use is consistent with the uses permitted in the district in terms of the following.

- (1) Noise
- (2) Odor
- (3) Dust
- (4) Vibration
- (5) Number of People Likely to Gather on Site
- (6) Traffic Generation
- (7) Scale
- (8) Massing
- (9) Impact on Natural Features
- (10) Views from Nearby Properties

# Article 4 Schedule of Regulations

## Section 4.01 Intent and Scope of Requirements

The purpose of this Article is to establish regulations governing lot size, required yards, [setbacks](#), building height, and [development density](#) for each [zoning district](#). No [building](#) shall be [erected](#), nor shall an existing [building](#) be altered, enlarged, or rebuilt, nor shall any [open space](#) surrounding any [building](#) be encroached upon or reduced in any manner, except in conformity with the regulations established for the district in which the [building](#) or [use](#) is located. A portion of a lot used to comply with the regulations in this Article with respect to one [building](#) or [use](#) shall not be simultaneously used to comply with the regulations with respect to another [building](#) or [use](#).

## Section 4.02 Schedule of Regulations for Principal Structures

	Minimum Lot Dimensions <sup>c</sup>		Maximum Structure Height		Minimum Required Setback (in feet) <sup>b</sup>			Maximum Coverage of Lot (%)	Minimum Dwelling Unit Size (total on all floors) (Sq. ft.) <sup>f</sup>
	Area <sup>a</sup> (Sq. ft.)	Width (Feet)	Stories	Feet <sup>g</sup>	Front Yard	Each Side Yard <sup>c</sup>	Rear Yard <sup>d, e</sup>		
AG	435,600	165	2.5	40	30	10	50	20%	940
R-1	20,000	100	2.5	30	30	10	50	40%	940
NCR-1	See <a href="#">Section 8.05</a>								
R-1-W	20,000	100	2.5	30	See <a href="#">Section 5.01.C</a>	10	See <a href="#">Section 5.01.C</a>	40%	940
R-2	65,340	150	3	40	40	10	50	20%	940
R-3	Single Family Home: 20,000  Duplex: 20,000  Multiple Family: 12,000 sq. ft., plus 2,000 sq. ft. per one <a href="#">bedroom</a> unit, plus 2,700 sq. ft. per two <a href="#">bedroom</a> unit, plus 3,400 sq. ft. per three (or more) <a href="#">bedroom</a> unit	100	Single Family Home: 2.5  Duplex: 2.5 Multiple Family: 3	Single Family Home: 30 feet  Duplex: 30 feet Multiple Family: 36 feet	30	10	50	50%	Single Family: 940  Duplex/Multiple Family: 600 for a studio, plus 100 square feet per <a href="#">bedroom</a>
R-4	See <a href="#">Section 5.01.F</a>								
C-I	12,000	80	3	40	25	10	30	70%	N/A

**Article 4: Schedule of Regulations**  
Section 4.02

	Minimum Lot Dimensions <sup>c</sup>		Maximum Structure Height		Minimum Required Setback (in feet) <sup>b</sup>			Maximum Coverage of Lot (%)	Minimum Dwelling Unit Size (total on all floors) (Sq. ft.) <sup>f</sup>
	Area <sup>a</sup> (Sq. ft.)	Width (Feet)	Stories	Feet <sup>g</sup>	Front Yard	Each Side Yard <sup>c</sup>	Rear Yard <sup>d, e</sup>		
C-L/ C-H	2,500	25	3	40	Min: 15 Max: 25	5	Must be sufficient for required site elements (parking, garbage disposal, etc)	70%	Single Family: 940 Multiple Family: 600 for a studio, plus 100 square feet per <a href="#">bedroom</a>
C-U/ C-S	2,500	25	3	40	Min: None Max: 15	5	Must be sufficient for required site elements (parking, garbage disposal, etc)	100%	Single Family: 940 Multiple Family: 600 for a studio, plus 100 square feet per <a href="#">bedroom</a>
C	20,000	80	2.5	30	Along Red Arrow Highway: 50 or 25% of lot depth, whichever is smaller  Along All Other Roads: 30 feet	Along Red Arrow Highway: 30  Along All Other Roads: 10	Along Red Arrow Highway: 50  Along All Other Roads: 10	50%	940
M	43,560	165	2	40	25	10	30	80%	N/A
RE	12,000	80	1.5	20	50	20	50	20%	N/A
F	Consistent with underlying zoning unless superseded by <a href="#">Section 5.01.K</a>								

## FOOTNOTES TO THE SCHEDULE OF REGULATIONS

- (a) **Lot Area.** [Net Lot Area](#) shall be used to determine compliance with lot area requirements. No new [parcel](#) shall be created unless the [parcel](#) has adequate usable lot area, such that the [parcel](#) can be built upon in compliance with Zoning Ordinance standards.
- (b) **Setback on Side Yards Facing a Street.** On [corner lots](#) there shall be maintained a [front yard](#) along each [street](#) frontage.
- (c) **Lot Depth and Proportions.** [Lot depths](#) of newly created lots shall be no greater than four times the lot width.
- (d) **Reduced Rear Setback with Sewer.** For dwellings in the R-1 and R-2 districts served by municipal sewer, the required rear [setback](#) shall be 30 feet. This reduction shall not apply to [setbacks](#) from Lake Michigan in the R-1-W district or any other rear [setback](#) outside the R-1 and R-2 districts.
- (e) **Waterfront Setbacks.** [Setbacks](#) from Lake Michigan shall meet the standards of [Section 5.01.C](#). [Setbacks](#) from other bodies of water, including [wetlands](#), shall meet the standards of [Section 7.17](#).
- (f) **Waivers from Minimum Unit Size.** The [Zoning Board of Appeals](#) may grant a [variance](#) from the minimum unit size for [dwelling units](#) that meet all of the following criteria. If these criteria are met, the [variance](#) shall be issued, even if the criteria in [Section 17.04](#) are not met. The [variance](#) shall be void in the event that the [dwelling unit](#) in question is destroyed, either intentionally or by a catastrophe.
- (i) The [dwelling unit](#) is sufficiently sized for human habitation in a safe and sanitary manner.
- (ii) The [dwelling unit](#) does not detract from the character of the neighborhood.
- (iii) The [dwelling unit](#) meets all [building](#) Code requirements for residential [dwelling units](#).
- (iv) The [dwelling unit](#) has a permanent foundation.
- (v) The [dwelling unit](#) is connected to either public water and public sewer, or is serviced by functioning well or septic systems meeting the requirements of the County Health Department.
- (g) **Maximum Height to the Peak:** The maximum heights listed in the table shall be the maximum [building height](#) based on the definition of that term in [Section 20.01](#), i.e. measured from [grade](#) to the halfway point between the peak and the eaves. In addition to the maximum [building heights](#) in the table, no [structure](#) in the R-1 or R-1-W districts shall exceed 45 feet in height as measured from [grade](#) to the highest point of the peak, parapet, or the roof.

## Section 4.03 Yard and Bulk Regulations

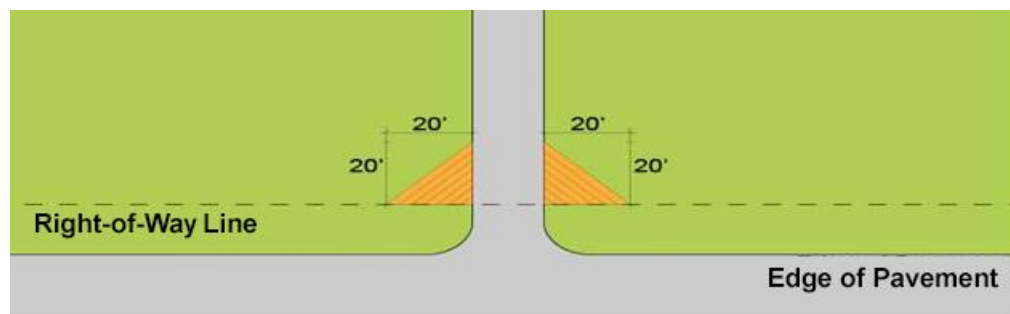
(A) **General Regulations.** All lots, [buildings](#), and [structures](#) shall comply with the following general yard and [bulk](#) regulations unless specifically stated otherwise in this Ordinance:

(1) **Number of Principal Uses per Lot.** Only one [principal building](#) shall be placed on a [lot of record](#) or [parcel](#) in single-family residential districts. In a single family site [condominium](#) project, only one [principal building](#) shall be placed on each [condominium](#) lot, as defined in [Section 20.01](#).

(2) **Unobstructed Sight Distance.** No new landscaping, [fence](#), wall, or [structure](#) shall be [erected](#) or established on any lot that will obstruct the view of drivers in [vehicles](#) approaching an intersection of two roads or the intersection of a road and a [driveway](#). [fences](#), walls and [structures](#) located in the triangular areas described below shall not be permitted to obstruct cross-visibility between a height of 30 inches and six (6) feet above the lowest point of the intersecting road(s).

(a) **Unobstructed Sight Area:** The unobstructed triangular area is described as follows:

(i) The area formed at the corner intersection of the outer edge of the surface of two public or private roads, the two sides of the triangular area being 20 feet in length measured along abutting public rights-of-way lines, and third side being a line connecting the endpoints of these two sides.



(ii) The area formed at the corner intersection of the outer edge of the surface of a public or private [road](#) and the outer edge of the surface of a [driveway](#), the two sides of the triangular area being 10 feet in length measured along the [right-of-way](#) line and edge of the [driveway](#), and the third side being a line connecting these two sides.

(iii) Principal [structures](#) in the C-S, C-L, and C-U districts shall be exempt from this section.

(3) **Relocation of Existing Buildings into the Township.** No existing [building](#) or [structure](#) shall be relocated upon any [parcel](#) or lot in Chikaming Township unless the [building](#) or [structure](#) conforms to all [setback](#) requirements for the district in which the [building](#) or [structure](#) is to be located.

Table 4.1: Permitted Projections into Required Setback

Projection	Front	Rear	Interior Side	Street Side	Waterfront	Additional Regulations
Exterior Heating and Air Conditioning Equipment, Pool Motors, Pool Heaters, and any similar mechanical devices	X	X	X	X	X	
Access drives, driveways	P	P	P	P	P	See Notes c & d
Arbors; trellises	P	P	P	P	P	
Awnings; canopies	P	P	P	P	P	May project into yard by up to 10 feet
Bay windows	P	P	P	P	P	See Note a
Decks (open)	P	P	X	X	P	See Note b
Porches	X	X	X	X	X	See Note b
Eaves (overhanging)	P	P	P	P	P	See Note a
Fences; walls	P	P	P	P	P	<a href="#">Article 11.00</a>
Flagpoles	P	P	P	P	P	
Live landscape materials, including gardens and hedges	P	P	P	P	P	
Gutters	P	P	P	P	P	
Laundry drying equipment	X	P	P	X	P	
Light standards (ornamental)	P	P	P	P	P	
Signs (approved)	P	P	P	P	P	<a href="#">Article 12.00</a>
Stairways (open, unroofed); Steps; Barrier-Free Ramps	P	P	P	P	P	
Television/radio towers or antennas	X	P	P	P	X	<a href="#">Section 7.11</a>
Window air conditioning units	P	P	P	P	P	
X = Not Permitted    P = Permitted						

**Notes on Table:**

- (a) Bay windows, window sills, belt courses, cornices, eaves, overhanging eaves, and other [architectural features](#) may project into a required side [setback](#) not more than three feet, except on lots designated NCR-1, where the permitted projection shall be limited to two feet.
- (b) [Porches](#) are defined as having roofs. [Decks](#) are defined as not having roofs ([see Article 20](#)). Canopies and awnings are not considered roofs. “Landings” are considered [decks](#) for purposes of this Ordinance. [Porches](#) must meet all [setback](#) requirements for the [principal building](#). [Decks](#) and landings may encroach into the required front [setback](#) by not more than 10 feet or 50% of the [front yard](#) depth, whichever is smaller, and may encroach into a required rear [setback](#) by no more than 50% of the required rear [setback](#). For [waterfront yards](#), the [deck](#) may encroach by no more than 50 feet, provided that all other standards of this Ordinance are met.
- (c) Access drives may be placed in the required front or side [setback](#) so as to provide access to [rear yards](#) or accessory or attached [structures](#). Further, any walk, terrace or other pavement serving a like function, shall be permitted in any required [setback](#), providing the pavement is no higher than nine inches above [grade](#), except where such a paved area would violate the requirements of the R-1-W district. Paving shall not occupy the entire [front yard](#) in residential districts.



# Article 5 Zoning Districts

## Section 5.01 Creation of Districts

For the purposes of this Ordinance, Chikaming Township is hereby divided into the following [Zoning Districts](#) as shown on the Official Zoning Map:

### (A) AG Agricultural District

- (1) **Intent.** This [zoning district](#) is intended primarily for agricultural [use](#), and to maintain the rural character of the district area in an open, partly natural state.

### (B) R-1 Single Family Residential District

- (1) **Intent.** This [zoning district](#) is intended to provide and maintain a residential living environment with quiet, safe, uncongested neighborhoods free from other uses except those compatible with the [principal uses](#) of the [zoning district](#).

### (C) R-1-W Waterfront Single Family Residential District

- (1) **Intent.** This [zoning district](#) is intended to protect the Lake Michigan shoreline of Chikaming Township, while allowing the [development](#) of attractive and high-quality residential uses on private property abutting the water and beach. Based on historical records, the Township finds that the beach and property area near the shoreline is subject to submergence and erosion during periods of higher Lake Michigan water levels and resulting from varying weather conditions. The most appropriate, effective and reasonable method to further the public interests of protecting [natural resources](#); preserving the economic and environmental well-being of the community; protecting the health, safety and general welfare of the community; and the general preservation and enhancement of property values, is to restrict the construction of [structures](#) so near to the water's edge as to be detrimental to the character of the public trust property and/or the vistas from neighboring private properties and public parks; and/or to be susceptible to damage resulting from inundation or erosion.

- (2) **Additional District Standards.** The following standards shall also apply within the R-1-W district:

- (a) **Waterfront Setbacks.** All [setbacks](#) from Lake Michigan shall be measured from the [Regulatory Ordinary High Water Mark \(ROHWM\)](#) set by the Michigan Department of Energy Great Lakes, and Environment (or its successor agency), which at the time of the adoption of this Ordinance was 580.5 feet above sea level, rounded up to 581 feet for ease of measurement. Enforcement of the setbacks shall be based on the aerial drone photography survey completed by the Township on December 1, 2017, with an overlay of Property Identification Parcels added and on file with the Township's Zoning Administrator as of April 24, 2019, or a similar survey done on a later date. For the purposes of this Ordinance, the ROHWM shall be considered the [waterfront lot line](#) of all properties abutting Lake Michigan and the required [setbacks](#) from it shall be as follows. Where applicable, this section shall supersede all other [setback](#) requirements in this Ordinance.

- (i) **Principal Structures.** All principal [structures](#) shall be set back at least 150 feet from the ROHWM, or halfway from the ROHWM to the [front lot line](#), if that distance is less than 150 feet.

- (ii) **Accessory Buildings.** All accessory [buildings](#) shall be set back at least 150 feet from the ROHWM. No accessory [building](#) located between the waterside wall of the principal [structure](#) and the ROHWM shall exceed 225 square feet in area.

**(iii) Fences and Signage.** Between the ROHWM of Lake Michigan and a line 150 feet landward of the ROHWM, the following shall apply:

- 1) No [fences](#) or other barrier-style construction shall be permitted.
- 2) Only the following signage shall be permitted. No other signage shall be permitted.
  - a) Governmental Signs.
  - b) One [sign](#), no greater than two square feet in area, [erected](#) by the property owner.

**(iv) Accessory Structures other than Buildings.** Accessory [structures](#) other than [buildings](#), including, but not limited to, erosion control devices, stairs, unattached decks, and swimming pools, shall only be permitted upon demonstration to the Zoning Administrator that the [structure](#) has been permitted by the State of Michigan or is not regulated by the State of Michigan.

**(b) Non-Waterfront Setbacks.**

- (i) Front Setbacks.** The minimum [setback](#) for both principal [structures](#) and accessory [structures](#) from the [front lot line](#) shall be 30 feet. Accessory [structures](#) in the R-1-W district may be located in front of the principal [structure](#), but must also maintain a 30 foot [setback](#) from the [road right-of-way](#). This section shall supersede any conflicting section in this Ordinance.
- (ii) Side Setbacks.** [Setbacks](#) from [side lot lines](#) for both principal and accessory [structures](#) shall be the same as those required in the R-1 district.

**(c) Dune Protection.**

- (i) Tree and Vegetation Maintenance in Critical Dune and High Risk Erosion Areas.** Generally speaking, a Michigan Department of Environment, Great Lakes, and Energy (MDEGLE) permit is required for any use within a Critical Dune Area and many uses within a High Risk Erosion Area.

Keeping with the desire of owners to have a clear view of Lake Michigan, and recognizing the dramatic importance of native vegetation in stabilization of the Critical Dune and High Risk Erosion Areas, the following regulations shall apply when an owner chooses to do any activity that involves removal, trimming, pruning, planting, or replacement of any native vegetation in CDA and HREA locations. Complete information may be obtained at [mi.gov/criticaldunes](http://mi.gov/criticaldunes).

- (ii) Critical dunes.** All [critical dune](#) areas, as designated by the Michigan Department of Environment, Great Lakes, and Energy (MDEGLE), shall be subject to the requirements of the State of Michigan. No [building](#) Permit or approval under this Ordinance shall be issued until evidence of MDEGLE approval has been provided to the Township.
- (iii) High Risk Erosion Areas.** All High Risk Erosion areas, as designated by the Michigan Department of Environment, Great Lakes, and Energy (MDEGLE), shall be subject to the requirements of the State of Michigan. No [building](#) Permit or approval under this Ordinance shall be issued until evidence of MDEGLE approval has been provided to the Township.

- (d) **Construction.** Best management practices shall be employed so as to minimize disturbance of the natural terrain and vegetation during construction on lots abutting Lake Michigan. After construction, the lot shall be restored to its prior conditions to the extent possible. All construction projects shall abide by the recommendations in the most recently published FEMA Coastal Construction Manual.
- (e) **Exemption.** An undeveloped lot for which an active permit from MDEGLE (or under its previous name, Michigan Department of Environmental Quality) has been issued under the provisions of Parts 323 and/or 353 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, for development of the lot on the effective date of this Ordinance is exempt from the area, bulk, setback, height, and other dimensional requirements of this district provided that:
- (i) The lot is developed in compliance with the permit or any amendment thereto; and,
  - (ii) Development of the lot commences before such permit and any amendments thereto expire and are not timely renewed.

(D) **R-2 Rural Estates**

- (1) **Intent.** The intent of this [zoning district](#) is to (a) satisfy demand for a semi-rural lifestyle by providing large lots in non-prime agricultural land, (b) encourage the survival of small-scale specialty agriculture which is compatible with low-[density](#) residential areas, (c) preserve significant forest, ravine and [wetland](#) areas, (d) discourage dense [development](#) where municipal water and sewer services do not exist, and (e) provide a transition between the more densely settled and rural portions of the Township.

(E) **R-3 Multiple Family Residential**

- (1) **Intent.** This [zoning district](#) is intended to provide land in suitable locations and with suitable services for two- family and multiple-family residential dwellings, in order to provide for diversity, affordability, and variety in the housing stock of the Township.

(F) **R-4 Mobile Home Park**

- (1) **Intent.** This [zoning district](#) is intended to provide land for manufactured housing in state-licensed mobile home parks, in a safe, high quality, and attractive manner.

(2) **Additional District Standards:**

- (a) **Purpose:** The R-4, Mobile Home Park District is intended to provide for the location and regulation of mobile home parks and ancillary facilities. It is intended that mobile home parks be provided with necessary community services in a setting that provides a high quality of life for residents. R-4 districts should be located in areas where they will be compatible (in terms of scale, [density](#), and design) with adjacent uses.
- (b) The regulations established by State law (Michigan Public Act 96 of 1987, as amended) and the Michigan Manufactured Housing Commission govern mobile home parks. When regulations in this Article exceed the State law or the Michigan Manufactured Housing Commission Rules they are intended to insure that mobile home parks in the Township meet the [development](#) and site standards established by this Ordinance for comparable residential [development](#) and to promote the health, safety, and welfare of residents.

(c) **Development Requirements:**

- (i) **Preliminary Plan Review.** Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the [Planning Commission](#). The preliminary plan shall include the location, layout, general design, and general description of the project. In preparing the preliminary plan and when reviewing the plan, the following procedures and requirements shall apply, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Michigan Manufactured Housing Commission Rules:
- 1) **Optional Pre-filing Conference.** Applicants may request to meet with Township staff, including any consultants designated by the Township Board, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by Township officials, staff or consultants at such conferences shall constitute approval of any application.
  - 2) The application, in a form approved by the Township and the preliminary plan shall be filed with the Township Building Department. Upon receipt, the application and plan will be distributed to the appropriate Township staff and consultants for their written reviews and recommendations. Once all the staff and consultant reviews are completed, the application and plan shall be submitted along with all recommendations to the [Planning Commission](#). Official receipt of the application is the time the complete plan arrives or is delivered to the Township Hall.
  - 3) The staff and consultants may advise and assist the applicant in meeting ordinance requirements but shall have no power to approve or disapprove any application or in any way restrict an applicant's right to seek formal approval thereof.
  - 4) **Planning Commission Action.** Pursuant to Section 11 of Public Act 96 of 1987, as amended, the [Planning Commission](#) shall approve, modify or disapprove the preliminary plan within 60 days after the Township officially receives the plan. The [Planning Commission](#) may table an application for further study or to obtain additional information, provided that final action is taken within the 60-day review period.
- (ii) **Disclosure of Interest.** The full name, address, telephone number, and signature of the applicant shall be provided on the application. The applicant must be the fee owner, or have identified legal interest in the property, or be an authorized agent of the fee owner. A change in ownership after the application is filed shall be disclosed prior to the final decision on the application.
- 1) **Required disclosure when applicant is not fee owner.** If the applicant is not the fee owner, the application must indicate interest of the applicant in the property, and the name and telephone number of all fee owners. An affidavit of the fee owner shall be filed with the application stating that the applicant has authority from the owner to make the application.
  - 2) **Required disclosure when applicant is a corporation or partnership.** If the applicant or fee owner is a corporation, the name and addresses of the corporation officers and registered agent shall be provided, and if a partnership, the names and addresses of the partners shall be provided.

- 3) **Required disclosure when applicant or owner is a land trust.** If the applicant or fee owner is a trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary must be provided.

**(iii) Records.** The Township shall keep accurate records of all decisions on all applications submitted pursuant to this Ordinance.

**(iv) Minimum Requirements.** Mobile home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by way of example, Public Act 96 of 1987, as amended, and the Michigan Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

- 1) **Parcel Size for Overall Park.** The minimum [parcel](#) size for mobile home parks shall be ten (10) acres.
- 2) **Minimum Site Size.** Mobile home parks shall be developed with an average site size of 5,500 square feet. Individual sites may be reduced to as small as 4,400 square feet; provided that, for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as [open space](#) for the collective [use](#) and enjoyment of all mobile home park residents. This [open space](#) shall be in addition to the [open space](#) required under the Michigan Manufactured Housing Commission Rules in effect at the time the proposal is submitted.
- 3) **Setbacks.** Mobile homes shall comply with the minimum distances and [setbacks](#) specified in the Manufactured Housing Commission Rules, except as follows:
  - a) Mobile homes shall be set back a minimum of ten (10) feet from the edge of an internal [road](#), if such [road](#) is not dedicated to the public. Mobile homes and other [structures](#) in the R-4 district shall set back a minimum of twenty (20) feet from the [right-of-way](#) line of a dedicated internal public [road](#) within the mobile home park.
  - b) All mobile homes, [accessory buildings](#), and parking shall be set back not less than thirty (30) feet from any mobile home park boundary, except that a minimum [setback](#) of fifty (50) feet shall be provided from existing and future rights-of-way of abutting [streets](#) and highways.
- 4) **Maximum Height.** Buildings in the R-4 district shall not exceed two stories or 25 feet; storage sheds and accessory [structures](#) shall not exceed the height of the mobile home.
- 5) **Roads.** Roads shall satisfy the minimum dimensional, design, and construction requirements in the Michigan Manufacturing Housing Commission Rules except as follows:
  - a) The main entrance to the park shall have access to a paved public [road](#) or shall be connected to a paved public [road](#) by a permanent [easement](#) which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
  - b) All [roads](#) shall be hard-surfaced and shall be constructed with curbs and gutters.
  - c) If a mobile home park contains more than 100 sites, two vehicular accesses to a public [road](#) shall be provided. The minimum separation distance between [driveways](#) shall be 150 feet, measured between [driveway](#) centerlines.
  - d) Lighting of [streets](#) shall be provided using full "cutoff" [fixtures](#) mounted no higher than 22 feet above [grade](#).

**(v) Parking.**

- 1) All mobile home sites shall be provided with two [parking spaces](#) per Michigan Manufacturing Housing Commission Rules.
- 2) In addition, a minimum of one [parking spaces](#) for every three mobile home sites shall be provided for visitor parking located convenient to the area served.
- 3) No unlicensed or inoperable [vehicle](#) of any type shall be parked in this district at any time except within a covered [building](#).
- 4) Common areas for the storage of boats, motorcycles, recreation [vehicles](#), and similar equipment may be provided in a mobile home park, but shall be limited to use only by residents of the mobile home park. If proposed, the location of such storage areas shall be shown on the preliminary site plan. No part of any such storage area shall be located in any required yard on the perimeter of the mobile home park. Such storage area shall be screened from view from adjacent residential properties with an opaque six-foot wooden [fence](#), six-foot masonry wall with [landscaping](#), or landscaped [greenbelt](#). If a landscaped [greenbelt](#) is used, it shall consist of closely-spaced evergreen plantings (i.e., no farther than 15 feet apart) which can be reasonably expected to form a complete visual barrier that is at least six feet above ground level within two (2) years of planting.

**(vi) Sidewalks.** Concrete sidewalks having a minimum width of five (5) feet shall be provided on at least one side of internal [roads](#) in the mobile home park. In addition, a five-foot wide concrete sidewalk shall be constructed along the public [road\(s\)](#) on which the mobile home park fronts. Such sidewalk shall be located within the [road right-of-way](#), one (1) foot off of the [right-of-way](#) line.

**(vii) Accessory Buildings and Facilities.**

- 1) [Accessory buildings and structures](#), including park management offices and public works facilities, storage [buildings](#), laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only.
- 2) Site-built [buildings](#) within a mobile home park shall be constructed in compliance with the Chikaming Township Building Codes and shall require all applicable permits. Any addition to a mobile home unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for mobile homes shall comply with the Chikaming Township Building Codes. Site plan approval shall be required prior to construction of any on-site [building](#) within a mobile home park, except for storage sheds or garages for individual mobile homes.
- 3) Each mobile home shall be permitted one (1) storage shed or garage. The installation of any such shed or garage shall comply with ordinances of Chikaming Township and shall require a [building](#) permit. Storage underneath a mobile home or outside on any mobile home site is prohibited.

**(viii) Open Space.** Open space shall be provided to meet the leisure and recreation needs of residents. The [open space](#) shall comply with the following requirements:

- 1) A minimum of two percent of the park’s gross acreage shall be dedicated to well drained, usable [open space](#), provided that a minimum of 25,000 square feet of contiguous [open space](#) shall be provided.
- 2) Open space shall be located conveniently in relation to the majority of [dwelling units](#) intended to be served and must have frontage along an internal [road](#).
- 3) Required perimeter buffer areas shall not be included or credited as meeting the [open space](#) requirement.
- 4) No open area shall have a length to width ratio in excess of 1.5 to 1.

**(ix) Landscaping.**

- 1) **Perimeter Screening.** All mobile home parks shall be screened from existing adjacent residential land [use](#) by either a six-foot wall or a densely planted landscaped [greenbelt](#).
  - a) If provided, screen walls shall be constructed of masonry material that consists of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line, except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the [use](#) of adjacent property, in which case the wall may be set back from the [property line](#) a sufficient distance to resolve such concerns.
  - b) If a landscaped [greenbelt](#) is used, it shall consist of closely-spaced evergreen plantings, which shall be a minimum of three (3) feet in height at the time of planting, and which shall be planted so as to form a complete visual barrier at maturity. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- 2) **Landscaping Adjacent to Road.** A landscaped [Berm](#) measuring 2½ to three feet in height shall be constructed along the public [roads](#) on which the mobile home park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each four (4) feet horizontal. [landscaping](#) adjacent to the [road](#) shall comply with the following requirements, which are consistent with [landscaping](#) required for other types of [development](#) in Chikaming Township:

Type	Requirements
Deciduous street tree (e.g. Red Maple, Linden, Ash)	1 per 40 lineal feet of road frontage
Deciduous or evergreen shrubs	1 per 3 lineal feet of road frontage

- 3) **Site Landscaping.** A minimum of one (1) deciduous or evergreen tree shall be planted per two mobile home sites.

- 4) **Parking Lot Landscaping.** Off-[street](#) parking lots containing more than 15 spaces shall be provided with at least ten (10) square feet of interior parking lot [landscaping](#) per space. Such areas shall measure at least 150 square feet and shall be covered by grass, groundcover, [shrubs](#) or other live plant material. At least one deciduous tree shall be planted per parking lot landscaped area.

**(x) Signs.**

- 1) Each mobile home park shall be permitted one (1) [sign](#) which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or [right-of-way](#) line.
- 2) Management offices and community [buildings](#) in a mobile home park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

**(xi) Trash and Recycling Receptacles.** If proposed, trash and recycling receptacles (dumpsters) shall comply with the following requirements:

- 1) Trash and recycling receptacles shall be set back a minimum distance of fifty (50) feet from the mobile home park perimeter and at least fifteen (15) feet from any [building](#), in a location that is clearly accessible to the servicing [vehicle](#).
- 2) Trash and recycling receptacles shall be screened on three (3) sides with a decorative masonry wall, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three (3) sides.
- 3) Trash and recycling receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete-filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or [fence](#).

**(xii) Canopies and Awnings.** Canopies and awnings may be attached to any mobile homes and may be enclosed for [use](#) as a sun [room](#) or recreation [room](#), but not as a [bedroom](#). Canopies and awnings shall comply with the [setback](#) and distance requirements set forth in this Article and shall require a [building](#) permit.

**(xiii) Water and Sanitary Sewer Service.** All mobile home parks shall be served by approved public water and sanitary sewage systems, which shall meet the requirements of the Berrien County Health Department, the Michigan Department of Health and Human Services, and all other applicable local, county and state regulations. The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any [nuisance](#) or health hazard.

**(xiv) Storm Drainage.** All developed portions of the mobile home park shall be served by adequate storm drainage facilities, designed and constructed in accordance with applicable local, county and state regulations.

**(xv) Telephone and Electric Service.** All electric, telephone, cable TV, and other lines within the park shall be installed underground and in accordance with all applicable local, county and state regulations.



(xvi) **Fuel Oil and Gas.** Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all mobile home sites. All fuel lines leading to mobile home sites shall be underground and designed in conformance with the Michigan Manufactured Housing Commission Rules and other applicable local, county and state regulations.

(xvii) **Operational Requirements.**

- 1) **Inspections.** The [Building Official](#) or other authorized Township agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any mobile home park for the purpose of determining compliance with the provisions of this Ordinance or other regulations referenced herein.
- 2) **Violations.** Whenever, upon inspection of any mobile home park, the [Building Official](#) finds that conditions or practices exist that violate provisions of this Ordinance or other regulations referenced herein, the [Building Official](#) shall give notice in writing by certified mail to the Director of Michigan Manufacturing Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

(xviii) **Sale of Mobile Homes.** The business of selling new or used mobile homes as a commercial operation shall not be permitted after complete occupancy of a new or expanded mobile home park has been achieved. Thereafter, new or used mobile homes located on sites within the mobile home park to be used and [occupied](#) on that site may be sold by a licensed dealer or broker. This section shall not prohibit the sale of a used mobile home by a resident of the mobile home park provided the park's regulations permit such sale.

(xix) **School Bus Stops.** School bus stops shall be located in an area that is acceptable to the school district and the mobile home park developer.

(xx) **Mailbox Clusters.** The United States Postal Service may require that mobile home parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mailbox clusters are required, they shall be located at least 200 feet from any intersection of a mobile home park [road](#) with a public [road](#).

(G) **C-I Interchange Commercial**

- (1) **Intent.** The intent of this [zoning district](#) is to provide high-quality and attractive [commercial uses](#) to serve travelers along I-94, in order to promote the economic vitality of the Township while protecting residents from the spread of high-intensity [commercial uses](#) away from the interchanges.

(H) **Commercial Mixed Use Districts**

- (1) **Intent.** The intent of the Commercial [Mixed-Use](#) districts is to protect and enhance the commercial character of the community areas, while promoting vibrancy and economic vitality by allowing a broad mix of appropriate uses. The Red Arrow Highway corridor is a visually prominent "gateway" into the community, forming an important "first impression" for visitors, and contributing greatly to the Township's highly valued natural and small town character.

The Commercial [Mixed-Use](#) Districts shall include:

- (a) C-S Sawyer [Mixed-Use](#) District
- (b) C-L Lakeside [Mixed-Use](#) District
- (c) C-H Harbert [Mixed-Use](#) District
- (d) C-U Union Pier [Mixed-Use](#) District
- (e) C Commercial District

(2) **Additional Standards for Development.**

- (a) The following standards shall apply to all non-residential [buildings](#) in Commercial [Mixed-Use](#) Districts abutting Red Arrow Highway, Sawyer Road, Harbert Road, Prairie Road, Lakeside Road, Townline (Union Pier) Road, or Goodwin Road.
  - (i) The design shall be unique or substantially original. The [use](#) of standardized [building](#) prototypes is discouraged.
  - (ii) The appearance of the [structure](#) may not be primarily an expression of economy, expediency, or mere efficiency.
  - (iii) Exterior materials shall be durable, high quality, and selected from those that complement the character of the surrounding district.
- (b) The following standards shall apply to all non-residential or mixed-use [buildings](#) in all Commercial [Mixed-Use](#) Districts, except the C Commercial District:
  - (i) When the [building](#) is more than one [story](#), upper floors may contain any [permitted use](#) or authorized [special use](#).
  - (ii) If there is a commercial first floor, then that shall extend for the entire width of the [building](#), as viewed from any public street.
  - (iii) Each commercial unit on the first floor shall have its own entrance.
  - (iv) The first floor frontage along all public [roads](#) must maintain a minimum of 70% transparency (defined as windows or glass doors).
  - (v) Upper floors must maintain a minimum of 40% transparency (windows) measured from floor to floor.
  - (vi) All first floor windows and windows facing towards a [street](#) must be transparent, non-reflective glass and provide an unobstructed view to the interior commercial space.
  - (vii) Overhead doors designed primarily for automobile access to a building, and their associated [driveways](#), may not be located on the front of the [building](#), and must be located in such a way to minimize safety hazards to passing pedestrians. Overhead doors designed primarily for human access to a building shall be exempt from this requirement.

(l) **M Manufacturing District**

(1) **Intent.** The intent of this [zoning district](#) is to establish and preserve areas for manufacturing, fabrication and assembly uses which are not likely to create noise, smoke, dust, fume, odor, vibration, gaseous emissions, or wastewater discharges.

(2) **Additional District Standards.**

**Minimum Setback Adjacent to a Residential District.** Where an adjacent district is zoned for residential [use](#), [buildings](#) in industrial districts shall be set back the minimum distances specified in the following chart. This requirement shall supersede all other [setback](#) requirements.

Building height	Minimum Setback from Residential Zone (feet)
15 feet or less	50
Over 15 feet	50, plus 5 additional for every foot over 15 feet in height

(J) **RE Recreation District (Public and Private)**

(1) **Intent.** This [zoning district](#) is intended to provide for the conservation of [open space](#), [wetlands](#) and woodlands in the Township, in order to make them available for public and private enjoyment and scientific, educational and recreational uses.

(K) **F Floodplain Overlay District**

(1) **Intent.** The purpose of this [zoning district](#) is to regulate the [use](#) of land within flood hazard areas in order to protect against flood damage or destruction, prevent or minimize public and private economic losses caused by periodic flooding, and preserve the ability of [floodplains](#) to carry and discharge floodwaters.

(2) **Principal Permitted and Special Land Uses.** The land uses permitted by right and by Special Land Use within the overlay are listed below. This list shall supersede the uses listed in [Article 13](#) for the underlying [zoning district](#), on all land covered by the 100-year flood plain, as defined by the Federal Emergency Management Agency (FEMA).

(a) **Permitted Uses.**

- (i) Gardening and horticulture.
- (ii) Recreational uses not involving construction of [buildings](#) or [structures](#), such as parks, play fields, athletic fields, golf courses, bridle trails and hiking/bicycling trails.
- (iii) [Off-street parking](#) as a [use](#) accessory to a principal [use](#) located outside the 100-year [floodplain](#) on the same lot.
- (iv) In Agricultural [zoning districts](#), land within the 100-year [floodplain](#) may also be used for agricultural purposes otherwise permitted by the regulations of the Agricultural [zoning district](#).

(b) **Special Land Uses.**

- (i) Backfilling, within the 100 year [floodplain](#), with clean fill material may be permitted by Special Land Use, provided that MDEGLE, Berrien County Drain Commission, and any other agency having jurisdiction provides approvals, permits, or waivers to the applicant. No Special Land Use Permit will be granted until the applicant has received an approval or waiver of authority for the proposed project from ALL agencies having jurisdiction.

- (i) The construction of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances may be permitted by Special Land Use, provided such elements would not cause any significant obstruction to the flow or reduction in the storage capacity of the [floodplain](#).

**(c) Additional District Standards.**

- (i) In lots partially within the 100-year [floodplain](#), the area of such lot outside the 100-year [floodplain](#) may be used for uses permitted by the [zoning district](#) otherwise established for the lot, subject to the regulations of such [zoning district](#); provided, however, that the elevation of the lowest floor designed or intended for human use or habitation, including [basements](#), shall be at least 3 feet above the elevation of the nearest point of the 100-year [floodplain](#) as designated by FEMA.
- (ii) In the area within the 100-year [floodplain](#), land may be used to supply [open space](#) or lot area requirements of a lot partially located above the 100-year [floodplain](#); provided, however, that no [building](#) or [structure](#) shall be located within the 100-year [floodplain](#).
- (iii) Approval of a Special Land Use Permit within the [floodplain](#) Overlay shall only be granted upon submittal by the applicant of a finding by a registered engineer that the above requirements are satisfied.

- (d) Warning and Disclaimer of Liability.** The degree of flood protection required by this Article is considered reasonable for regulatory purposes, and is based on scientific and engineering considerations. Larger floods than the magnitude on which these regulations are based can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the 100-year [floodplain](#) or uses permitted within such areas are or will be free from flooding or flood damages. This Article shall not create liability on the part of Chikaming Township, any official or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

# Article 6 Standards for Uses

## Section 6.01 Intent

Each [use](#) listed in this Article, whether permitted by right or subject to approval as a [special land use](#), shall be subject to the site [development](#) standards specified, in addition to applicable standards and requirements for the district in which the [use](#) is located. These standards are intended to alleviate the impact from a [use](#) that is of a size or type, or that possesses characteristics which are unique or atypical in the district in which the [use](#) is located. These standards are further intended to assure that such uses will be compatible with surrounding uses and the orderly [development](#) of the district. Conformance with these standards shall be subject to site plan review.

## Section 6.02 Adult Day Care Home

- (A) **Definition:** Daytime care of any part of the day, but less than 24 hour care, for functionally-impaired adults, provided through a structured program of social and rehabilitative and/or maintenance services, within a residential home.
- (B) **Permitted by Right:** AG, R-1, R-1-W, R-2, R-3, and R-4.
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.03 Agritourism

- (A) **Definition:** The practice of visiting an agribusiness, horticultural, or farm, including, but not limited to, a farm, orchard, winery, greenhouse, a companion [animal](#) or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.
- (B) **Permitted by Right:** C, C-I, RE
- (C) **Permitted by Special Use Permit:** AG, R-2
- (D) **Standards:** The following provisions shall apply to agritourism operations:
  - (1) **Purpose and Intent:** The purpose and intent of this section is to allow and regulate operations and businesses that invite the public to engage with and experience the inner workings of agriculture and food production. In combination with a conventional farm, the following activities may constitute an agricultural tourism event: ongoing uses such as a winery and tasting [room](#), frequent seasonal uses such as a cider mill, or one-time events such as carnivals, or other events of varying time frames including bonfires, cooking demonstrations, corn mazes, fishing pond, food service, petting farms, seasonal you-pick fruits and vegetables, [animal](#) displays, pony rides, wagon/sleigh/hay-rides, nature trails, picnic facilities, educational classes, historical agriculture exhibits, and playscapes. This list is not intended to be all inclusive of activities that may be considered agricultural tourism.
  - (2) **Size.** For the purposes of determining whether an agritourism [use](#) should be a principal permitted [use](#) or [special land use](#), such operations are classified “Minor” or “Major” based on the following characteristics:

	Minor Operation <sup>a, b</sup>	Major Operation <sup>b</sup>
<b>Time Span <sup>c</sup></b>	Less than or equal to 3 weeks/event	More than 3 weeks/event
<b>Event Acreage <sup>d</sup></b>	Less than or equal to 5 acres	More than 5 acres
<b>Number of Events</b>	One or two per calendar year	Three or more per calendar year
<b>Number of Attendees</b>	Less than or equal to 50 at any one time	More than 50 at any one time

**Footnotes:**

- (a) Agricultural tourism operations must satisfy all four criteria to be considered Minor.
  - (b) Minor and major operations require site plan approval. Major operations also require [special land use](#) approval.
  - (c) By way of example, a minor tourism operation could include one that is open for business 21 consecutive days or one that is open 3 weekends within a 3-week period.
  - (d) Event acreage includes the land [occupied](#) by the event plus ancillary facilities (such as parking), and not necessarily the total acreage of the [parcel](#) on which the event is located.
- (3) Impact on Surrounding Properties.** The location, layout, design and operation of such a facility shall not impair the continued enjoyment, [use](#), and future [development](#) of adjacent and nearby properties.
- (4) Buildings.** More than one (1) [Building](#) may be permitted per [parcel](#). Unless a [building](#) is exempt because it is an agricultural [structure](#).
- (5) Trash Containers.** A sufficient number of trash containers shall be placed on the premises for public [use](#), based on evaluation of the following features: type of event, anticipated number of attendees, duration of event, geographic size of the event, and use of disposable beverage or food containers.
- (6) Restrooms.** A sufficient number of restrooms shall be available for public use, based on an evaluation, by the [Planning Commission](#), of the following features: type of event, number of attendees, duration of event, availability of food and beverages, and special needs of attendees (e.g., families with children, people with disability needs, etc.).
- (7) Building Setbacks.** [Buildings](#) shall comply with the [setbacks](#) for the district in which they are located.
- (8) Planning Commission Waivers .**
- (a) The number of [parking spaces](#) shall be determined on a case-by-case basis, upon consideration of the character of the specific agricultural tourism [use](#) being proposed.
  - (b) The [Planning Commission](#) may waive any requirement for parking lot paving, upon making the determination that a grass or gravel surface will be adequate to handle the anticipated level of traffic. In making a determination regarding paving the [Planning Commission](#) shall consider the types of [vehicles](#) anticipated (e.g., volume of bus traffic, size and weight of [vehicles](#), etc.). If paving is not required, then the site plan shall include a commitment to provide dust control. Regardless of whether the lot is paved or not, all requirements of Article 9 must be met.
  - (c) The [Planning Commission](#) may waive parking lot lighting requirements in Section 7.08 upon making the determination that the facility will be used only during daylight hours.
  - (d) The [Planning Commission](#) may waive parking lot [landscaping](#) requirements in Article 10 upon making the determination that existing vegetation to be retained on the site satisfies the objectives of the Ordinance and maintains the rural, non-commercial character of the site.
- (9) Overnight Accommodations.** Overnight accommodations related to an [agritourism](#) operation shall comply with the regulations for bed-and-breakfast establishments in Section 10.02.H.
- (10) Exclusions.** The provisions in this subsection do not apply to the following uses, which are regulated elsewhere in this Ordinance:

- (a) Nature centers or demonstration farms.
- (b) Recreation facilities.
- (c) Outdoor events.
- (d) Roadside stands.
- (e) Distilleries.
- (f) Bed-and-breakfast establishments.
- (g) [Brewpubs](#) and Microbreweries.
- (h) Any [use](#) for which zoning regulations are superseded by Generally Accepted Agricultural and Management Practices (GAAMPS), such as farm markets.

### Section 6.04 Art Studio

- (A) **Definition:** A facility for the creation and sale of [artwork](#).
- (B) **Permitted by Right:** AG, C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** R-1
- (D) **Standards:** No additional standards.

### Section 6.05 Bank

- (A) **Definition:** A financial institution dedicated to accepting monetary deposits and providing loans. Credit unions shall be considered banks for the purposes of this Ordinance
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

### Section 6.06 Barber Shop or Beauty Shop

- (A) **Definition:** Includes day spas and spas. A personal service establishment offering any of a variety of health and beauty services including hair, nails, make-up, massage, and other related services.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

### Section 6.07 Brewpub/Microbrewery/Distillery

- (A) **Definition:** An eating or drinking establishment that includes the brewing of beer or ale as an [Accessory Use](#) for sale on the same premises of not more than five thousand (5,000) barrels per year. (A barrel is equivalent to thirty-one (31) U. S. gallons)
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** M

(D) **Standards:**

(1) The following regulations shall apply to [brewpubs](#):

- (a) On-premise sale of alcoholic liquor by a brewpub is permitted, subject to the license obtained pursuant to the relevant Michigan state law.
- (b) Hops, barley, wheat or other grain used in the brewing process may be stored in a detached [structure](#), such as a silo, provided that any such [accessory structure](#) 1) complies with the [setback](#) requirements for the district in which it is located, and 2) is compatible in color and materials with the principal [building](#). Open storage of bottles, pallets, or other containers must be surrounded by a 6 foot high privacy [fence](#).
- (c) No outside beer tent shall be permitted in any [off-street parking](#) lot or off-street loading/unloading area except as may be permitted as a [temporary use](#) pursuant to [Section 7.15](#). Outside table service may be permitted in areas not designated for parking or loading/unloading, subject to the requirements of [Section 6.19.N](#).

(2) The following regulations shall apply to **microbreweries**:

- (a) A [microbrewery](#) may sell beer it manufactures to a licensed wholesaler who may resell the beer to licensed retailers, pursuant to the relevant Michigan state law.
- (b) Hops, barley, wheat or other grain used in the brewing process may be stored in a detached [structure](#), such as a silo, provided that any such [accessory structure](#) 1) complies with the [setback](#) requirements for the district in which it is located, and 2) is compatible in color and materials with the principal [building](#). Open storage of bottles, pallets, or other containers must be surrounded by a 6 foot high privacy [fence](#).
- (c) No outside beer tent shall be permitted in any [off-street parking](#) lot or off-street loading/unloading area except as may be permitted as a [temporary use](#) pursuant to Section 7.15. Outside table service may be permitted in areas not designated for parking or loading/unloading.

(3) The following regulations shall apply to **distilleries**:

- (a) Copies of all required state and federal licenses shall be submitted to the Township.
- (b) Grains and other products used in the distilling process may be stored in a detached [structure](#), provide that any such [structure](#) 1) complies with the [setback](#) requirements for the district in which it is located, and 2) is compatible in color and materials with the principal [building](#). Open storage of bottles, pallets, or other containers must be surrounded by a 6 foot high privacy [fence](#).

## Section 6.08 Bus Station

- (A) **Definition:** A facility used for boarding and de-boarding of buses. Bus repair operations shall be considered [vehicle repair](#) under this ordinance.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C, C-I, C-S, C-L, C-H, C-U
- (D) **Standards:** No additional standards.

## Section 6.09 Cemetery

- (A) **Definition:** Land used for the burial of the dead, including a columbarium, crematory, and mausoleum.
- (B) **Permitted by Right:** None.



- (C) **Permitted by Special Use Permit:** AG, R-1, R-1-W, R-2, R-3, R-4, RE
- (D) **Standards.** The following regulations shall apply to the establishment of new cemeteries or expansion of existing cemeteries:
- (1) **Location.** No portion of any [cemetery](#) that is located in a [wetland](#) or within the 100-year flood boundary shall be developed or platted for grave sites.
  - (2) **Accessory Buildings.** A crematorium, mausoleum, columbarium, or other accessory [building](#) may be permitted within a [cemetery](#) provided that any such [building](#) shall be designed and located in accordance with a [cemetery master plan](#), which plan shall be subject to [Planning Commission](#) review.
  - (3) **Setbacks.** No [building](#) or [structures](#) containing bodies or remains, other than subterranean graves, shall be located closer than one hundred (100) feet to the boundary line of any residential or commercial district. A crematorium located within a [cemetery](#) shall be set back a minimum of four hundred (400) feet from the boundary line of any residential district.
  - (4) **Location of Entrances.** Entrances to cemeteries shall be from a major or secondary [thoroughfare](#), and shall be designed to minimize traffic congestion.

## Section 6.10 Child Care Center (Non-Home Based)

- (A) **Definition:** A facility, other than a private residence, receiving more than twelve (12) preschool or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility is generally described as a child care center. "Child Care Center" or "Day Care Center" does not include instruction solely for religious purposes conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services
- (B) **Permitted by Right:** C-I
- (C) **Permitted by Special Use Permit:** C, C-S, C-L, C-H, C-U, RE
- (D) **Standards:** No additional standards.

## Section 6.11 Child Day Care Home, Family

- (A) **Definition:** A private home (where the licensee permanently resides as a member of the household) with the approved capacity of 1 to 6 minor children to be cared for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children at a Family Child Care Home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.
- (B) **Permitted by Right:** All districts.
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:**
- (1) **Location.** Such facilities shall be located in the permanent residence of the operator.
  - (2) **Number of Employees.** Such facilities shall have no more than one full-time equivalent non-resident employee. This shall be considered an exemption from the prohibition on non-resident employees in home-based businesses in [Section 7.06.A.9](#).
  - (3) **Fencing.** The perimeter of any yard used for play or instruction shall be enclosed by a [fence](#) that is a minimum of four (4) feet in height to prevent children from departing or entering the yard without permission of an adult employee or the operator.

- (4) **Hours of Operation.** Such facilities shall operate no more than 16 hours per day. There shall be no outdoor activity, noise or lighting beyond the boundaries of the site between the hours of 10:00 p.m. and 6:00 a.m.

## Section 6.12 Commercial Lodging

(A) **Purpose and Intent:** The purpose and intent of this Section is to regulate the various types of commercial lodging that exist or may be proposed in the Township, in order to ensure that the Township has a wide variety of accommodation options for visitors who come to enjoy the natural beauty and amenities of Chikaming, while also protecting the public health, safety, and welfare by ensuring that lodging is safe and well-located. The restrictions in residential zones specifically are meant to ensure the residents the right to peaceful enjoyment of their property (including freedom from excessive noise, rowdy behavior, interference from neighboring owners or tenants, crowding of [roadways](#), parking, and walkways, littering and unsightly and/or unsanitary trash accumulation).

(B) **Hotel/Motel.**

(1) **Definition(s):**

(a) **Hotel:** A [building occupied](#) as a more or less temporary abiding place for individuals who are lodged, with or without meals, in [rooms](#) connected by interior hallways, consisting of a minimum of one [bedroom](#) and a bath, [occupied](#) for hire, and which typically provides [hotel](#) services such as maid service, the furnishing and laundering of linens, telephone and desk service, the use of furniture, a dining [room](#) and meeting [rooms](#).

(b) **Motel:** A [building](#) or group of [buildings occupied](#) as a more or less temporary abiding place for individuals who are lodged with or without meals in [rooms](#) consisting of a minimum of a [bedroom](#) and bath, [occupied](#) for hire, in which provision is not usually made for cooking within the [rooms](#), and which provides customary [motel](#) services such as maid service, linen service, telephone and/or desk service, and the use of furniture. [Motels](#) typically provide exterior entrances and on-site parking for each unit. A [motel](#) may also include conference [room](#) or banquet facilities, an attached dining [room](#), and/or an unattached standard restaurant.

(2) **Permitted by Right:** C-I

(3) **Permitted by Special Use Permit:** C

(4) **Standards:** The following regulations shall apply to [motels](#) and [hotels](#):

(a) **Design.** Each unit shall contain at least a [bedroom](#) and bath and a minimum [gross floor area](#) of two hundred fifty (250) square feet.

(b) **Services.** [Motels](#) and [hotels](#) shall provide customary [motel](#) and [hotel](#) services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.

(C) **Boutique Hotel.**

(1) **Definition:** A [hotel](#) with no more than 20 guest [rooms](#), and which is constructed of high-quality architectural materials that complement the character of the surrounding neighborhood as determined by [Planning Commission](#).

(2) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U

(3) **Permitted by Special Use Permit:** None.

(4) **Standards:** Proposed [boutique hotels](#) must meet the definition in Article 20 in order to be approved.

(D) **Bed and Breakfast Establishments.**

- (1) **Definition:** A [dwelling unit](#) where the live-in owners and/or operators provide or offer overnight accommodations, in [rooms](#) connected by interior hallways, consisting of a minimum of one [bed room](#) and a bath, for temporary guests for compensation, including provisions for a morning meal for overnight guests only, in addition to the [rooms occupied](#) by the live-in owners and/or operators.
- (2) **Permitted by Right:** C, C-S, C-L, C-H, C-U
- (3) **Permitted by Special Use Permit:** AG, R-1, R-1-W, R-2, R-3, R-4, C-I
- (4) **Standards.** The following regulations shall apply [bed and breakfast](#) establishments:
  - (a) **Bed and Breakfast Establishments as an Accessory Use.** A [bed and breakfast](#) establishment shall be clearly incidental to the principal residence on the site. Accordingly, the [bed and breakfast](#) operations shall be confined to the single-family [dwelling unit](#) that is the principal dwelling on the site. Not more than sixty-six percent (66%) of the total floor area of the [dwelling unit](#) may be used for [bed and breakfast bed rooms](#).
  - (b) **Maximum Number of [Bed Rooms](#).** Seven (7) [bed rooms](#). Any establishment otherwise meeting the definition of a [bed and breakfast](#), but containing more than seven (7) [bed rooms](#) shall be considered a hotel under this ordinance.
  - (c) **Principal Residence.** The [dwelling unit](#) shall be the principal residence of the operator, and the operator shall live in the [dwelling unit](#) when the [bed and breakfast](#) facility is in operation.
  - (d) **Kitchen Facilities.** There shall be no separate cooking facilities for the [bed and breakfast](#) establishment, other than those which serve the principal residence. Food may be served only to those persons who rent a [room](#) in the [bed and breakfast](#) facility.
  - (e) Sleeping Rooms used shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus and additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
  - (f) **Parking.** Adequate [off-street parking](#) shall be provided for [bed and breakfast](#) patrons, in accordance with Article 9.00.

(E) **Boarding House**

- (1) **Definition:** A [building](#), other than a [hotel](#), where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for five (5) or more persons.
- (2) **Permitted by Right:** None
- (3) **Permitted by Special Use Permit:** AG, R-1, R-2, R-3, R-4, C, C-I, C-S, C-L, C-H, C-U
- (4) **Standards.** The regulations for [bed and breakfast](#) establishments shall apply to boarding houses.

(F) **Campground.**

- (1) **Definition:** A facility for overnight stays in non-permanent [structures](#), [cabins](#), tents, or [recreational vehicles](#).
- (2) **Permitted by Right:** RE
- (3) **Permitted by Special Use Permit:** AG, C-I
- (4) **Standards.** The following regulations shall apply to [campgrounds](#).

- (a) No site shall be [occupied](#) by the same tenant for more than 90 consecutive days during the period of June 1 through September 15. Occupancy during the period of September 16 through May 31 shall not exceed 14 consecutive days.
- (b) A site in a [campground](#) shall have access from either a public or internal private [roadway](#).
- (c) Required [Setbacks](#):
  - (i) Front: 15 feet from the [road right-of-way](#)
  - (ii) Side or Rear (from nearest adjacent [cabin](#) or lot line, whichever is closer): 10 feet
- (d) The maximum number of persons allowed to occupy a site shall be limited to eight (8).
- (e) All construction of amenities, including but not limited to, bath/shower houses, [swimming pools](#), community [buildings](#), laundry facilities, etc., shall be in accordance with the Michigan Building Code, as amended. All electrical, plumbing and mechanical work shall be in compliance with applicable State of Michigan Codes, as amended.
- (f) Internal private [road](#) rights-of-way shall not be less than forty (40) feet wide. The driving surface shall have an aggregate surface a least 20 feet of width and at least a 2-foot wide shoulder on each side. The [right-of-way](#) shall be free of obstructions, provide free and easy access to abutting sites, and shall be maintained in a passable and reasonably dust-free condition. The [campground](#) owner shall ensure that [vehicles](#) do not park in the [road right-of-way](#).
- (g) A [campground](#) shall be served by municipal water and sewer, or an approved alternative.
- (h) All connections to the water distribution system, as well as the top of the site sewer connections, shall be located above the elevation defining the 100-year flood plain.
- (i) A [campground](#) shall provide customer site piping to convey water from the service connection to the points of use within the [campground](#), as provided for in the Safe Water Drinking Act, Public Act 399 of 1976, as amended, and rules promulgated under the Act. A [campground](#) shall provide a private sewer collection system as permitted by the Michigan Department of Environment, Great Lakes, and Energy meeting the requirements of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and rules promulgated under the Act.

(G) **Resort.**

- (1) **Definition:** A self-contained commercial vacation establishment that tries to provide many of a vacationer's wants, such as food, drink, lodging, and activities on the premises.
- (2) **Permitted by Right:** C-I, C-H
- (3) **Permitted by Special Use Permit:** AG, R-1, R-2, R-3, C
- (4) **Standards.** The following regulations shall apply to [resorts](#):
  - (a) All guest units must have ready access to water and wastewater systems, including restrooms, and must be equipped with electricity.
  - (b) Detached Unit Resorts shall be subject to the requirements for multi-family housing.
  - (c) Accessory recreational amenities shall be permitted, but must be restricted to use only by guests of the Resort, unless the facility has also been approved as a Private Indoor or Outdoor Recreation Facility.

## Section 6.13 Crop Cultivation

- (A) **Definition:** The growing of plants for commercial sale.
- (B) **Permitted by Right:** AG, R-1, R-2, R-3, M, RE
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.14 Drive-Thru

- (A) **Definition:** A facility designed to serve customers in their cars from a window in the [building](#), so that the cars are idled while being served, rather than parked
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I
- (D) **Standards.** The following regulations shall apply to businesses with drive-thru service.
  - (1) **Minimum Frontage.** The site shall have a minimum of two hundred (200) feet of frontage on primary [road](#) or highway.
  - (2) **Location of Driveways.** [Ingress and egress](#) points shall be located at least sixty (60) feet from the intersection of any two (2) [streets](#) (measured from the nearest [right-of-way](#) line).
  - (3) **Control of Sound Level.** Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.

## Section 6.15 Dwelling Units

### (A) Single Family

- (1) **Definition:** A room, or rooms, within one independent structure, connecting together constituting a separate, independent dwelling unit for one family.
- (2) **Permitted by Right:** AG, R-1, R-1-W, R-2, R-3, R-4, C, C-S, C-L, C-H, C-U
- (3) **Permitted by Special Use Permit:** None.
- (4) **Standards:** No additional standards.

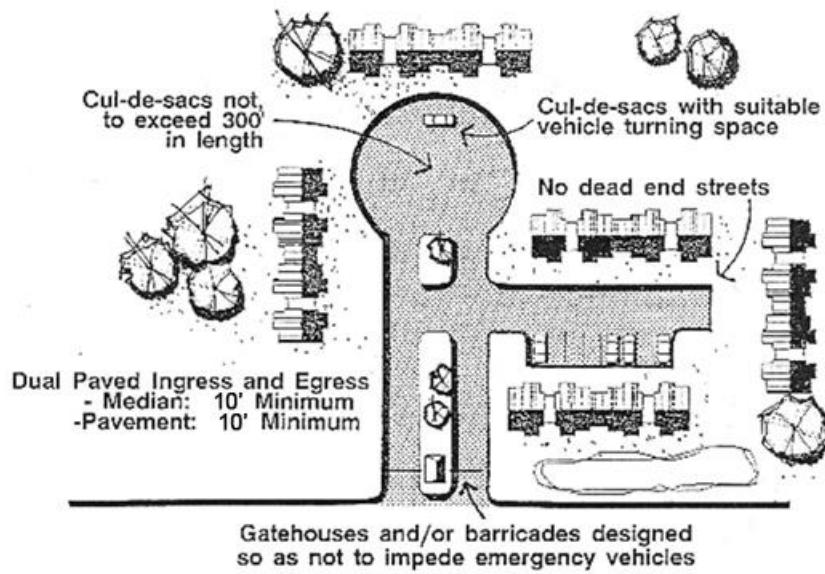
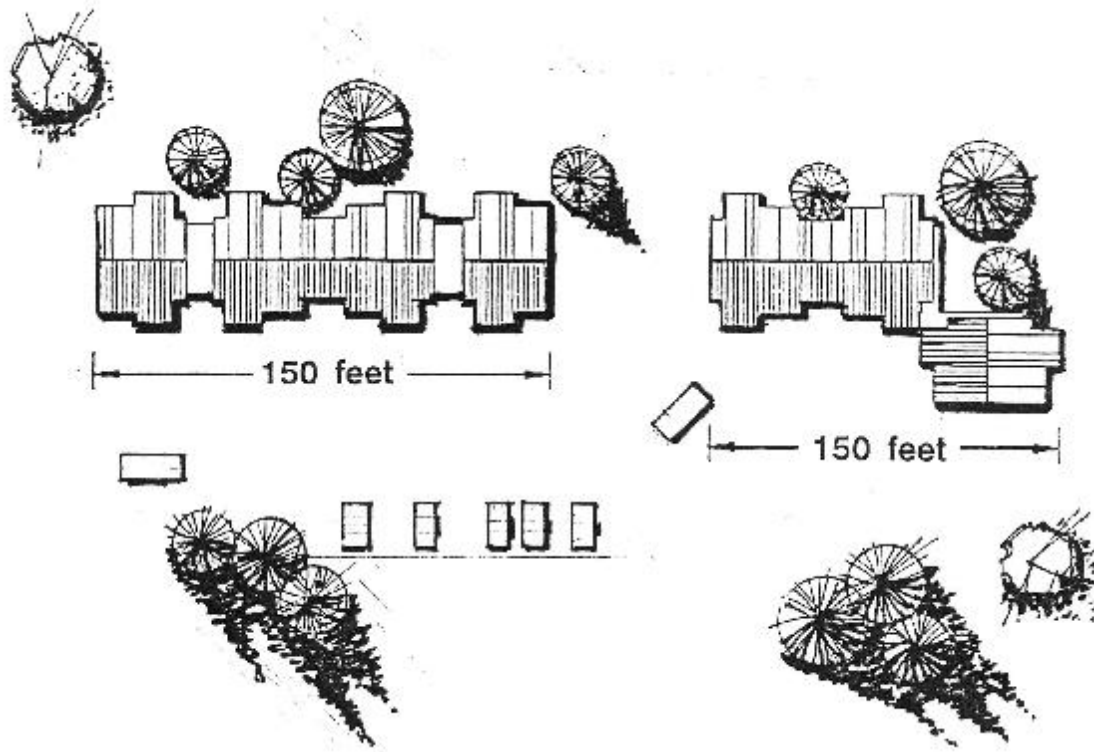
### (B) Multiple Family, Senior Housing, and Townhouse.

- (1) **Definition:** A [building](#) or complex of multiple [buildings](#) where each [building](#) contains at least two [dwelling units](#). Buildings or complexes designed for senior housing, but not including assisted living, shall be considered “multi-family housing” for purposes of this Ordinance.
- (2) **Permitted by Right:** R-3
- (3) **Permitted by Special Use Permit:** C, C-I, C-S, C-L, C-H, C-U
- (4) **Standards.** The following site [development](#) standards shall apply to multiple family and housing [developments](#):
  - (a) Permitted Density.
    - (i) **Basic Formula.** The permitted [density](#) of [development](#) in the R-3 district shall be based on the total number of [bedrooms](#), as noted in the following chart.

Number of Bed Rooms	1	2	3+
Maximum Units Per Acre	18	12	9

- (ii) **Method of Measuring Land Area.** The computations of land area for the purposes of determining density shall not include areas occupied by road rights-of-way or easements, or wetland areas.
  
- (b) **Building Length.** Multiple family buildings shall not exceed one hundred and fifty (150) feet in overall length, measured along the front line of connecting units, inclusive of any architectural features which are attached to or connect the parts of the building together (see illustration).
  - (i) Horizontal facades longer than 30 feet shall be articulated into smaller units at a residential scale by using the following methods (see illustration):
    - 1) Distinctive roof and wall forms or elements.
    - 2) Changes in materials or patterns.
    - 3) Windows (shape, pattern, trims and/or details).
    - 4) Color differentiation.
    - 5) Recesses, offsets, cantilevers.
    - 6) Architectural features (bay or bow windows, chimneys, lower roofs and awnings).
  - (ii) Buildings shall include modulation along the building facades. Special attention shall be given to building faces viewed from the street.
  
- (c) **Street Address.** The address of each dwelling unit must be clearly posted so that the unit can be readily identified from the roadway or adjacent parking area.
  
- (d) **Access and Circulation.** Multiple family developments shall comply with the following requirements for access and circulation (see illustration):
  
- (e) **Access to Roads.** Multiple family developments shall have direct access to a county primary road or state highway.
  
- (f) **Emergency Access.** All dwelling units, including those under construction, shall be readily accessible by fire and emergency vehicles from a public street, private access road, or other approved area. Private roads or driveways dedicated as fire lanes shall be posted with signs indicating "Fire Lane, No Parking." To facilitate emergency vehicle access, the following guidelines shall be complied with:
  - (i) All roadways shall be paved and bi-directional allowing for both ingress and egress. A boulevard may be utilized to provide bi-directional traffic movement, provided that the median strip is a minimum of ten (10) feet in width, and the width of each paved moving lane in each direction is at least ten (10) feet. The easement for the roadway must be at least five (5) feet wider than the paved surface, with 2.5 feet of clear zone beyond the curb on both sides.
  - (ii) Streets with no outlet shall be terminated with a T-turnaround, designed in accordance with standards established and periodically updated by the Berrien County Road Department. Such streets with no outlet shall not exceed three hundred (300) feet in length.

**BUILDING LENGTH**



- (g) **Non-Motorized Pathways.** [Non-Motorized Pathways](#) shall be provided within the [development](#), located no less than five (5) feet from and parallel to access drives. Such pathways shall provide convenient access to community [buildings](#) and between parking areas and [dwelling units](#).
- (h) **Open Space.** Open space shall be provided in any multiple family [development](#) containing eight (8) or more units. The [open space](#) shall comply with the following requirements:
  - (i) **Size.** Total [open space](#) required shall be based on the number and size of units, as indicated in the following chart, provided that each [development](#) shall contain a minimum of ten thousand (10,000) square feet of [open space](#).

Type of Unit	Open Space Required per Unit
Efficiency unit	350 sq. ft. per unit
<b>1 bedroom</b> unit	500 sq. ft. per unit
<b>2 bedrooms</b>	700 sq. ft. per unit
<b>3 bedrooms</b> or more	900 sq. ft. per unit

- (ii) **Location.** Open space shall be located conveniently in relation to the majority of [dwelling units](#) intended to be served. Swamp areas, marshy areas, and similar limited-[use](#) areas shall not be included in the required [open space](#).
- (iii) **Use of Open Space.** Uses permitted within the required [open space](#) include picnic and sitting areas, playground and park space, play equipment, tennis courts, shuffleboard courts, and similar outdoor recreation facilities.
- (iv) **Phasing.** Open space improvements shall be completed in proportion to the number of units constructed in each phase.
- (i) **Community Amenities.** Community amenities such as [swimming pools](#), tennis courts, storage garages, playgrounds, laundry facilities, and other amenities shall be permitted as [accessory uses](#) in the R-3 district, with the approval of the [Planning Commission](#) during the Site Plan Approval process. Community amenities within residential housing complexes must be open to the residents only, and not to the general public (except as guests of a resident), unless the amenity would be permitted in the district as a principal [use](#), in which case the management of the complex may choose to open the facility to the general public.

**(C) Above First Floor in Mixed Use Buildings**

- (1) **Definition:** Individual dwelling units that may or may not be connected by a common hallway. Independent access, without having to traverse through the first floor business area, shall be provided.
- (2) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (3) **Permitted by Special Use Permit:** None.
- (4) **Standards.** No additional standards.

**(D) Manufactured Housing - Mobile.**

- (1) **Definition:** A [building](#) or portion of a [building](#) designed for long-term residential [use](#) and characterized by all of the following:



- (a) The [structure](#) is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- (b) The [structure](#) is designed to be transported to the site in a nearly complete form, where it is placed and attached to a foundation consisting of an approved concrete pad or approved concrete runners with the running gear still attached to the chassis and connected to utilities; and
- (c) The [structure](#) is designed to be used as either an independent [building](#) or as a module to be combined with other elements to form a complete [building](#) on the site

(2) **Permitted by Right:** R-4

(3) **Permitted by Special Use Permit:** None.

(4) **Standards:** See Section 5.01.F

(E) **Manufactured Housing – Permanent.**

(1) **Definition:** A [building](#) or portion of a [building](#) designed for long-term residential [use](#) and characterized by all of the following:

- (a) The [structure](#) is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- (b) The [structure](#) is designed to be transported to the site in a nearly complete form, where it is placed and attached to a foundation consisting of an approved crawl space or [basement](#) and connected to utilities; and
- (c) The [structure](#) is designed to be used as either an independent [building](#) or as a module to be combined with other elements to form a complete [building](#) that complies with Michigan Building and Energy codes.

(2) **Permitted by Right:** AG, R-1, R-2, R-3

(3) **Permitted by Special Use Permit:** None

(4) **Standards.** No additional standards.

(F) **Model Homes.**

(1) **Definition:** A [dwelling unit](#) built for the express purpose of acting as an example for sales staff to show prospective buyers or renters who are interested in a residential complex

(2) **Permitted by Right:** R-1, R-2, R-3

(3) **Permitted by Special Use Permit:** None.

(4) **Standards.** [Model homes](#) in subdivisions and [condominiums](#) shall comply with the following standards:

- (a) **Permitted Use.** The [model home](#) shall be used solely as a sales and promotion office for the subdivision in which the home is located. The [model home](#) shall not be used to conduct other business, or as a [model home](#) to promote sales in other subdivisions.

- (b) **Termination.** Use of the home for sales and promotion shall cease as soon as all lots in the subdivision are sold to potential end users or in two (2) years, whichever occurs sooner, whereupon the [model home](#) shall be offered for sale for [use](#) as a [dwelling unit](#). Prior to expiration of the initial or subsequent approvals, the applicant may seek an extension from the [Planning Commission](#).
- (c) **Appearance.** The [model home](#) and site shall be maintained to look like a typical single family dwelling at all times. However, one identification [sign](#) shall be permitted, subject to the following requirements:
  - (i) Maximum size: six (6) square feet
  - (ii) Maximum height: six (6) feet
  - (iii) Type: ground or wall
  - (iv) Location: [sign](#) shall comply with [setback](#) requirements for district
- (d) **Parking.** A minimum of two (2) temporary paved off-[street parking spaces](#) shall be provided per employee. Off-[street](#) parking shall comply with the requirements in Article 9.00.

(G) **Accessory Dwelling Units**

- (1) **Definition:** A second [dwelling unit](#) associated with the principal dwelling which cannot be sold or leased separately from the principal [dwelling unit](#).
- (2) **Permitted by Right:** None.
- (3) **Permitted by Special Use Permit:** AG, R-1, R-1-W, R-2, R-3, R-4, C
- (4) **Standards.** The following regulations shall apply to accessory [dwelling units](#):
  - (a) Accessory Dwelling Units must be approved by Special Use prior to construction. See [Section 3.01](#).
  - (b) **Residence an Incidental Use.** The accessory [dwelling unit](#) shall be clearly incidental to the principal residence on the site. Accordingly, the following conditions shall be met:
    - (i) Accessory [dwelling units](#) shall be established in and attached to owner-[occupied](#) homes only by means of a fully-enclosed, insulated and heated space, except as described in Subsection f below.
    - (ii) Only one (1) such accessory residence shall be permitted on each [parcel](#).
    - (iii) The total floor area of the accessory residence shall not exceed eight hundred (800) square feet.
    - (iv) The accessory residence shall not contain a [kitchen](#).

- (c) **Setbacks and Placement on the Parcel.** Accessory residences shall comply with all [setback](#) requirements for the district in which they are located.
- (d) **Compatibility with Surrounding Land Use.** The design of the accessory residence shall not detract from the single-family character and appearance of the principal residence or the surrounding neighborhood. The accessory residence shall not have a front entrance visible from the [front yard](#), other than the entrance that serves the principal residence. When viewed from the outside, it shall appear that only one household occupies the site.
- (e) **Parking and Access.** In addition to required parking for the principal residence, one additional parking space shall be provided for the accessory residence.
- (f) **Accessory Dwelling Units in Accessory Structures.** Accessory [dwelling units](#) shall be permitted in detached Accessory Structures ONLY if the detached accessory [dwelling unit](#) is constructed for the express purpose of occupancy by a member of the immediate family of the property owner, such as a parent or child. In order to be approved for a Special Use permit, detached accessory [dwelling unit](#) shall meet all requirements of this Section (6.08.D), except that it may contain a kitchen.

(H) **State Licensed Residential Facilities (Non-Daycare).**

- (1) **Definition:** Any [structure](#) constructed for residential purposes and licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act), including [adult foster care facilities](#), [foster family homes](#), [foster family group homes](#), family day care homes, and group day care homes.
- (2) **Permitted by Right:** AG, R-1, R-1-W, R-2, R-3, R-4
- (3) **Permitted by Special Use Permit:** None.
- (4) **Standards.** State Licensed Residential Facilities, except Child Day Care Homes or Group Day Care Homes, shall be subject to the following:
  - (a) Facilities requiring [special use](#) approval shall not be located nearer than 1,500 feet to another State Licensed Residential Facility that required [special use](#) approval.
  - (b) Off-[street parking spaces](#) shall be provided in a quantity sufficient to accommodate employees of the facility and visitors. However, the extent of pavement coverage of the [front yard](#) shall be limited to be visually compatible with the surrounding area.
  - (c) The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding neighborhood.

## Section 6.16 Funeral Home or Mortuary

- (A) **Definition:** An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards.** The following regulations shall apply to Funeral Homes and Mortuaries:
  - (1) **Assembly Area.** Adequate assembly area shall be provided off-[street](#) for at least 15 [vehicles](#) to be used in funeral processions.
  - (2) **Accessory Dwelling.** An accessory dwelling may be provided within the main [building](#) of the funeral home or within an accessory [building](#).

## Section 6.17 Government and Public Building

- (A) **Definition:** Principal [structures](#) dedicated to the [use](#) by the public or government operations. For the purposes of this Ordinance, Government or Public [buildings](#) shall include libraries, museums, municipal offices, County, State, or Federal Offices, police and fire stations, and other [buildings](#) used by the public or government. Exceptions: Primary/Secondary Schools, Institutions of Higher Education, public recreational facility [buildings](#) shall be defined as described in this section, and shall not be considered Government or Public [buildings](#)
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-L, C-H, C-U, RE
- (D) **Standards.** No additional standards.

## Section 6.18 Group Day Care Home

- (A) **Definition:** A private home with the approved capacity of 7 to 12 minor children for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.
- (B) **Permitted by Right:** In none.
- (C) **Permitted by Special Use Permit:** In all districts.
- (D) **Standards.**
  - (1) **Location.** Such facilities shall be located in the permanent residence of the operator.
  - (2) **Number of Employees.** Such facilities shall have no more than one full-time equivalent non-resident employee. This shall be considered an exemption from the prohibition on non-resident employees in home-based businesses in [Section 7.06.A.9](#).
  - (3) **Fencing.** The perimeter of any yard used for play or instruction shall be enclosed by a [fence](#) that is a minimum of four (4) feet in height to prevent children from departing or entering the yard without permission of an adult employee or the operator.
  - (4) **Hours of Operation.** Such facilities shall operate no more than 16 hours per day. There shall be no outdoor activity, noise or lighting beyond the boundaries of the site between the hours of 10:00 p.m. and 6:00 a.m.

## Section 6.19 Hospitals

- (A) **Definition:** An institution that is licensed by the Michigan Department of 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, central service facilities, and staff offices.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C, C-I, M
- (D) **Standards:** No additional standards.

## Section 6.20 Institution of Higher Education

- (A) **Definition:** A facility dedicated to providing education and training primarily to persons that have already earned a high school diploma or equivalent.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-L, C-H, C-U, RE
- (D) **Standards:** No additional standards.

## Section 6.21 Manufacturing

- (A) **Definition:** A use engaged in the creation of products, predominantly from previously prepared material of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.
- (B) **Permitted by Right:** M
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.22 Medical or Dental Clinic

- (A) **Definition:** An establishment where human patients who are 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.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** M
- (D) **Standards:** No additional standards.

## Section 6.23 Mini-Warehouse or Portable Storage Unit

- (A) **Definition:** A [building](#) or group of [buildings](#), each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Mini-warehouses are typically contained within a [fenced](#), controlled-access compound. Also known as self-storage facilities.
- (B) **Permitted by Right:** C-I, M
- (C) **Permitted by Special Use Permit:** C
- (D) **Standards:**
- (1) **Lot Area.** The minimum lot size for mini-warehouses and portable storage units shall be three (3) acres.
  - (2) **Permitted Use.** Mini-warehouse establishments shall provide for storage only. All such storage must be contained within an enclosed [building](#). Use of [semi-trailers](#) for storage is prohibited. Portable storage units for lease or rent shall not be used for storage on the rental site. Electrical service, except for lighting, is prohibited within storage units.
  - (3) **Resident Manager.** Subject to [Planning Commission](#) approval, a resident manager may be permitted on the site for the purposes of maintaining the operation of the facility in conformance with the conditions of the approval. .

## Section 6.24 Office

- (A) **Definition:** A [room](#), suite of [rooms](#), or [building](#) in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current [use](#) in the office business and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U, M
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.25 Open-Air Business

- (A) **Definition:** Any [commercial use](#) that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:
- (1) Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
  - (2) Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
  - (3) Outdoor display and sale of garages, [swimming pools](#), playground equipment, and uses
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-H, C-L, C-U, M
- (D) **Standards.** The following regulations shall apply to Open-Air Businesses, whether operated year round or on an intermittent basis:

- (1) **Parking Setback.** Parking shall be [setback](#) a minimum of fifteen (15) feet from any [road right-of-way](#) line, unless otherwise noted. The area between the parking and the [road right-of-way](#) shall be landscaped in accordance with Section 10.02(B).
- (2) **Lot Width.** The minimum lot width for open-air businesses shall be two hundred (200) feet.
- (3) **Loading and Parking.** All loading and parking areas for open-air businesses shall be confined within the boundaries of the site, and shall not be permitted to spill over onto adjacent [roads](#).

## Section 6.26 Outdoor Event

- (A) **Definition:** A musical concert, festival, fair, carnival, show, or similar gathering at which music or entertainment is provided by performers or prerecorded means, at which members of the public are invited or admitted for a charge or for free, and at which the anticipated attendance is 500 people or greater.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-L, C-H, C-U, M, RE
- (D) **Standards:**
  - (1) Outdoor Events are permitted by [special use](#) permit in the districts listed in Section 3.01 and must meet the following standards:
    - (a) **Parcel Size.** Outdoor Events shall be permitted only on [parcels](#) that are three (3) acres or larger.
    - (b) **Hours of Operation.** Outdoor Events shall not begin before 10:00 a.m. nor extend later than 10:00 p.m., unless otherwise permitted by the [Planning Commission](#) upon finding that longer hours will have no impact on [use](#) of surrounding property.
    - (c) **Fencing.** The premises shall be completely enclosed by a six (6) foot tall [fence](#) of sufficient strength to preclude persons in excess of the maximum permissible from gaining access and to aid in crowd control. The Township Fire Department shall determine the number of required gates in the [fence](#) based on the proposed number of attendees.
    - (d) **Parking.** Adequate [parking spaces](#) shall be provided for persons attending the Outdoor Event by motor [vehicle](#). At minimum, one (1) [off-street parking](#) space shall be provided for every three (3) persons expected to attend or be employed at an Outdoor Event. Parking along the shoulder of any [road](#) shall be prohibited. Properly-marked barrier-free spaces shall be provided in accordance with the schedule in Section 9.01. A plan illustrating the proposed parking layout, including method of delineating spaces and drive aisles, shall be submitted for approval. The parking layout shall comply with the dimensional and other applicable requirements in Section 9.01 of the Zoning Ordinance, although paving shall not be required for a temporary Outdoor Event.
    - (e) **Traffic Circulation and Control.** A plan for traffic circulation and control shall be submitted for review. The plan shall include provisions for emergency [vehicle](#) access at all times. Provisions shall be made for an adequate number of traffic control officers to provide for the safe, orderly, and expeditious movement of traffic, prior to, during, and after the Outdoor Event. The adequacy of the plan shall be subject to approval by the Township Police and Fire Departments. The sponsors of the Outdoor Event shall pay for the cost of such traffic control.

- (f) **Security Guards.** A minimum of two (2) security guards shall be provided. One (1) additional security guard shall be provided for each two hundred (200) people (or fraction thereof) expected to be in attendance above the initial two (200) people, unless the Township Police Department determines that greater or fewer guards are needed to preserve order and protection of property on and around the site of the Outdoor Event.
- (g) **Potable Water.** Potable water shall be available in sufficient quantity and pressure for drinking and sanitation purposes for the entire Outdoor Event, including under conditions of peak demand. The water supply shall comply with applicable County and State laws and regulations.
- (h) **Toilet Facilities.** A minimum of ten (10) toilet facilities shall be provided per five hundred (500) people anticipated to attend the Outdoor Event. In addition, two (2) toilet facilities shall be provided for each additional two hundred fifty (250) people. Public or common use toilets shall comply with Federal Americans with Disability (ADA) guidelines, which require that five percent (5%) of the total number, and not less than one (1) toilet facility per cluster of toilet facilities, shall be barrier-free. All toilet facilities shall be provided with soap and paper towels and shall comply with applicable County and State laws and regulations.
- (i) **Liquid Waste Disposal.** Proper liquid waste disposal from the premises shall be provided so as to prevent a [nuisance](#) or menace to public health. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with County and State laws and regulations.
- (j) **Solid Waste Disposal.** Proper solid waste storage and removal shall be provided so as to prevent a [nuisance](#) or menace to public health. Storage shall be in covered containers having a minimum capacity of thirty-six (36) gallons, provided at a rate of one (1) container per one hundred (100) persons expected to attend the Outdoor Event. The sponsor of the Outdoor Event shall provide the Township with a true copy of an executed agreement with a licensed solid waste disposal firm, which agreement shall provide for proper removal of solid waste from the premises within twenty-four (24) hours following the Outdoor Event. For multiple day events, solid waste shall be removed from the premises every day.
- (k) **Electrical Service.** A plan for providing electrical service to the site shall be submitted, which plan shall be subject to approval by the [Building Official](#). All electrical wiring shall be installed in compliance with the Michigan [Building Code](#).
- (l) **Noise Control.** Sound or noise resulting from the Outdoor Event, when measured at the [property line](#), shall not exceed the normal ambient sound level on adjacent property between the hours of 10:00 p.m. and 10:00 a.m. At all other times, the sound or noise level produced by the Outdoor Event shall not exceed normal ambient sound level on adjacent property by more than five (5) decibels. Furthermore, no sound or noise shall be produced that causes annoyance to or a threat to the health and safety of the occupants of the adjacent property.
- (m) **Illumination.** Electrical illumination shall be provided to all areas that are intended to be [occupied](#) after dark. A lighting plan shall be submitted showing the location and types of [lighting fixtures](#) and level of illumination for open areas reserved for spectators, stage areas, parking areas, and restroom and concession areas.
- (n) **Communications Facilities.** An emergency communication system shall be provided and maintained for the duration of the Outdoor Event, which system shall be subject to approval by the Township Police Department.



- (o) **Overnight Facilities.** Those who attend an Outdoor Event shall not be allowed to remain on the premises overnight. Overnight use of the premises by performers or employees of the Outdoor Event may be permitted, however, subject to review of detailed plans for the accommodations for overnight use, such as camper or [trailer](#) parking, sanitation facilities, and bathing facilities.
- (p) **Signs.** Signs shall comply with the standards for Approved Nonresidential Principal Uses in Section 12.07(C).
- (q) **Food Service.** If food service is made available, it shall be delivered only through concessions licensed and operated in accordance with State and County laws and regulations.
- (r) **Medical Facilities.** If determined necessary by the Township Police Department, emergency medical facilities shall be provided on the premises for the duration of the event.
- (s) **Prohibited Activities.** It shall be unlawful to conduct or permit any obscene display or entertainment; to cause or create a disturbance by obscene or disorderly conduct; to permit consumption or [use](#) of or make available liquor, narcotics, or narcotic drugs.
- (t) **Fire Protection.** Adequate fire protection shall be provided in accordance with guidelines provided by the Township Fire Department. Flammable vegetation and other fire hazards shall be removed from the site of the Outdoor Event. Equipment to extinguish fires, as required by the Township Fire Department, shall be provided. Open fires are prohibited.
- (u) **Performance Guarantee.** A [performance guarantee](#) meeting the requirements of Section 18.07 shall be deposited with the Township to assure proper clean-up of the site in accordance with the clean-up plan that is required with the application.
- (v) **Insurance.** The applicant shall acquire and maintain, at its sole expense, public liability insurance, naming the Township as an additional insured. The insurance shall be purchased from companies approved by the Commissioner of Insurance of the State of Michigan, and shall cover bodily injury, property damage and personal injury in amounts specified by the Township Supervisor. The applicant shall furnish and deliver certificates of insurance demonstrating the existence of the insurance in the minimum amounts required by the Township. Each certificate shall provide that the Township shall receive not less than thirty (30) days written notice of cancellation, expiration, or termination of the insurance.

## Section 6.27 Parking Lot with No Other Principal Use

- (A) **Definition:** An area on private property that provides vehicular [parking spaces](#) along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three [vehicles](#).
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I, C-S, C-L, C-H, C-U, M
- (D) **Standards:** No additional standards.

## Section 6.28 Pet Shop and Pet Grooming

(A) **Definition(s):**

- (1) **Pet Shop:** A retail business that sells live [animals](#) to be kept as pets.
- (2) **Pet Grooming:** A personal service business that provides cleaning, fur trimming, and related services for pets.

(B) **Permitted by Right:** None.

(C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-L, C-H, C-U

(D) **Standards.**

- (1) **Enclosure.** [Pets](#) shall not be permitted outside of enclosed [buildings](#) while being kept on the site.
- (2) **Sick Animals.** Sick or diseased [animals](#) shall be humanely treated to seek a cure. If necessary, dead [animals](#) shall be humanely disposed of.
- (3) **Clean and Sanitary Conditions.** Such businesses shall be maintained in a clean and sanitary condition. Waste material, including feces and urine, shall be immediately removed.

## Section 6.29 Preserve/Conservation Area

(A) **Definition:** A [use](#) of land solely dedicated to preserving or returning to a natural state of site, with few or no [buildings](#) or [structures](#).

(B) **Permitted by Right:** AG, R-1, R-1-W, R-2, R-3, RE

(C) **Permitted by Special Use Permit:** None

(D) **Standards.** No additional standards.

## Section 6.30 Primary/Secondary School

(A) **Definition:** An educational institution serving students in any combination of grades between Kindergarten and high school graduation. The institution may be public, private, charter, or any other type of school and shall still fall under the definition of “Primary/Secondary School” for the purposes of this Ordinance.

(B) **Permitted by Right:** None.

(C) **Permitted by Special Use Permit:** In all districts.

(D) **Standards.** No additional standards.

## Section 6.31 Recreation – Indoor

(A) **Definition:** Indoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

(B) **Permitted by Right:** C, C-I

(C) **Permitted by Special Use Permit:** AG, R-1, R-1-W, R-2, R-3, R-4, C-S, C-L, C-H, C-U, M, RE

(D) **Standards.** Indoor recreation facilities, such as, but not limited to, bowling establishments, billiard halls, indoor archery and shooting ranges, indoor [swimming pools](#), indoor tennis courts, indoor skating rinks, arcades, indoor driving ranges, and similar indoor recreation uses shall comply with the following regulations:

(1) **Adverse Impacts.** The location, design, and operation of an indoor recreation [use](#) shall not adversely affect the continued [use](#) of adjacent properties through adverse impact resulting from noise, smoke, odor, dust, dirt, noxious gasses, glare, heat, or vibration generated by the [use](#), and loitering on the premises.

(2) **Accessory Uses.** Uses accessory to the principal recreation [use](#) are permitted, including refreshment facilities, retail shops that sell items related to the principal [use](#), locker [rooms](#), restrooms, administrative office, maintenance and storage facilities, spectator seating, and service areas.

(3) **Access.** Indoor recreation uses shall have direct access onto a County primary [road](#).

(4) **Arcades and Video Gaming Devices as Accessory Uses.** Where permitted as an [Accessory Use](#), arcades shall comply with the following requirements:

(a) The arcade facilities shall be clearly incidental to the principal [use](#) on the site.

(b) The arcade facilities shall be accessible only from within the [building](#) which contains the principal [use](#). The arcade shall have no direct means of access to the exterior of the [building](#).

(c) The arcade shall operate only during the hours when the principal [use](#) is open for business.

(d) Sufficient additional [off-street parking](#) shall be provided to serve the arcade facilities.

(e) Where arcades are permitted as an [Accessory Use](#) to an eating or drinking establishment or private club or lodge, there shall be no more than one (1) arcade device for each thirty (30) persons permitted at one time, based on the occupancy load established by local code.

(5) **Approvals.** Indoor recreations facilities shall comply with applicable state and Federal regulations.

## Section 6.32 Recreation - Outdoor

(A) **Definition:** Outdoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

(B) **Permitted by Right:** RE

(C) **Permitted by Special Use Permit:** AG, R-1, R-1-W, R-2, R-3, R-4, C, C-I, C-S, C-L, C-H, C-U, M

(D) **Standards.** Outdoor recreation facilities, such as, but not limited to, ski facilities, courses for off [road vehicles](#) and snowmobiles, baseball facilities, rugby fields and [swimming pools](#), but not including trails, shall comply with the following regulations:

(1) **General Requirements.**

(a) **Access.** Outdoor recreation uses shall have direct access onto a county primary [road](#) or state highway.

- (b) **Impact on Surrounding Properties.** The location, layout, design, or operation of outdoor recreation facilities shall not impair the continued enjoyment, [use](#), and future orderly [development](#) of adjacent and nearby properties. The [Planning Commission](#) may specify the hours of operation in order to assure compatibility with adjacent uses.
  - (c) **Nuisance Impacts.** Outdoor recreation uses shall not generate excessive noise, odors, dust, or other impacts, such that the continued [use](#) and enjoyment of adjacent properties would be impaired.
  - (d) **Parking.** All parking shall be set back a minimum of forty (40) feet from any residential district.
  - (e) **Screening.** Outdoor recreation uses shall be screened from view from adjacent property zoned for residential purposes, in accordance with Section 10.02.
  - (f) **Accessory Retail Facilities.** Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, shall be designed to serve only the patrons of the outdoor recreation facility, unless otherwise listed as a permitted [use](#) in the district in which the facility is located.
- (2) **Off-Road Vehicle and Snowmobile Trails.** Courses or trails for off-[road vehicles](#), snowmobiles, or similar [use](#), shall comply with the following regulations:
- (a) **Minimum Parcel Size.** A minimum of eighty (80) acres shall be required for such uses.
  - (b) **Location.** The site shall be located in a predominantly undeveloped area so as to minimize adverse impact on adjacent uses.
  - (c) **Operations Plan.** The applicant shall provide a detailed operations plan clearly outlining the types, locations, and characteristics of uses proposed, including proposed hours of operation. The Township may regulate the operation and hours of activity to minimize adverse impacts on nearby properties.

## Section 6.33 Recycling Collection Station

(A) **Definition:** A facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing

(B) **Standards:**

- (1) Recycling Collection Stations that are enclosed completely within a [building](#) shall be a permitted accessory to any permitted [use](#) in the C, C-I, C-S, C-L, C-H, C-U, and M districts. Recycling Collection Stations may also be a permitted accessory to a multi-family housing [development](#) in the R-3 district or a manufactured housing [development](#) in the R-4 district.
- (2) Recycling Collection Stations that are enclosed completely within a [building](#) may be the principal [use](#) of property in the C, C-I, and M districts, but must be accessory to another [use](#) in the C-S, C-L; C-H, C-U; R-3, and R-4 districts.
- (3) Recycling Collection Stations that are not enclosed completely within a [building](#) shall be permitted by right in the M district and permitted by Special Use in the C, C-I, and AG districts. The following shall apply to Recycling Collection Stations that are not enclosed completely within a [building](#):
  - (a) All stored materials to be recycled must be kept within opaque storage bins with lids.
  - (b) Material to be recycled must be removed from the site at least once per week.
  - (c) No non-recyclable material may be stored on the site.
- (4) Recycling Collection Centers shall be prohibited in the R-1, R-2, and R-1-W Districts.

## Section 6.34 Religious Institution

- (A) **Definition:** Any church, synagogue, mosque, temple or [building](#) which is used primarily for religious worship and related activities.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** In all districts.
- (D) **Standards:** The following regulations shall apply to all religious Institutions, including churches, synagogues, temples, etc.:
- (1) **Maximum Height.** Religious institutions may exceed the maximum height standard for the districts in which they are located provided that the front, side and rear [setbacks](#) are increased by one (1) foot for every foot by which the [building](#) exceeds the maximum permitted height.
  - (2) **Accessory Uses.** The uses listed in the definition of Religious Institutions shall be permitted accessory to any Religious Institution. However, [accessory uses](#) shall comply with all relevant requirements of this Ordinance, including obtaining required Special Land Use approvals.

## Section 6.35 Restaurant/Bar

- (A) **Definition:** Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards. For outdoor seating standards, see Section 7.21.

## Section 6.36 Retail Store

- (A) **Definition:** A business that sells products or provides services on the premises directly to consumers. Uses that fit this definition but are defined elsewhere in this Ordinance shall be considered to fall under the more specific definition.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.37 Sexually Oriented Business

- (A) **Definition:** An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult [motel](#), adult motion picture theatre, adult theatre, massage parlor, sexual encounter establishment or nude model studio. See [Article 20](#).
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I
- (D) **Standards: Establishment And Classification Of Businesses Regulated.**
1. The establishment of a Sexually Oriented Business shall be permitted by [special use](#) in the C-I, Commercial Interchange District provided for in the Chikaming Township Zoning Ordinance, and shall be subject to the following restrictions unless excepted from the restrictions pursuant to

Subsection D below. No person shall cause or permit the establishment of any of the following Sexually Oriented Businesses, as defined in [Article 20](#), within 1,000 feet of another such business or within 1,000 feet of any religious institution, school, boys' club, girls' club, or similar existing youth organization, or public park or public [building](#), or within 1,000 feet of any property zoned for residential [use](#) or used for residential purposes and are classified as follows:

- a. adult arcade
- b. adult bookstore, adult novelty store or adult video store
- c. adult cabaret
- d. adult [motel](#)
- e. adult motion picture theater
- f. adult theater
- g. massage parlor
- h. sexual encounter establishment
- i. nude model studio

(E) **Measurement Of Distance.** As regarding Section A.1, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to intervening [structures](#), from the closest exterior structural wall of each business. The distance between any Sexually Oriented Business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public [building](#) or any properties zoned for residential [use](#) or used for residential purposes shall also be measured in a straight line, without regard to intervening [structures](#) or objects from the nearest point of the [property line](#) of the premises where the Sexually Oriented Business is conducted, to the nearest point of the [property line](#) of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar pre-existing youth organization or public park or public [building](#) or any properties zoned for residential [use](#) or used for residential purposes.

(F) **Location Of Sexually Oriented Businesses.** The Township of Chikaming hereby requires that Sexually Oriented Businesses shall locate only as provided in Section A, unless excepted from those restrictions pursuant to Section D. In addition, any Sexually Oriented Business shall be subject to the following restrictions:

1. A person commits a misdemeanor, if he operates, causes to be operated, or is the responsible party for a corporation or other entity operating a Sexually Oriented Business except as provided in Section A.
2. A person commits a misdemeanor if he operates, causes to be operated, or is the responsible party for a corporation or other entity operating a Sexually Oriented Business within 1,000 feet of: (a) any religious institution; (b) any school; (c) a public park; or (d) a boys club, girls club, or similar existing youth organization; or within 1,000 feet of the boundary of any residential district or a [property line](#) of a lot devoted to residential [use](#)., except as provided in Section A.1. and 2.
3. A person commits a misdemeanor if he operates, causes to be operated, or is the responsible party for a corporation or other entity operating a Sexually Oriented Business within 1,000 feet of another such business, except as provided in Section A.2.

(G) **Regulations Governing Existing Sexually Oriented Businesses.**

1. Any Sexually Oriented Business lawfully operating on December 19, 2002 that is in violation of Sections A and C of this division, is excepted from the locational restrictions of those sections and shall be deemed a non-conforming [use](#) permitted to continue pursuant to MCLS § 125.286.
2. A Sexually Oriented Business lawfully operating as a conforming [use](#) is not rendered a [nonconforming use](#) by the subsequent location of a church, public or private elementary or secondary school, public park, public [building](#) within 1,000 feet of the Sexually Oriented Business or of a residential district or residential lot within 1,000 feet of the Sexually Oriented Business.

(H) **Injunction.** A person who operates or causes to be operated a Sexually Oriented Business in violation of the locational restrictions in this ordinance, and is not excepted from such restrictions, is subject to a suit for injunction as well as prosecution for the criminal violation and shall, upon conviction, be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, at the discretion of the Court. Each day that a violation shall continue shall constitute a separate offense. If an injunction must be sought, attorney's fees and costs will be assessed at the discretion of the Court against the Sexually Oriented Business.

(I) **Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Booths or Rooms of Less Than 150 Square Feet.**

1. A person who operates or causes to be operated a Sexually Oriented Business which regularly exhibits on the premises in a public viewing [room](#) of less than one hundred fifty (150) square feet of floor space, films, video cassettes or other video reproductions that are characterized by an emphasis on the display of specified sexual activities or specified anatomical areas, shall comply with the following requirements:
  - i. The interior of the business shall have a designated portion of the premises designated as a manager's station. Patrons shall not be permitted in the manager's station. A manager's station may not exceed thirty-two (32) square feet of floor area and may have no dimension greater than eight (8) feet.
  - ii. It is the duty of the owners and operator of the premises to insure that at least one employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
  - iii. The interior of the premises shall be configured in such a manner that there is an unobstructed view, by direct line of sight, from a manager's station to every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment.
  - iv. No booth or viewing [room](#) may be [occupied](#) by more than one person at any one time. No holes shall be allowed in the walls or partitions which separate each viewing [room](#) from an adjoining viewing [room](#) or [restroom](#).
  - v. The premises shall be equipped with overhead lighting [fixtures](#) of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2.0) foot candle as measured at the floor level.
2. A person having a duty under Section F.1.a.-e. commits a misdemeanor if he/she knowingly fails to fulfill that duty.

(J) **Prohibitions Regarding Minors and Sexually Oriented Businesses.** A person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business and knowingly or with reasonable cause to know, permits, suffers, or allows:

1. Admittance of a person under eighteen (18) years of age to the business premises;
2. A person under eighteen (18) years of age to remain at the business premises;
3. A person under eighteen (18) years of age to purchase goods or services at the business premises;
4. A person who is under eighteen (18) years of age to work at the business premises as an employee.

- (K) **Lighting Regulations.** The interior of a Sexually Oriented Business premises shall be lit with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light inside the business in those areas to which patrons are permitted.
- (L) **Hours of Operation.** It shall be a violation of this chapter and a person commits a misdemeanor if the person operates or causes to be operated a Sexually Oriented Business between the hours of 2:00 a.m. and 7:00 a.m., on any day, or between the hours of 2:00 a.m. and 12:00 noon on Sunday.
- (M) **Live Nudity at Sexually Oriented Businesses Prohibited.** It shall be a violation of this chapter and a person commits a misdemeanor if the person knowingly or intentionally, in a Sexually Oriented Business, appears in a state of nudity. It is unlawful for an operator to knowingly violate this regulation or to allow, either knowingly or through negligent failure to supervise, an employee or a patron to violate this regulation.
- (N) **Regulations Pertaining to Live Entertainment.** It is unlawful for an operator to knowingly violate the following regulations or to allow, either knowingly or through negligent failure to supervise, an employee or a patron to violate the following regulations.
1. It shall be a violation of this chapter for an employee to knowingly or intentionally, in a Sexually Oriented Business, appear in a semi-nude condition unless the employee, while semi-nude, shall be at least six (6) feet from any patron or customer and on a fixed stage at least eighteen (18) inches from the floor.
  2. It shall be a violation of this chapter for any employee, while semi-nude in a Sexually Oriented Business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a Sexually Oriented Business.
  3. It shall be a violation of this chapter for any employee, who regularly appears semi-nude in a Sexually Oriented Business, to knowingly or intentionally touch a customer or the clothing of a customer.
- (O) **Criminal Penalties and Additional Legal, Equitable and Injunctive Relief.**
1. In addition to whatever penalties are applicable under the Michigan Criminal Statutes, if any person knowingly fails or refuses to obey or comply with or violates any of the criminal provisions of this Ordinance, such person upon conviction of such offense shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment, at the discretion of the Court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.
  2. Nothing herein contained shall prevent or restrict the Township from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.
  3. All remedies and penalties provided for in this Section shall be cumulative and independently available to the Township and the Township shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law.
- (P) **Scienter Required; Severability Of Ordinance Provisions.**
1. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee shall be imputed to the Sexually Oriented Business for the purpose of establishing a violation of this ordinance only if the operator on duty at the time of the act allowed, either



knowingly or through negligent failure to supervise, a violation of this ordinance to occur. It shall be a defense to liability that the operator was powerless to prevent the violation.

2. This ordinance and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

## Section 6.38 Shooting Range

- (A) **Definition:** A commercial facility for the safe and secure [use](#) of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting. The Zoning Administrator shall have the authority to determine that a gun range on residential or agricultural property is of such a large scale and scope so as to be commercial in nature. Appeals of the decisions of the Zoning Administrator in this regard shall be to the [Zoning Board of Appeals](#).
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I, RE
- (D) **Standards.**
- (1) **Sound Control.** Sound control and other systems shall be provided which will protect the users and employees of the range.
  - (2) **Disposal of by-products of the range.** In no case shall there be the disposal of rubbish, litter, or other by-products of the range in such a manner as to be obnoxious, offensive or in conflict with the general public health, safety and welfare.
  - (3) **Best management practices.** In all cases the range shall use best management practices in dealing with lead, lead dust and other lead byproducts of an indoor Shooting Range.
  - (4) **Building materials.** The [building](#) materials and interior architectural systems used in the Shooting Range shall be designed and constructed in a manner which will prevent projectiles from penetrating the walls or ceilings and contain all projectiles from reaching the outside of the [building](#).
  - (5) **Commercial sale of guns or ammunition.** The indoor range may include a commercial operation area for the sale of guns or ammunition and ancillary equipment provided this area is ancillary to the primary [use](#), an indoor Shooting Range.
  - (6) **Permits and licenses.** Copies of all Federal, state, county or local permits or licenses must be submitted to the Township.

The hours of operation must be approved by the [Planning Commission](#).

## Section 6.39 Solar Energy System (Small or Large)

(A) **General Requirements.** All Solar Energy Systems are subject to the following general requirements:

- (1) All Solar Energy Systems must conform to the provisions of this Ordinance and all County, State, and Federal regulations and safety requirements as well as applicable industry standards.
- (2) Solar Energy Systems shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or [roadways](#) at any time of the day.
- (3) **Two Year Review:** The Planning Commission shall review this section every two years, and shall update this Section as needed to reflect changes in solar energy technology. If the Planning Commission takes no action to amend, then this section shall remain in force as originally adopted.

(B) **Small Solar Energy Systems.**

- (1) **Definition:** A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
- (2) **Permitted by Right:** In all districts.
- (3) **Permitted by Special Use Permit:** N/A
- (4) **Standards.**
  - (a) **Small Solar Energy System Build Integrated Photovoltaic (BIVP).** Small Solar Energy System BIVPs shall be permitted in all [zoning districts](#), provided such BIVPs conform to applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code. A [building](#) building permit shall be required for the installation of any BIVPs.
  - (b) **Roof or Building Mounted Small Solar Energy System.** [Roof or building mounted Small Solar Energy Systems](#) shall be considered an [accessory use](#) in all [zoning districts](#), subject to the following requirements:
    - (i) No part of a Solar Energy System mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley in order to maintain pathways of accessibility.
    - (ii) In the event that a [roof or building mounted Small Solar Energy System](#) has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment.
    - (iii) A building permit shall be required for installation of [roof or building mounted Small Solar Energy System](#). A permit to operate such system shall be issued, and that permit shall be renewed every five years.
  - (c) **Ground Mounted Small Solar Energy Systems.** Ground mounted Small Solar Energy Systems shall be considered an [accessory use](#) in all [zoning districts](#), subject to the following requirements:
    - (i) Prior to the installation of a ground mounted Solar Energy System, the property owner shall submit a site plan to the Zoning Administrator. The site plan shall include [setback](#), panel size, and the location of [property line](#) property lines, [building](#), [fences](#), [greenbelt](#), and [road](#) right of ways.
    - (ii) A ground mounted Solar Energy System shall not exceed the maximum [building height](#) for adjacent [accessory building](#), but in no case shall the maximum height of any ground mounted Solar Energy System exceed fifteen (15) feet above the ground when oriented at maximum tilt.

- (iii) A ground mounted Small Solar Energy System shall be located in the [rear yard](#) rear yard and shall meet the [rear yard setback](#) requirements applicable in the [zoning district](#) in which the Solar Energy System will be located.
- (iv) All power transmission or other lines, wires or conduits from a ground mounted Small Solar Energy System to any [building](#) or other [structure](#) shall be located underground. If batteries are used as part of the ground mounted Solar Energy System, they must be placed in a secured container or enclosure.
- (v) A ground mounted Small Solar Energy System shall be considered a structure, and shall be included in lot coverage calculations.
- (vi) In the event that a ground mounted Small Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner shall notify the Township and shall remove the system within six (6) months from the date of abandonment.
- (vii) A building permit shall be required for installation of a [ground mounted Small Solar Energy System](#). A permit to operate such system shall be issued, and that permit shall be renewed every five years.

(C) **Large Solar Energy Systems.**

- (1) **Definition:** A Solar Energy System where the principal design, purpose or [use](#) of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- (2) **Permitted by Right:** None.
- (3) **Permitted by Special Use Permit:** AG
- (4) **Standards.** In addition to any other requirements for [special use](#) special use approval, [Large Solar Energy System](#)s shall be ground mounted and are subject to the following requirements:
  - (a) The property owner or applicant for a [Large Solar Energy System](#) shall provide the [Planning Commission](#) with proof of ownership of the subject property, a copy of any lease agreement for a [Large Solar Energy System](#), together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
  - (b) An escrow account shall be set up when the applicant applies for [special use](#) approval for the [Large Solar Energy System](#). The amount of the required escrow shall be a good faith estimate by the Township Board to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs and expenses may include, but are not limited to, fees of the Township Attorney or other consultant as the Township deems necessary, including, but not limited to, any reports or studies which the Township anticipates are reasonably necessary for reviewing the application. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the applicant.

- (c) Large Solar Energy Systems shall be located on parcels of land no less than twenty (20) acres in size.
- (d) The Large Solar Energy System shall meet the minimum front, side and rear yard setbacks of the zoning district.
- (e) The height of the Large Solar Energy System and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
- (f) Prior to installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the Large Solar Energy System will connect to the power grid.
- (g) No Large Solar Energy System shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to an interconnection with the electrical grid or a power purchase agreement. Any such agreement shall be furnished to the Planning Commission.
- (h) A condition of every approval of a Large Solar Energy System shall be adequate provision for the removal of the system whenever it ceases to be used for one (1) year or more. In the event that a system has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner and developer/applicant shall notify the Township and shall remove the system within six (6) months from the date of abandonment. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. The site shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
- (i) To ensure proper removal of a Large Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Township within fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.
- (j) If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Large Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.
- (k) A building permit shall be required for installation of a Large Solar Energy System. If a permit to operate such system shall be issued, then that permit shall be renewed every five years.

## Section 6.40 Theater

- (A) **Definition:** A facility designed to accommodate groups of people viewing an artistic performance or motion picture. Theaters may be drive-in or indoor.
- (B) **Permitted by Right:** C-I
- (C) **Permitted by Special Use Permit:** C, C-S, C-L C-H, C-U
- (D) **Standards:** No additional standards.

## Section 6.41 Utility Structures and Substations

- (A) **Definition:** A facility for a service provider, which may be a company or a governmental agency, which provides such services as electric power, natural gas, sanitary sewers, water, telephone, etc.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** In all districts.
- (D) **Standards.** Utility structures, substations, and similar uses shall comply with the following regulations:
- (1) **Location.** Where feasible, utility structures and public service buildings shall be located so as to not hinder the development of the area or detract from the value of adjoining development.
  - (2) **Design.** All such uses shall be contained in buildings that are architecturally compatible with buildings in the vicinity and shall be screened in accordance with Section 10.02 (D).
  - (3) **Off-site Impact.** Such uses shall not create a health or safety hazard, a nuisance, or have deleterious impact on the surrounding area either due to appearance or operation.
  - (4) **Security Fencing.** Security fencing may be permitted, subject to the requirements in Article 11.00.
  - (5) **Landscape Screening.** All utility structures and substations shall be screened from all adjoining lots in accordance with the standards of Section 10.02.E.1, regardless of the zoning district of the utility structure of substation or the zoning district of the adjacent lots.

## Section 6.42 Vehicle Dealership

- (A) **Definition:** A building or premises used primarily for the sale of new and used vehicles and other motor vehicles.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I
- (D) **Standards.**
- (1) These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, trucks, boats, and other vehicles.
  - (2) **Grading, Surfacing, and Drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be graded and drained so as to dispose of surface waters. Grading, surfacing, and drainage plans shall be subject to review and approval by the Township.
  - (3) **Driveway Location.** The nearest edge of any driveway serving an outdoor vehicle sales area shall be located no closer than sixty (60) feet from any road intersection (as measured from the nearest intersection right-of-way line).
  - (4) **Servicing of Vehicles.**
    - (a) Service activities shall be clearly incidental to the vehicle sales operation.
    - (b) Vehicle service activities shall occur within a completely enclosed building.
    - (c) Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
    - (d) The building containing service operations shall be located a minimum of fifty (50) feet from any property line.
    - (e) There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the service building.

- (5) **Broadcasting Devices Prohibited.** Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any [building](#).

### Section 6.43 Vehicle Filling Station (Gas Station)

- (A) **Definition:** A place used 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](#). '[Vehicle filling stations](#)' may also incorporate a convenience store operation as an [Accessory Use](#), provided it is clearly incidental to the [filling station use](#), but no [vehicle repairs](#) shall be permitted.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I
- (D) **Standards.** The following regulations shall apply to Vehicle Filling Stations

- (1) **Minimum Lot Area.** The minimum lot area required for such uses shall be 21,780 sq. ft. (1/2 ac.).
- (2) **Minimum Lot Width.** The minimum lot width required for such uses shall be 200 ft.
- (3) **Minimum Setbacks.** Repair garages or other [buildings](#) shall comply with the [setback](#) requirements for the district in which the [use](#) is located. However, a minimum [setback](#) of forty (40) feet shall be maintained on all sides which abut property that is zoned for residential purposes. Pump islands and canopies shall comply with the following requirements:

	Minimum Setback from Right-of-Way Line	Minimum Setback from Residential Use or Zone
Nearest Edge of Pump Island	30 ft.	50 ft.
Nearest Edge of Unenclosed Canopy	20 ft.	40 ft.

- (4) **Ingress and Egress.** No more than one (1) ingress/egress drive or curb opening shall be permitted for every seventy-five (75) feet of frontage (or fraction thereof) along any [street](#). The nearest edge of any such drive shall be located at least twenty-five (25) feet from the nearest point of any property zoned for residential purposes.
- (a) Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic [nuisance](#) because of its location in relation to other [Ingress and egress](#) drives, its location in relation to the traffic generated by other [buildings](#) or uses, or its location near vehicular or pedestrian entrances or crossings.
- (5) **Outside Storage.** Inoperable, wrecked, partially dismantled, or repaired [vehicles](#) shall not be stored or parked outside for a period exceeding two (2) days. Such [vehicles](#) must be stored in the [rear yard](#), where they shall be screened pursuant to [Section 10.02 \(E\)](#).
- (6) **Vehicle Sales and Storage.** The storage, sale, or rental of new, used, or repaired cars, trucks, [trailers](#), and any other [vehicles](#) on the premises is prohibited.
- (7) **Paving Surface.** Fueling areas shall be paved with concrete.
- (8) **Overnight Semi-Truck Parking.** Overnight semi-truck parking at gas stations shall be prohibited in all districts except C-I. Overnight truck parking must meet the following standards:
- (a) Overnight truck parking must take place within a specifically designated area.
- (b) The truck parking area must have an adequate circulation system for the number of trucks proposed to park there.
- (c) The truck parking area must be screened from all residential uses.

## Section 6.44 Vehicle Repair

- (A) **Definition:** Major or minor repair of [vehicles](#), defined as follows:
- (1) **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning 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 [vehicles](#) on the premises overnight.
  - (2) **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the [vehicle](#) on the premises overnight.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C, C-I
- (D) **Standards.**
- (1) All painting operations shall be conducted within an enclosed [building](#) which shall be equipped with the latest available odor and fume-arresting devices to prevent any [nuisance](#) or annoyance from odor emanating from the [building](#). The painting operations shall comply with the latest standards of the National Board of Fire Underwriters or other testing agencies accepted and approved by the Township Fire Marshal.
  - (2) All [vehicle](#) body shop operations shall be conducted within an enclosed [building](#) which shall be equipped with such special acoustical qualities as will prevent any [nuisance](#) or annoyance from noise emanating from the [building](#).
  - (3) No [vehicle](#) body work, painting or repairing shall be conducted outside of enclosed [buildings](#) on the premises and no more than six (6) [vehicles](#) upon which body work is to be completed or which are to be painted shall be stored outside of enclosed [buildings](#) on the premises prior to the completion of such work.
  - (4) All lubrication equipment, [vehicle](#) wash equipment, hoists, and pits shall be enclosed entirely within a [building](#). Service bay doors and windows shall be oriented so they face away from abutting residentially zoned property.

## Section 6.45 Vehicle Wash

- (A) **Definition:** A commercial establishment contained within a [building](#) or premises or portion thereof where [vehicles](#) are washed.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** C-I
- (D) **Standards:** The following regulations shall apply to Vehicle Wash or Car Wash Establishments:
- (1) **Minimum Lot Size.** The minimum lot size required for [vehicle](#) or car wash establishments shall be 21,780 sq. ft. (1/2 ac.).
  - (2) **Layout.** All washing activities shall be carried on within a fully enclosed [building](#). Vacuuming activities shall be permitted in the rear only, provided such activities are located at least fifty (50) feet from adjacent residentially zoned property. Entrances and exits shall not face abutting residentially zoned property.

- (3) **Entrances and Exits.** Sufficient space shall be provided on the lot so that [vehicles](#) do not enter or exit the wash [building](#) directly from an adjacent [street](#) or [alley](#). All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash [parcel](#) itself. Streets and [alleys](#) shall not be used for maneuvering or parking by [vehicles](#) to be serviced by the [vehicle](#) wash.
- (4) **Exit Lane Drainage.** Exit lanes shall be sloped to drain water back to the wash [building](#) to drainage grates.
- (5) **Location.** The lot on which a car wash is proposed shall be no closer than one hundred (100) feet to a residentially-zoned district.
- (6) **Paving and Drainage.** [Driveways](#), [vehicle](#) maneuvering areas, and parking areas shall be paved and provided with proper underground drainage to prevent water from collecting on the surface or flowing onto adjoining property or [streets](#). Drainage facilities shall be equipped with a mud and grease trap.

## Section 6.46 Veterinary Clinic

- (A) **Definition:** An institution that 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 customary pens or cages for the overnight boarding of [animals](#) and such related facilities as laboratories, testing services, and offices.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** AG, C, C-I, C-S, C-L, C-H, C-U
- (D) **Standards.** No additional standards.

## Section 6.47 Warehousing

- (A) **Definition:** A [building](#) used primarily for storage of goods and materials.
- (B) **Permitted by Right:** M
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.48 Wholesale

- (A) **Definition:** On-premise sale of goods primarily to customers engaged in the business of reselling the goods.
- (B) **Permitted by Right:** C, C-I, C-S, C-L, C-H, C-U
- (C) **Permitted by Special Use Permit:** None.
- (D) **Standards:** No additional standards.

## Section 6.49 Wind Energy Facility

- (A) **Definition:** Any combination of the following:
  - (1) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
  - (2) A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
  - (3) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;
  - (4) The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;



- (5) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.
- (6) Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.
- (7) See [Article 20](#) for definitions of technical terms used in this section.

(B) **Permitted by Right:** None.

(C) **Permitted by Special Use:** AG

(D) **Standards.** With advances in technology of “wind energy development” in general, specific locations within the Township may support the implementation of Utility Grid Wind Energy Systems. To prepare for potential “wind development projects” within the Township, this Ordinance will require such developments to obtain a Special Land Use Permit to ensure wind development sites are appropriately located so as to protect the character and stability of the Township’s residential, agricultural, recreational, commercial and/or industrial areas while simultaneously preserving and protecting the Township’s important and sensitive environmental and ecological assets and areas, open space, viewscapes and aesthetics, wetlands, and other ecological and environmentally sensitive areas. Accordingly, regulations are necessary to further the above goals and, equally important, to minimize the potential adverse effects of this emerging land use on adjacent properties.

(1) **On-Site Wind Energy Conversion Systems (Also Called Small Scale).** The following standards shall apply to On-Site WECS, including Anemometer Towers, in addition to the general Special Use Requirements of this Ordinance:

- (a) **Height.** Shall have a total height of 60 feet or less; except where state and federal regulations may require a lesser height; or where, as a condition of special use approval, the Planning Commission requires a lesser height. Height is measured from the average grade at the base of the tower to the highest point of WECS when a blade is in its vertical orientation.
- (b) **Setbacks.** The distance between an On-Site WECS and the property lines shall be equal to 110% of the height of the tower including the top of the blade in its vertical position. The distance between an accessory structure associated with the WECS and all property lines shall be at least the minimum setback for all accessory structures in the zoning district the WECS is located within. On-site WECS and associated accessory structures shall not count towards the maximum number of accessory structures on a given lot.
- (c) **Minimum Lot Area Size.** The minimum lot size for a property to be eligible to have an On-Site WECS shall be three (3) acres if the height is 40 feet or less; five (5) acres if the height is between 40 and 60 feet.
- (d) **Minimum Ground Clearance.** The minimum vertical blade tip clearance from grade and any structure, adjoining property, or tree shall be 20 feet for an on-site WECS employing a horizontal axis rotor.
- (e) **Noise Emission.** Noise emitting from an on-site WECS shall not exceed 45 dB(A) ( $L_{max}$ ) or 55 dB(C) ( $L_{max}$ ) at the property line closest to the WECS.
- (f) **Construction Codes, Towers, & Interconnection Standards.** On-site WECS including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site WECS including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and other applicable local and state regulations. An interconnected On-site WECS shall comply with Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards. Off-grid systems are exempt from MPSC and FERC requirements.
- (g) **Safety.** The On-Site WECS shall meet the following safety requirements:

- (i) The On-Site WECS shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
  - (ii) All energy collection system wiring shall comply with all applicable safety and stray voltage standards.
  - (iii) Each On-Site WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the braking system.
  - (iv) A copy of the un-redacted Safety Manual from the turbine manufacturer shall be submitted to the Township and the turbine must comply with all requirements therein.
  - (h) **Shadow Flicker.** On-site WECS shall produce no off-site shadow flicker. Measures to eliminate all effects of shadow flicker on adjacent properties, such as programming the WECS to stop rotating during times when shadow crosses occupied structures, may be required.
- (2) **Utility Scale Wind Energy Conversion Systems (Also Called Large Scale).** The following standards shall apply to Utility Scale WECS, including Anemometer Towers, in addition to the general Special Use Requirements of this Ordinance:
- (a) **Height:** The maximum height of any Utility Scale WECS is 330 (three hundred thirty) feet. The height of a WECS is measured from the base of the tower to the highest point of the WECS when a blade is in its vertical orientation. The maximum height shall also comply with FAA requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and other applicable regulations.
  - (b) **Vibrations.** Wind turbines shall not create vibrations that are detectable by humans on non-participating properties.
  - (c) **Substations and Accessory Buildings.** Structures related to a WECS shall be subject to the dimensional and locational standards of accessory structures in the zoning district. However, WECS and structures associated with a WECS shall not count towards the maximum number of accessory structures on a given lot.
  - (d) **Inspection.** The Township shall have the right upon issuing any WECS or wind energy facility special use permit to inspect the premises on which each WECS is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the WECS.
  - (e) **Setback:** The following setbacks, measured from the outside edge (the point furthest from the pylon as it rotates horizontally) of the blades, not from the tower itself, shall be observed.
    - (i) **Non-Participating Properties:** The minimum setback from any property line of a non-participating landowner shall be no less than 1,500 feet.
    - (ii) **Participating Properties:** The minimum setback from the property line of a participating landowner shall be no less than 100 feet. Participating landowners acknowledge the potential for risk of ice throw.
    - (iii) **Dwelling Unit:** The minimum setback from any occupied dwelling unit shall be no less than 110% of the height of the WECS or the minimum safety radius established by the turbine manufacturer, which shall include ice throw risk, whichever is greater.

- (iv) **Road Right of Way:** The minimum setback from any road right-of-way shall be 110% of the height of the WECS, or the minimum safety radius established by the turbine manufacturer, which shall include ice throw risk, whichever is greater.
- (v) **Between WECS:** Separation between Utility Scale WECS shall not be less than 200% of the height of the taller of the two WECS to allow for proper safety setback. Measurement shall be from center of hub to center of hub.
- (f) **Lot Size.** The size of a single property, or a leased unit to be used for a utility-scale WECS shall be sufficient to comply with all setback requirements in this section.
- (g) **Blade Clearance:** Blade arcs created by a WECS shall have a minimum of fifty (50) feet of clearance over and from any structure, a minimum of 100 feet of clearance above the ground.
- (h) **Noise:**
  - (i) Applicant shall provide an initial sound modeling report and, within six (6) months of commencing operation of the WECS, a post-construction sound report for the project.
  - (ii) No WECS shall generate or permit to be generated audible noise from commercial or industrial permitted facilities that exceeds 45 dBA ( $L_{max}$ ) or 55 dBC ( $L_{max}$ ) (dBC to dBA ratio of 10 dB per ANSI standard S12.9 Part 4 Annex D) for any duration, at a property line or any point within any property.
  - (iii) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any acoustic, vibratory, or barometric oscillations in the frequency range of 0.1 to 1 Hz that is detectable at any time and for any duration by confirmed human sensation or exceeds a sound pressure level from 0.1 to 20 Hz of 50 dB(unweighted) re 20uPA or exceeds an RMS acceleration level of 50 dB(unweighted) re 1 micro-g by instrumentation at a landowner's property line or at any point within a landowner's property.
  - (iv) No WECS shall generate or permit to be generated from commercial or industrial permitted facilities any vibration in the low-frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a landowner's property line or at any point within landowner's property.
  - (v) A noise level measurement made in accordance with methods in section "Noise Measurement and Compliance" that is higher than 45dBA ( $L_{max}$ ) or 55 dBC ( $L_{max}$ ) adjusted for the penalty assessed for a tonal noise condition, shall constitute prima facie evidence of a nuisance.
  - (vi) An acoustic, vibratory or barometric measurement documenting oscillations associated to commercial or industrial permitted facilities with levels exceeding the noise limits shall constitute prima facie evidence of a nuisance.
  - (vii) All commercial and industrial activity shall comply with limits and restrictions anywhere at any time on another property.
  - (viii) Leq 1-sec shall be used for all measurements and modeling.
- (i) Noise Measurement and Compliance

- (i) Post construction validation and compliance testing shall include a variety of ground and hub height wind speeds, at low (between 6-9mph) medium (between 9-22mph) and high (greater than 22mph). SCADA data shall be provided in the format determined by Township, Township licensed engineers, or Township professional acousticians. Compliance noise measurements are the financial responsibility of the WECS owner of the facility and shall be independently performed by a qualified professional acoustician approved by the Township Board or their designated agent. Compliance noise measurements shall not exceed the stipulated noise limits and shall assess for and apply tonal noise penalties when warranted.
- (ii) **Quality:** Measurements shall be attended. All noise measurements shall (must) exclude contributions from wind on microphone, tree/leaf rustle, flowing water, and natural sounds such as tree frogs and insects. The latter two can be excluded by calculating the dBA noise level by excluding octave band measurements above the 1000 Hz band as in ANSI S12.100 3.11. The ANSI-weighted sound level is obtained by eliminating values for octave bands above 1000 Hz, or one-third octave bands above 1250 Hz, and A-weighting and summing the remaining lower frequency bands. The wind velocity at the sound measurement microphone shall not exceed 3 m/s (7 mph, maximum) during measurements. A 7-inch or larger diameter windscreen shall be used. Instrumentation shall have an overall internal noise floor that is at least 5 dB lower than what is being measured. During testing of elevated sources including, but not limited to, wind turbines, the atmospheric profile shall be Pasquill Stability Class E or F preferred, Class D as alternate.
- (iii) **Noise Level:** Noise measurements shall be conducted consistent with ANSI S12.18 Procedures for Outdoor Measurement of Sound Pressure Level and ANSI S12.9 Part3 (Quantities and Procedures for Description and Measurement of Environmental Sound – Part 3: Short-term Measurements with an Observer Present), using Type 1 meter, A-weighting, Fast Response.
- (iv) **Tonal Noise:** Tonal noise shall be assessed using unweighted (linear) 1/3 octave band noise measurements with time-series, level-versus-time data acquisition. A measurement shall constitute prima facie evidence of a tonal noise condition if at any time (single sample or time interval) the noise spectrum of the noise source under investigation shows a 1/3 octave band exceeding the average of the two adjacent bands for by 15 dB in low one-third octave bands (10–125 Hz), 8 dB in middle-frequency bands (160–400 Hz), or 5 dB in highfrequency bands (500–10,000 Hz).
- (v) **Sample Metric and Rate:** Noise level measurements for essentially continuous non-time-varying noise sources shall be acquired using the Leq(Fast) metric at a sample rate of 1-per-second. For fluctuating or modulating noise sources including, but not limited to, wind turbines, a 10-per-second sample rate or faster shall be used. These sample rates shall apply to dBA, dBC and unweighted 1/3 octave band measurements.
- (vi) **Reporting:** Measurements of time-varying dBA and dBC noise levels and 1/3 octave band levels shall be reported with time-series level-versus-time graphs and tables. Graphs shall show the sound levels graphed as level-vs-time over a period of time sufficient to characterize the noise signature of the noise source being measured. For 1-per-second sampling, a 5-minute-or-longer graph shall be produced. For 10-per-second sampling, a 30-second-or-longer graph shall be produced. Reporting shall identify, and graphs shall be clearly notated, identifying what was heard and when the noise source is dominating the measurement. Reporting shall furnish all noise data and information on weather conditions and, Pasquill Class occurring during testing.
- (j) **Signage:** Each WECS and Testing Facility shall have one sign per turbine, or tower, located at the roadside and one sign attached to base of each WECS, easily visible throughout four seasons. Signs shall be two square feet in area and be placed at the road right of way. Signs shall be the same form and shall uniquely identify each WECS. Additional signage on and around the tower is recommended. The sign shall contain at least the following:

- (i) Warning high voltage.
  - (ii) Participating Land owner's name, WECS owner's name, and operator's name.
  - (iii) Emergency telephone numbers and web address. (list more than one number).
  - (iv) If WECS uses fencing, place signs on the perimeter fence at fence entrance door.
  - (v) Unique identification such as address of WECS. If more than one WECS on access drive, units shall have further identification such that first responders can positively identify.
- (k) **Coating and Color:** A WECS shall be painted a non-obtrusive (light environmental color such as beige, gray or off-white) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
- (l) **Shadow Flicker:** No amount of Shadow Flicker may fall on or in a Non-Participating Parcel. Site plan and other documents and drawings shall show mitigation measures to eliminate potential impacts from shadow flicker, as identified in the Shadow Flicker Impact Analysis. Measures to eliminate all effects of shadow flicker on all Non-Participating parcels beginning at the property lines, such as programming the WECS to stop rotating during times when shadow crosses occupied structures, shall be required. Participating parcels shall not exceed 30 hours of shadow flicker on the ground or an unoccupied structure, or 5 hours of shadow flicker on occupied buildings, per calendar year.
- (m) **Communication Interference:** Each WECS shall be designed, constructed and operated so as not to cause radio and television or other communication interference. In the event that verified interference is experienced and confirmed by a licensed engineer, the Applicant must produce confirmation that said interference had been resolved to residents' satisfaction within ninety (90) days of receipt of the complaint. Any such complaints shall follow the process stated in Complaint Resolution sections.
- (n) **Braking:** Each WECS shall be equipped with a braking, or equivalent device, capable of stopping the WECS operation in high winds with or without SCADA control. Braking system shall be effective during complete GRID power failure where WECS are unable to communicate with SCADA control or receive power.
- (o) **Applicant Compliance:** The WECS and related equipment shall comply with any and all State, Federal, County and Township requirements, and obtain all necessary permits from the FAA, Michigan Department of Transportation, and/or any other Federal, State, Township, or other government authority prior to construction of any WECS.
- (p) **Liability Insurance:** The current WECS owner and operator shall insure for liability for the WECS in an amount of \$2,000,000, without interruption until removed and comply with section "Site Insurance" to protect the current WECS owner and operator.
- (q) **Decommissioning:** A condition of every approval shall be adequate provision for the removal of the structure in its entirety whenever it ceases to actively produce power for one hundred eighty (180) days or more. The Planning Commission can grant an extension of an additional one hundred eighty (180) days upon the WECS owner demonstrating that the structure will be put back into use. Removal shall include the proper receipt of a demolition permit from the Building Official and proper restoration of the site, including but not limited to all participating parcels, to original condition. Removal of the structure, wiring, and its accessory use facilities shall include removing the caisson (foundation) and all other components in their entirety, to a depth of at least six (6) feet below grade. Restoration must be completed within 365 days of non-operation. If repair is allowed, the WECS owner must provide data indicating the repaired WECS is in good operational condition and functioning at an efficiency similar to surrounding WECS.

- (i) To ensure proper removal of each WECS structure when it is abandoned or non-operational, application for a special land use permit shall include a proof of the financial security in effect before permit is approved. The security shall be in the form of a cash deposit. Additionally, security is based on each WECS and is to be backed by owner assets, operator assets, parent company assets, and leaseholder assets approved by the Planning Commission.
- (ii) The amount of each WECS security guarantee, shall be the average of at least two independent (applicant) demolition (removal) quotes obtained by the Planning Commission and approved by the Township Board. If the quantity of quotes obtained is two (2), the formula should be (quote 1 + quote 2) divided by two (2). The security guarantee shall be a cash deposit of 150% of the cost for the first turbine, plus 120% of the cost for the second turbine, plus 100% of the cost for each additional WECS thereafter, or \$1,000,000, whichever is greater. Quotes shall be based on individual WECS removal and shall not group multiple WECS simultaneous removals together. Quotes shall be ordered and obtained by the Township from established demolitions companies. Quotes shall not include salvage values. The cash deposit shall be updated every two (2) years at the rate of 1.5 times CPI (consumer price index) for each year.
- (iii) Such financial guarantee shall be deposited with the Township Treasurer, or with a third-party fiduciary, at the discretion of the Township, after a special use has been approved but before construction operations begin on the WECS project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and shall subject the Applicant to all available remedies to the Township, including enforcement action, fines, revocation of the special use approval and WECS removal.
- (iv) The Applicant shall be responsible for the payment of all attorney fees and other costs incurred by the Township in the event that the structure is not voluntarily removed and the Township has to enforce removal.
- (v) The Applicant/Owner and Operator shall execute any and all documents (as provided or approved by the Township), sufficient to provide the Township with a perfected security interest in monies deposited with the Township for the purpose of decommissioning any wind energy system.
- (r) **Transfer or Sale.** In the event of a transfer or sale of the WECS, the Township shall be notified and the special land use permit may be amended administratively by the Township board.
  - (i) Change in ownership alone shall be considered a minor amendment to the special land use and may be approved administratively without a public hearing.
  - (ii) Any proposed changes to the operating procedure or approved site plan shall be amended and resubmitted for Township review according to the procedures for all WECS as outlined herein, including a public hearing.
  - (iii) Upon transfer or sale, the cash bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.
- (s) **Safety Manual:** The Applicant must provide an unredacted copy of the manufacturer's safety manual for each model of turbine without distribution restraints to be kept at the Township Hall and other locations deemed necessary by Planning Commission or local first responders. The Manual should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during WECS failure, processes in emergencies, etc.

- (t) **Operational, Maintenance, and Issue Resolution:** Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the Applicant shall take expeditious action to correct the situation, including WECS removal. The Applicant shall keep a maintenance log on each WECS and must provide complete log to the Township within thirty (30) days of request. To assure compliance with this requirement, an annual audit of maintenance records, conducted by a qualified third-party maintenance expert acceptable to the Township, shall be completed at the expense of the owner/operator of the turbine, and a copy of this report provided as specified by the Township.
- (u) **Escrow:** An escrow account shall be set up when the applicant applies for [special use](#) approval for the WECS. The amount of the required escrow shall be a good faith estimate by the Township Board to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs and expenses may include, but are not limited to, fees of the Township Attorney or other consultant as the Township deems necessary, including, but not limited to, any reports or studies which the Township anticipates are reasonably necessary for reviewing the application. These funds are used to cover all reasonable costs and expenses associated with the [special use](#) approval process, which costs can include, but are not limited to, fees of the Township Attorney, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the applicant.
- (v) **Complaint Resolution:** It is the intent of this ordinance to provide a mechanism to address and resolve complaints prior to the expenditure of significant funds by the Township and/or operator for investigation and resolution. Therefore, the Township shall perform an initial vetting of complaints prior to requesting funds from the operator for complaint resolution efforts. Complaints of noncompliance with the requirements of this ordinance shall be resolved in the following manner:
- (i) Complaints shall be submitted to the Township Supervisor in writing from the affected property owner, or written designee, including name, address, contact information, and specific complaint. The written complaint shall include the specific section of the ordinance which is believed to be violated. The Supervisor shall cause the complaint to be added to the agenda of the next Township Board meeting in accordance with the procedure for setting the agenda.
  - (ii) The Supervisor shall submit to the operator of record notice of all written complaints to the Township within thirty (30) days of receipt of any complaint. Complaints received by the Township and the date of any Township Board meeting where complaints may be considered shall be communicated to the operator at least 10 days prior. The notice shall state that the Township Board may determine that the WECS is in violation of its permit and is therefore a nuisance and may be ordered out of service until the owner operator can demonstrate compliance with the requirements of this ordinance.
  - (iii) Upon review, if the Township Board, by an affirmative vote of the majority of the members present, deems a complaint sufficient to warrant an investigation, the Township Board shall notice the owner(s) and/or operator of the WECS that an investigation has been requested by the Board.

- (iv) Owner operator shall be required as a condition of the operation to fund an escrow account for investigation of complaints for, but not limited to, shadow flicker, stray voltage, noise, and signal interference in the amount of \$15,000.00 to be used at the discretion of the Township Board. When the escrow account balance is below \$5,000.00 the Township shall notify the Applicant and the Applicant shall replenish the account in the amount of \$15,000.00 within 45 days.
- (v) If the WECS is found in violation of this ordinance, the owner(s) and/or operator shall take immediate action to bring the WECS into compliance. If the operator fails to bring the operation into compliance within thirty (30) days, the Township may seek any relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation. Each violation for which the owner(s) and/or operators are deemed responsible shall result in a \$500.00 fine. Each day of non-compliance shall be a separate offense.
- (vi) Any WECS found by the Township Board to be in violation of this ordinance set forth herein shall be considered a nuisance and the WECS operations shall cease until such time as the WECS owner/operator can demonstrate compliance with the requirements of this ordinance.
- (w) **Non-Compliance with Standards:** The Township Board reserves the right to require WECS Applicant to shut down any WECS unit that does not meet ordinance requirements until such WECS unit meets ordinance requirements or is removed.
- (x) **Two Year Review:** The Planning Commission shall review this section every two years, and shall update this Section as needed to reflect changes in wind energy technology. If the Planning Commission takes no action to amend, then this section shall remain in force as originally adopted.

## Section 6.50 Wireless Telecommunications

- (A) **Definition:** All [structures](#) and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment [building](#) and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.
- (B) **Permitted by Right:** None.
- (C) **Permitted by Special Use Permit:** In all districts.
- (D) **Standards:**
  - (1) **New Facilities.** New wireless telecommunications facilities shall be permitted by Special Use approval in all [Zoning Districts](#), regardless of whether a new support [structure](#) (tower) will be constructed or not, subject to the following standards:
    - (a) Before constructing a new facility, the applicant must demonstrate that they cannot achieve the needed service improvement by co-locating at an existing facility.
      - (i) The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the Township, to demonstrate the needed service improvement and why co-location is not possible.
      - (ii) If an owner or operator of an existing tower refuses to allow a co-location, written evidence of the denial of the co-location request must be submitted to the Township, and must include the reason for the denial.



- (iii) The proposed [colocation](#) will not do any of the following:
- 1) Increase the overall height of the wireless communications support [structure](#) by more than twenty (20) feet or ten percent (10%) of its original height, whichever is greater.
  - 2) Increase the width of wireless communications support [structure](#) by more than the minimum necessary to permit [colocation](#).
  - 3) Increase the area of the existing equipment compound to greater than 2,500 sq. ft.
- (iv) The proposed [colocation](#) complies with the terms and conditions of any previous final approval by the [Planning Commission](#).
- (b) To the extent practical, all ground equipment associated with the facility must be enclosed within a locked [building](#).
- (c) Information must be submitted showing that the facility is in compliance with all applicable FCC regulations regarding radio frequency emissions.
- (d) Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.
- (e) Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior [fence](#).
- (f) If a new tower is to be constructed for the facility, it shall meet the following standards:
- (i) The tower must be set back from all [property lines](#) by a distance equal to 1.5 times its height.
  - (ii) Lighting on the tower shall be prohibited unless required by the Federal Aviation Administration.
  - (iii) The tower must be a monopole design. Guyed and lattice towers are prohibited.
  - (iv) No signage shall be placed upon the tower [structure](#).
  - (v) The tower must be the shortest possible height required to provide the service desired by the applicant. The applicant must submit coverage and/or capacity information, including propagation maps and other information requested by the Township, to demonstrate the needed service improvement and why the requested height is necessary. The Township may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine for itself whether the requested height is necessary.
  - (vi) The base of the tower and all associated equipment must be surrounded by a locked, opaque screening [fence](#) meeting the standards of the [zoning district](#) that the tower is located within.
  - (vii) The applicant must specify the number of co-location sites that will be available on the tower.

(viii) A structural analysis, signed and sealed by a licensed engineer, must be submitted demonstrating that the proposed tower will be able to support all proposed antennae, including co-locations.

(ix) The applicant must submit renderings or photo-sims of the proposed tower as viewed from the following locations:

- 1) The nearest public [roadway](#).
- 2) The nearest residential [use](#).
- 3) Any other location requested by the Township from which the tower may potentially be visible.

**(2) Co-locations and Modifications to Existing Facilities:**

(a) Co-locations and modifications to existing facilities shall not require Special Use or Site Plan Approval, except as described in Subsection b, below. The Zoning Administrator shall have the authority to approve all co-locations and modifications that meet the standards of this chapter.

(b) Under the following circumstances, co-locations and modifications shall require Special Use approval, regardless of the [Zoning District](#) they are located in:

- (i) The applicant proposes to increase the height of an existing tower by more than 20 feet, or ten percent of its original height, whichever is greater.
- (ii) The applicant proposes to increase the width of the tower by more than the minimum necessary for structural stability given existing and proposed antennae.
- (iii) The applicant proposes to increase the ground-level compound to more than 2,500 square feet in area.

(c) Co-locations and modification must meet the following standards in order to be approved, either administratively or by [Special Use](#).

- (i) The applicant must submit a structural analysis, signed and sealed by a licensed engineer, demonstrating that the tower, in its present condition, has the structural capacity to support any proposed new antennae or other tower-mounted equipment.
- (ii) The applicant must submit the results of an inspection of the condition of the tower and equipment compound, noting any potential problems with the facility that could impact the health, safety, and welfare of the surrounding area, or the effective provision of service from the facility. Any concerns raised by the inspection must be corrected during construction of the modification of co-location.
- (iii) Information must be submitted showing that the facility is in compliance with all applicable Federal Communications Commission regulations regarding radio frequency emissions.
- (iv) Information must be submitted showing that the facility will not cause interference with any nearby existing telecommunications facilities.
- (v) No lighting may be added to the tower unless required by the Federal Aviation Administration.

- (vi) Signage notifying the public of potential high voltage and radio frequency emissions and giving the contact information for the tower owner and the operators of all equipment on the site must be posted on the exterior [fence](#). No [sign](#) shall be placed upon the tower [structure](#).
- (3) Timelines for Approval.** The Township will comply with all State and Federal requirements for approval timelines. As of the adoption of this Ordinance, those were as described in Subsections (a) and (b) below. In the event of changes to Federal or State law, this section shall be void and the laws in place at the time of application shall be followed.
- (a)** For new facilities, the Township shall request all required information within 14 business days of the application being filed with the [Building](#) Department. The Township shall issue a decision on the Special Use within 90 days of the application being deemed complete by the Township.
- (b)** For modifications and co-locations, the Township shall request all required information within 14 business days of the application being filed with the [Building](#) Department. The Zoning Administrator shall issue an administrative approval within 60 days of the application being deemed complete by the Township.
- (4) Abandonment and Removal.** All wireless facilities and support towers shall be removed by the property owner and/or owner of the tower if the facility is not used for telecommunications for a period of six months.

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## Article 7 General Provisions

### Section 7.01 Administrative Regulations

- (A) **Scope of Regulations.** No [structure](#) or tract of land shall hereafter be used or [occupied](#), and no [structure](#), or part thereof, shall be [erected](#), altered, or moved, except in conformity with the provisions of this Ordinance.

However, where a [building](#) permit for a [building](#) or [structure](#) has been issued in accordance with law prior to the [effective date](#) of this Ordinance and construction is begun within six months of the [effective date](#), said [building](#) or [structure](#) may be completed in accordance with the approved plans. Furthermore, upon completion the [building](#) may be [occupied](#) under a Certificate of Occupancy for the [use](#) for which the [building](#) was originally designated, subject thereafter to the provisions of Article 8 concerning nonconformities. Any subsequent text or map amendments shall not affect previously issued valid permits.

- (B) **Relationship to Other Ordinances or Agreements.** This Ordinance is not intended to abrogate or annul any ordinance, rule, regulation, permit, [easement](#), covenant, or other private agreement previously adopted, issued, or entered into and not in conflict with the provisions of this Ordinance.

However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules, regulations, permits, [easements](#), covenants, or other private agreements, the requirements of this Ordinance shall govern.

- (C) **Vested Right.** Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular [use](#), [district](#), zoning classification, or permissible activities therein. Furthermore, such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of public health, safety, and welfare, to the extent that such rights are not protected by the [nonconforming use](#) provisions in Article 8.

- (D) **Continued Conformity with Yard and Bulk Regulations.** The maintenance of yards and other [open space](#) and minimum lot area legally required for a [building](#) shall be a continuing obligation of the owner of such [building](#) or of the property on which it is located, for as long as the [building](#) is in existence.

No portion of a lot used in complying with the provisions of this Ordinance in connection with an existing or planned [building](#), shall again be used to qualify or justify any other [building](#) or [structure](#) existing or intended to exist at the same time.

- (E) **Division and Consolidation of Land.** The division and consolidation of land shall be in accordance with the Land Division Act (Michigan Public Act 288 of 1967, as amended), and the Chikaming Township Land Division Ordinance, Ordinance No. 89. No lot or [parcel](#) shall hereafter be divided into two or more lots and no portion of any lot shall be sold, unless all zoning lots resulting from each such division or sale conform to all regulations of the [zoning district](#) in which the property is located. The provisions of Section 8.04 shall also apply where applicable.

### Section 7.02 Accessory Buildings, Structures, and Uses

- (A) **General Requirements.**

- (1) **Timing of Construction.** No accessory [building](#), [structure](#), or [use](#) shall be constructed or established on a [parcel](#) unless there is a legally-established principal [building](#), [structure](#), or [use](#) being constructed or already established on the same [parcel](#) of land. A [parcel](#) may not be divided if such division would result in an accessory [building](#), [structure](#), or [use](#) on a [parcel](#) on which there is no principal [building](#), [structure](#) or [use](#).

- (2) Review and Approval.** If submission of a site plan for review and approval is required, then the site plan shall indicate the location of proposed accessory [buildings](#), [structures](#), and uses, and the site plan shall be subject to approval by the [Planning Commission](#). Where site plan review is not required, the entity responsible for review and approval shall depend on size of the accessory [building](#), [structure](#), or [use](#).
- (3) Impact on Adjacent Buildings or Uses.** The location and characteristics of an [accessory building](#) shall not have an adverse impact on existing adjacent [buildings](#) or uses. In evaluating impact on adjacent [buildings](#) or uses, factors that shall be considered include, but are not limited to:
  - (a)** The potential for generation of [nuisances](#), as might be caused by increased traffic or noise.
  - (b)** The orientation of doors and access routes.
  - (c)** Site drainage patterns.
  - (d)** Impact on views.
- (4) Location in Proximity to Easements or Rights-of-Way.** [Accessory Buildings](#), [structures](#), or uses shall not be located within a dedicated [easement](#) or [right-of-way](#).
- (5) Accessory Farm Buildings.** The requirements in this section shall not apply to accessory [buildings](#) (such as barns and silos) used on a farm, as defined in [Section 20.01](#), except that farm [buildings](#) shall comply with the [setback](#) requirements and [lot coverage](#) for the districts in which they are located. No structure that contains a [dwelling unit](#) shall be considered an accessory farm [building](#).

**(B) Attached Accessory Buildings.** Unless otherwise specified in this Section, [accessory buildings](#) or [structures](#) which are attached to the principal [building](#) (such as an attached garage, breezeway, or workshop) shall be considered a part of the [principal building](#) for the purposes of determining conformance with area, [setback](#), height, and [bulk](#) requirements. A breezeway or other attachment between the principal [building](#) and the [accessory building](#) or [structure](#) must have a complete foundation and must provide interior access to both [buildings](#) for the [accessory building](#) to be considered “attached”.

**(C) Detached Accessory Buildings.**

- (1) Location.** Detached [accessory buildings](#) and [structures](#) shall not be located in a [front yard](#), except in the R-1-W district as permitted in Section 5.01.C.
- (2) Minimum Setback.** The Minimum [Setback](#) from Side and [rear lot lines](#) shall be 10 feet. The Minimum [Setback](#) from all other [structures](#) shall also be 10 feet.
- (3) Size.** No [accessory structure](#) shall exceed the floor area of the principal [structure](#) on the lot.
- (4) Number.** No more than three (3) detached [accessory Buildings](#) or [structures](#) are permitted per [parcel](#).
- (5) Height.** Unless otherwise noted in this ordinance, the maximum height of an [accessory building](#) or [structure](#) (as defined in Section 20.01) shall be based on the size of the [parcel](#) as follows:

Parcel Size	Maximum Height
1 acre or less	18 ft.
Over 1 acre	24 ft.

**(D) Non-Building Accessory Structures.** Non-[building accessory structures](#) (for example, tennis courts, [swimming pools](#), antennas) shall be located in the [rear yard](#). In-ground swimming pools may be located within 42 inches of an attached deck that does not exceed 8 inches above finished grade, but, in all other instances, shall be subject to all setback requirements for detached accessory structures.

(E) **Donation bins.**

- (1) **Application for a Permit.** Prior to placement of a [donation bin](#) anywhere in the Township, a permit application shall be completed and submitted to the Township. The permit application shall include, but not necessarily be limited to, the name, address, and telephone number of the person, business entity, corporation or organization applying for the permit; the proposed location (address) where the bin is to be placed; the name and telephone number of the person who will be placing the bin; the manner and schedule for emptying or removing the bin; and the destination of the clothing, shoes, books, and/or other goods to be removed from the bin. The application shall also include written consent from the owner of the property on which the bin is to be located. The permit shall be subject to review and approval by the Zoning Administrator, based on the regulations in this subsection.
- (2) **Fee.** An application processing fee in an amount determined by the Township Board shall be charged for each application.
- (3) **Permitted Type of Bin.** Any [donation bin](#) shall be of the type that is enclosed by use of a receiving door (also known as a chute) and locked so that the contents of the bin may not be accessed by anyone other than those responsible for retrieval of its contents. A bin shall not cover a ground surface in excess of five (5) feet by five (5) feet, nor be more than six (6) feet in height. Bins shall be placed on a paved surface.
- (4) **Number.** A maximum of one (1) [donation bin](#) shall be permitted per lot.
- (5) **Location.** [Donation bins](#) shall comply with the following location requirements:
  - (a) [Donation bins](#) are considered [accessory structures](#). Therefore, they shall not be located on any lot unless a principal [structure](#) is already located on the lot.
  - (b) [Donation bins](#) shall be permitted only in non-residential [zoning districts](#).
  - (c) [Donation bins](#) shall be located no closer to the front of the lot than any portion of the principal [structure](#).
  - (d) [Donation bins](#) shall not be placed where they would block the vision of drivers entering or exiting the site.
  - (e) [Donation bins](#) shall not be placed in a location where they would interfere with required [landscaping](#) or parking.
- (6) **Identification.** All [donation bins](#) shall have clearly identified, in writing, on the same side of the bin as the chute used for deposit of the goods, the entity or organization that is responsible for placement and maintenance of the bin. The address and phone number for such entity shall also be written on the bin.
- (7) **Maintenance Responsibility.** Each bin shall be regularly emptied of its contents so that it does not overflow, resulting in clothing or other goods being strewn around the surrounding area. The owner, lessee, or other person or legal entity in control of the property where the [donation bin](#) is located and the person or entity that owns, maintains or operates the [donation bin](#) shall be jointly and severally liable for any violations.

## Section 7.03 Exceptions

- (A) **Essential Services.** [Essential Services](#), as defined in Article 20, shall be permitted as authorized and regulated by franchise agreements and federal, state, and local laws and ordinances, it being the intention of this ordinance to permit modification to regulations governing lot area, [building](#) or [structure](#) height, [building](#) or [structure](#) placement, and [use](#) of land in the Township when strict compliance with such regulations would not be practical or feasible.

Although [Essential Services](#) may be exempt from certain regulations, proposals for construction of [Essential Services](#) shall still be subject to site plan review and [special land use](#) review in all [zoning districts](#), it being the intention of the Township to achieve efficient [use](#) of the land and alleviate adverse impact on nearby uses or lands. [Essential Services](#) shall comply with all applicable regulations that do not affect the basic design or essential operation of said services.

- (B) **Voting Place.** The provisions of this Ordinance shall not be construed to interfere with the [temporary use](#) of any property as a voting place in connection with a public election.

## Section 7.04 Flagpoles

Flagpoles shall be exempt from the maximum height requirements in their district and shall instead comply with the following. In residential and agricultural districts, flagpoles shall not exceed twenty-five (25) feet in height. Flagpoles in non-residential districts shall not exceed forty (40) feet in height. Flags shall not exceed 40 square feet in residential districts and 100 square feet in non-residential districts. Flagpoles in non-residential districts that are under 20 feet in height shall not be subject to this section and shall instead be subject to Section 12.07.

## Section 7.05 Fill Regulations

- (A) **Statement of Purpose.** The purpose of these fill regulations is to assure that [filling](#) activities on any property in the Township for [building](#) site preparation or any other purpose, comply with applicable state and local laws, utilize appropriate fill materials, and are undertaken and completed in such a manner as to reduce hazards to life and property, and generally protect the public health, safety and welfare. Nothing herein is intended to allow the establishment of a disposal area regulated by Public Act 451 of 1994, as amended, or otherwise affect the provisions of that Act, which require certain waste materials to be disposed of in a solid waste disposal area constructed and licensed pursuant to that Act.
- (B) **Regulations Applicable in all Zoning Districts.** Only inert soil, sand, clay, gravel, stone, and other inert/non-organic material may be used as fill materials in any [zoning district](#), subject to the following regulations:
- (1) **Zoning Ordinance Regulations.** All fill materials and activities shall comply with the additional regulations set forth below, which are applicable for the [zoning district](#) in which the property to be filled is located.
  - (2) **Fill Permit Requirement.** A permit shall be obtained where required pursuant to subsections C and E below.
  - (3) **Wetland Permit Requirement.** No filling activities shall take place in a [wetland](#) without approval from the Township. The Township shall issue a permit only for activities that are in compliance with Section 7.17, unless the applicant has obtained a permit from the State of Michigan pursuant to Public Act 451 of 1994, as amended, or any subsequent State act pertaining to [wetlands](#).
  - (4) **State Soil Erosion and Sedimentation Control Permit Requirement.** No [filling](#) activities that may result in or contribute to soil erosion or sedimentation of surface waters shall take place without a permit first being obtained from the appropriate state or county agency as required pursuant to Public Act 451 of 1994, as amended.
  - (5) **Fill Material Content.** Fill material shall consist primarily of porous materials. There shall be ample sands in the porous materials to bed non-porous materials, such as rock, or pieces of concrete or brick.
  - (6) **Maximum Size of Non-porous Materials.** Allowable non-porous materials, such as rock, or pieces of concrete or brick, shall have a maximum size of two (2) cubic yards. If larger pieces of material are encountered they shall be removed from the fill material and lawfully disposed of; or, shall be broken up to comply with the foregoing size limitations before being deposited as fill.
  - (7) **Compaction of Fill Material.** All fill material shall be compacted to at least a 90% [density](#) in accordance with American Society of Testing Materials Test D698 (Standard Proctor Test).



- (8) Leveling and Finishing of Filled Areas.** All filled areas shall be [graded](#) and leveled, completely covered with clean top soil at a depth of at least six inches, and seeded with a grass or other appropriate form of vegetation or cover sufficient to control erosion.
- (9) Final Grade and Runoff Control.** The final [grade](#) of all filled areas shall be such as to contain storm water run-off within the subject property, and not flow on to abutting property, a public [roadway](#) or other public [right-of-way](#).
- (C) Fill Permit Requirements.** Where the volume of fill associated with a particular [filling](#) activity or project will exceed fifty (50) cubic yards of material, no [filling](#) activities shall take place, regardless of the [zoning district](#) in which the fill is to be deposited, without a fill permit first being obtained in the manner described below. .
- (1) Application for Fill Permit.** An application for a fill permit shall be filed with the Zoning Administrator and shall include the following information:
- (a)** Name and address of applicant.
  - (b)** Common address and legal description of property to be filled.
  - (c)** Owner of property to be filled.
  - (d)** Type(s) of fill material to be deposited.
  - (e)** Source(s) of fill material to be deposited.
  - (f)** Route(s) of travel from source(s) of fill material to subject property.
  - (g)** Volume of fill material requested to be permitted (in cubic yards).
  - (h)** Location of portion of subject property where [filling](#) activities will take place.
  - (i)** Final [grade](#) of filled area.
  - (j)** The number and type of [vehicles](#) and equipment to be used in [filling](#) activities, including transporting, dumping and leveling fill materials.
- (2)** The Zoning Administrator may require one or more of the above application items to be supplied in the form of a site plan or diagram.
- (3)** On residential or agricultural properties (or properties with no ongoing [use](#)), the Zoning Administrator shall issue the permit if all requirements of this Section are met. On all other properties, the Zoning Administrator shall refer the application to the [Planning Commission](#) for Special Use Approval, and shall only grant the fill permit if the Special Use is approved.
- (4) Fill Permit Approval Criteria.** A fill permit shall be approved upon a finding that:
- (a)** The requested [filling](#) activities can be conducted in compliance with all applicable Township ordinance requirements;
  - (b)** All applicable state and/or county permits have been obtained; and
  - (c)** The requested fill activities will not have a harmful effect on abutting or nearby properties, except to the extent that any such affects are unavoidably inherent in the [filling](#) process, but will be temporary in duration, lasting only so long as the [filling](#) activities are taking place.
  - (d)** For applications requiring Special Use Approval, the criteria in Section 17.03 must be met.
- (5) Conditions upon Approved Permit.** The Zoning Administrator may approve a permit with conditions related to permit approval criteria. Such conditions may be imposed, for example, to restrict the days or hours of [filling](#) activities, truck routes, the final [grade](#) of a filled area, and its final elevation with respect to adjoining property, and the length of time allowed for a [filling](#) activity which shall not exceed one (1) year without a new application being filed and a permit being granted.

- (6) **Appeal of Zoning Administrator Determination on Fill Permit Application.** The applicant or other person aggrieved by a denial of a fill permit application by the Zoning Administrator, may appeal such determination to the Township [Zoning Board of Appeals](#). Such an appeal shall be processed in the manner required by law and any applicable ordinance provisions. No such appeal shall be available from any required [Planning Commission](#) decision.
- (D) **Fees for Fill Permit Applications and Appeals.** The Township Board may establish fees by resolution for a fill permit, which shall be reasonably related to the cost of processing fill permit applications by the Zoning Administrator and [Planning Commission](#), and the cost of monitoring permitted [filling](#) activities to ensure compliance with all applicable regulations.
- (E) **Performance Bonds.** Any fill permit involving fill in excess of fifty (50) cubic yards shall be subject to the furnishing of a surety bond, bank letter of credit or cash bond by the applicant to the Township, conditioned upon the [filling](#) and reclamation of the area filled in accordance with the permit and the within ordinance, in an amount equal to \$5,000 per acre or portion thereof, or \$75.00 per fifty (50) cubic yards or portion thereof of fill proposed to be deposited, whichever is the lesser sum.

## Section 7.06 Home-Based Businesses

- (A) **Requirements.** All home-based businesses shall be subject to the applicable requirements of the [zoning district](#) in which they are located. Home-based businesses which comply with those standards, plus all of the following standards shall be permitted by right in all [zoning districts](#). A Zoning Permit shall be required prior to beginning operation of a home based business. The Zoning Administrator shall issue the permit if the requirements are met.
- (1) Any business activity must be clearly incidental to the [use](#) of the dwelling as a residence.
  - (2) The exterior appearance of any [structure](#) shall not be altered due to the business activity.
  - (3) No business activity shall be conducted in such a manner so as to cause the premises to differ from a residential character, whether by the [use](#) of colors, materials, construction, lighting, [signs](#) (except as permitted in this Section), or the emission of sounds or vibrations.
  - (4) The delivery and pickup of goods and materials used and/or produced in the operation of a home-based business or home-based business shall be limited to the customary activity of the United States Postal Service and/or alternative private package services common to residential property in the area.
  - (5) A home-based business may increase vehicular traffic flow and parking demand by no more than two additional [vehicles](#) at a time. No more than ten customers or clients shall visit the [dwelling unit](#) for services or products during any one day.
  - (6) Any demand for parking generated by a home-based business shall be met off the [street](#) and behind the required front [setback](#) line.
  - (7) A home-based business may be subject to annual inspection by the [Building Official](#) and shall be subject to termination if found not to be in compliance with the Zoning Ordinance.
  - (8) No outdoor display and/or storage of materials, goods, supplies, or equipment used in the home-based business shall be allowed on the premises in any [zoning district](#).
  - (9) Any person who is not a resident occupant of the [dwelling unit](#) shall not be employed in a home-based business located there.

- (10) Sign. One non-illuminated [nameplate](#), not more than four (4) square feet in area, shall be allowed per residence to identify a home-based business. The permitted [sign](#) shall not be located in any [road right-of-way](#) and shall not obstruct the clear vision of drivers. No other [sign](#) shall be used on the premises to advertise a home-based business.
  - (11) The total area within the principal dwelling devoted to home-based businesses shall not exceed 25% (twenty five percent) of the [usable residential floor area](#) of the [dwelling unit](#).
  - (12) One detached [accessory building](#) may be used by a home-based business, provided that there is no external evidence of the business activity. Any [accessory building](#) used for a home-based business shall be in full compliance with the standards for [accessory buildings](#), as provided in Section 7.02 of this Ordinance.
  - (13) Pursuant to Section 204 of Michigan Public Act 110 of 2006 (MCL 125.3204), individual instruction in a craft or fine art within a residence is a permitted home-based business.
  - (14) The Township Board may require a fee to cover the costs of administering the Zoning Permit. The fee, if required, must be paid prior to the issuing of the permit.
- (B) **Activities Not Considered a Home-Based Business.** Bed-and-breakfast inns, roadside stands, [garage or yard sales](#), vehicle service or repair garages, restaurants and bars, and any other business activity specifically regulated by provisions elsewhere in this Ordinance shall not be considered a home-based business and shall be subject to the regulations applicable to such [use](#) under this Ordinance.

## Section 7.07 Keeping of Animals

- (A) **Pets.** [Animals](#) of any species that meet the definition of “pet” under the definition of “[animal](#)” may be kept on any lot. Pets must remain in the care of a human or housed in a safe and secure location at all times, and must be leashed when not on private property. [Horse stables](#) and kennels of all types must meet the standards below.
- (B) **Domestic Livestock.**
- (1) Except in the AG district, no person shall keep [domestic livestock](#), as defined under the definition of “[Animals](#)”, without first securing a permit from the Township. The permit shall be issued by the Zoning Administrator. No permit shall be issued by the Zoning Administrator without the written authorization from an owner of the property (if different from the applicant) consenting to the application on a form provided. Such permit may be revoked by the Zoning Administrator if it is determined that any provision of this section is violated. Once authorization is obtained it shall continue for as long as the applicant is in possession or control of the property. If a violation occurs, the permit holder shall be noticed of such violation and have the right to a hearing by the [Planning Commission](#) before the permit may be revoked. Establishment of an [Accessory Use](#) and/or [accessory building](#) under this section shall not confer a vested right to keep domestic livestock on the site. Further, a permit granted under this section is personal to the applicant occupying the dwelling and is not transferable. All licensing required by the State of Michigan and Berrien County, as well as all other statutes, ordinances and codes, shall be satisfied.
  - (2) Structures for the keeping of domestic livestock mammals shall be set back at least sixty (60) feet from all lot lines. Structures for the keeping of domestic livestock birds shall be set back at least ten (10) feet from all lot lines. All [structures](#) must be constructed and maintained so that odor, dust, noise, and drainage shall not create a [nuisance](#) or hazard to adjoining properties.

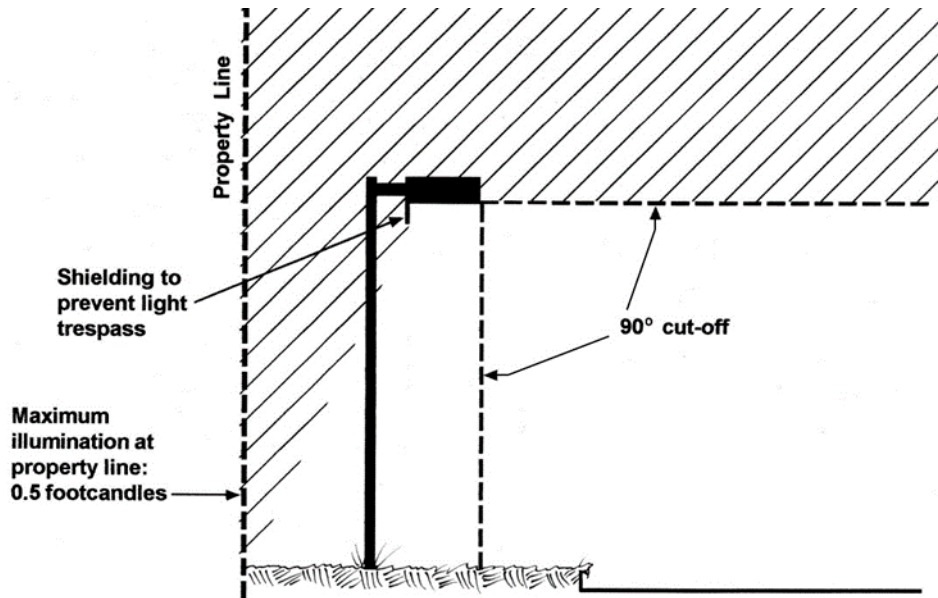
- (3) Consistent with Article 20, no lot shall contain more than 10 [animals](#) that are considered to be domestic livestock. Any livestock [animal](#) on a lot with more than 10 [animals](#) shall be considered [commercial livestock](#) and be subject to Subsection C below.
- (4) The following limits shall apply to domestic livestock:
- (a) **Cattle:** No more than one per acre. In calculating the permitted number of cattle, the number of acres shall be rounded down to the nearest whole number. Cattle shall not be permitted in the R-1-W, R-1, R-3, or R-4 [zoning districts](#).
  - (b) **Pigs, Sheep, Goats, and all other fur-bearing domestic livestock not listed in this Ordinance:** No more than one per half-acre, in any combination. In calculating the permitted number of [animals](#), the number of acres shall be rounded down to the nearest half acre. Fur bearing domestic livestock shall not be permitted in the R-1-W, R-1, R-3, or R-4 [zoning districts](#).
  - (c) **Bees:** Domesticated honey-producing bees shall be permitted as [Domestic Livestock](#) in all [Zoning Districts](#), provided that all requirements of the applicable Generally Accepted Agricultural and Management Practices (“GAAMPs”) are satisfied.
  - (d) **Poultry and Other Domestic Livestock Birds:** No more than one per tenth of an acre, in any combination. In calculating the permitted number of birds, the number of acres shall be rounded down to the nearest tenth of an acre. [Domestic livestock](#) birds shall not be permitted in the C-I, C-S, C-L, C-H or C-U [zoning districts](#), nor on any lot designated as NCR-1. Further, the following standards shall apply to poultry and other birds:
    - (i) Roosters shall be prohibited. Other male birds may be permitted.
    - (ii) Birds shall be kept only in the [rear yard](#) secured within a coop and attached pen during non-daylight hours. During daylight hours, birds may be allowed to roam outside of the coop and pen, if supervised, and only within an area completely enclosed by a [fence](#) with a minimum height of four feet.
    - (iii) The coop and pen shall be designed to provide safe and healthy living conditions for birds while minimizing adverse impacts on other residents and the neighborhood. The coop and pen shall meet the following additional requirements:
      - 1) The coop and pen shall be a maximum of six feet in height and shall not exceed a combined total of 80 square feet.
      - 2) The coop and pen may be movable only if the dimensional/[setback](#) restrictions contained in this section are satisfied.
    - (iv) All feed and other items associated with the keeping of birds shall be protected so as to prevent rats, mice or other rodents from gaining access or coming into contact with them.
    - (v) The outdoor slaughter of poultry and other birds is prohibited.
- (C) **Commercial Livestock.** The keeping of [commercial livestock](#), as defined i under the definition of “[Animals](#)”, shall be permitted in the AG district only.
- (1) All commercial livestock operations must comply with all applicable State regulations, including applicable General Accepted Agricultural and Management Practices (GAAMP).

- (2) All [structures](#) for the keeping of [domestic livestock](#) shall be set back at least sixty (60) feet from all lot lines and be constructed and maintained so that odor, dust, noise, and drainage shall not create a [nuisance](#) or hazard to adjoining properties.
  - (3) All manure shall be stored at least one hundred (100) feet from any [property line](#) and shall be removed from the premises at least once per week.
  - (4) An [accessory building](#) used to house [domestic livestock](#) shall not be located nearer than sixty (60) feet to any [property line](#) and not nearer than one hundred (100) feet to any dwelling.
- (D) **Wild and Exotic Animals.** Wild and exotic [animals](#) may only be kept on a premises owned or leased by an [Animal](#) Rehabilitator, as defined and licensed by the State of Michigan. The [Animal](#) Rehabilitator must comply with all State requirements and must keep their licensure current in order to be permitted to house the [animal](#) in the Township.
- (E) **Kennels.** The following regulations shall apply to Kennels which are defined as lots where more than three (3) dogs six (6) months or older are kept:
- (1) **Rescue/Foster/Personal Kennel .** Rescue/Foster/Personal Kennels house only [animals](#) owned or fostered by the occupant of the [dwelling unit](#) located on the same [parcel](#) shall be permitted subject to the following:
    - (a) **Lot Size.** The lot on which any such kennel is located shall be a minimum of two (2) acres in size.
    - (b) **Number of Animals.** No more than a combined total of six (6) dogs over the age of six (6) months shall be housed in a Rescue/Foster/Personal Kennel. Any lot with more than six (6) dogs shall be considered a Commercial Kennel and shall be subject to Subsection 2 below, as well as required to obtain a Special Use Permit in the districts noted in [Section 3.01](#).
    - (c) **Breeding.** Breeding of [animals](#) shall be restricted to no more than two (2) litters per year.
    - (d) **Setbacks.** [Buildings](#) in which [animals](#) are kept, [animal](#) runs, and exercise areas shall not be located in any required front, side, or [rear yard setback](#) area, and shall be located at least one hundred (100) feet from any dwellings or [buildings](#) used by the public on adjacent property.
  - (2) **Commercial Boarding and/or Breeding Kennels.** Commercial (boarding/breeding) kennels shall be permitted subject to the following:
    - (a) **Operation.** Any such kennel shall be subject to all permit and operational requirements established by County and State regulatory agencies.
    - (b) **Lot Size.** The lot on which any such kennel is located shall be minimum of two (2) acres in size. If more than six (6) [animals](#) are housed in the kennel, an additional one (1) acre shall be required for every additional ten (10) [animals](#).
    - (c) **Maximum Number of Animals.** No boarding or breeding kennel shall house more than thirty (30) dogs.
    - (d) **Setbacks.**
      - (i) The minimum [setback](#) for fully-enclosed kennel [buildings](#) shall be fifty (50) feet from any [property line](#) and 100 feet from any residential [structure](#) on another [parcel](#).

- (ii) The minimum [setback](#) for outdoor runs, [animal](#) yards, or any other portion of the kennel where [animals](#) will be allowed outdoors shall be 150 feet from any [property line](#) and 200 feet from any residential [structure](#) on another [parcel](#).
  - (iii) [Animals](#) shall not be kept in outdoor runs between the hours of 6:00 p.m. and 8:00 a.m.
  - (e) **Sound Control.** All [animals](#) shall be contained in a [building](#) which is fully soundproofed, using insulation, soundboards, and acoustic tile.
  - (f) **Odor Control.** Non-absorbent surfaces (such as sealed concrete or ceramic tile) shall be used throughout the kennel. Dog waste shall be power flushed or otherwise removed on a regular schedule, but no less than four (4) times daily.
- (F) **Stables.** The following regulations shall apply to [horse stables](#):
- (1) A [building](#) or [structure](#) in which [animals](#) are kept shall be located a minimum of one hundred (100) feet from all [property lines](#), and shall be located a minimum of one hundred and fifty (150) feet from any [dwelling unit](#) other than the [dwelling unit](#) on the same property.
  - (2) The maximum number of [animals](#) which may be kept shall be three (3).
  - (3) The minimum lot area on which one (1) to three (3) [animals](#) may be kept shall be three (3) acres.
  - (4) All manure shall be stored at least one hundred (100) feet from any [property line](#) and shall be removed from the premises at least once per week.
- (G) **Standard of Care.** Any property observed by the Zoning Administrator to be in violation of the Humane Society of the United States' most recently adopted *Standards of Care* guidelines shall be referred, by the Zoning Administrator, to Berrien County Animal Control for enforcement of relevant [animal](#) welfare laws.

## Section 7.08 Lighting

- (A) **Intent.** The regulations in this section are intended to require sufficient lighting for parking areas, walkways, [driveways](#), [building](#) entrances, loading areas, and common areas to ensure the security of property and safety of persons. These regulations are also intended to prevent the adverse effects of inappropriate lighting, including glare, [light trespass](#) onto adjoining properties, light pollution and sky glow, and energy waste. These regulations are also intended to permit and encourage the use of lighting that promotes energy efficiency and conservation in the Township.
- (B) **General Requirements.**
- (1) Provide compliance with the most recent edition of the "Illuminating Engineering Society of North America (IESNA) Model Lighting Ordinance (MLO)," shall be required for parking areas, walkways, [driveways](#) (except private residential [driveways](#)), [building](#) entrances, loading areas, and public common areas to ensure the security of property and safety of persons.
  - (2) All outdoor lighting shall be downward facing at a 90 degree angle and shielded so as to conceal the source of the light. Uplighting of [landscaping](#) shall be exempt from this requirement, but must be shielded so it does not spill over onto adjacent lots.
  - (3) [Light trespass](#) on a commercial property shall not exceed 0.5 [foot-candles](#) at the [property line](#), measured at [grade](#).
  - (4) [Light trespass](#) on a residential property shall not exceed 0.25 [foot-candles](#) at the [property line](#), measured at [grade](#).



**Figure 2.3: Lighting Fixture Orientation and Shielding [see Section 7.08.C.5)]**

- (5) To prevent sky glow, lighting shall be shielded or designed to prevent light to project above a 90 degree horizontal plane (see illustration).
- (6) Gas station canopies and similar [structures](#) shall have fully recessed lighting [fixtures](#) and the total initial lamp output under the canopies shall be limited to 32 [lumens](#) per square foot of canopy.
- (C) **Height.** Lighting [fixtures](#) shall not exceed a height of fourteen (14) feet in residential [zoning districts](#) and twenty-five (25) feet in commercial/[mixed use](#) and agricultural districts, measured from the ground level to the centerline of the light source.

The [Planning Commission](#) allow additional height in industrial districts, based on consideration of the following: the position and height of [buildings](#), other [structures](#), and trees on the site; the potential off-site impact of the lighting; the character of the proposed [use](#); and, the character of surrounding land [use](#). In no case shall the lighting [fixture](#) exceed thirty (30) feet in height.

**(D) Prohibited Lighting.**

- (1) **Recreational Facility Lighting.** No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude a permitted recreational or sporting event or other activity in progress prior to 11:00 p.m.
- (2) **Outdoor Building and Landscaping Lighting.** Unshielded illumination of the exterior of a [building](#) or [landscaping](#) is prohibited, except in Agricultural Districts.
- (3) **Mercury Vapor.** The installation of mercury vapor [fixtures](#) is prohibited.
- (4) **Laser Source Light.** The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

- (5) **Searchlights.** The operation of searchlights for advertising purposes is prohibited between 10:00 p.m. and sunrise the following morning.

(E) **Exceptions.**

- (1) **Fossil Fuel Light.** Fossil fuel light produced directly or indirectly from the combustion of natural gas or other utility-type fossil fuels (e.g., gas lamps) is exempt from the provisions of this Section.
- (2) **Temporary Lighting.** Lighting for permitted temporary circus, fair, carnival, or civic uses is exempt from the provisions of this Section. Holiday lighting is also exempt from this Section, but may only be in place for up to 90 days per year.
- (3) **Construction and Emergency Lighting.** Lighting necessary for construction or emergencies is exempt from the provisions of this article provided that said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency.
- (4) **Roadways.** Lighting for public [roadways](#) shall be exempt from this section.
- (5) **Legally Required or Emergency Lighting.** Lighting that is required by the County, State, or Federal government shall be exempt from this section, as shall emergency lighting, for the duration of the emergency, as determined by responding emergency personnel. Airports shall also be exempt from this Section.
- (6) **Underwater Lighting.** Underwater lighting for fountains, [swimming pools](#), and other man-made bodies of water shall be exempt from the lamp type and shielding provisions of this section, but shall comply with all other regulations.
- (7) **Lighting of U.S. Flags.** Lighting of the U.S. [flag](#), as recommended by the Flag Code, is exempt from this Section.
- (8) **Special Conditions.** Additional exceptions may be permitted, subject to site plan review, and upon finding that unique or special conditions on the site warrant the exception.

(F) **Application for a Permit**

- (1) Any person applying for site plan approval, or for a commercial [building](#), electrical permit, or [sign](#) permit to install outdoor lighting [fixtures](#) shall submit evidence that the proposed work will comply with this Section. Any property that has been vacant and/or unused for more than six months must be brought into compliance with this Section prior to being issued a Certificate of Occupancy for a new [use](#).
- (2) The site plan or [building](#), electrical, or [sign](#) permit application shall identify the location, type, height, method of mounting, and intensity of proposed lighting. The manufacturer's catalog specifications and documents, and a photometric plan shall be submitted. The information submitted shall be sufficiently complete to demonstrate compliance with Ordinance requirements.

## Section 7.09 Reception Antenna Facilities

In all [zoning districts](#) the installation of [reception antenna](#) facilities shall be permitted as an [Accessory Use](#), subject to the provisions in this section.

(A) **Purpose.** The purposes of this section are as follows:

- (1) To provide reasonable regulations for the placement of [reception antenna](#) facilities.



- (2) To promote safety and prevent dangers to persons and property resulting from accidents involving antenna facilities that may become dislodged and fall due to wind load, snow load or other forces.

**(B) Ground-Mounted or Tower-Mounted Antennas.**

- (1) The maximum height of any part of a ground-mounted or tower-mounted antenna shall be the minimum height necessary to achieve adequate reception.
- (2) Ground-mounted or tower-mounted antennas shall comply with the [setback](#) requirements for the district in which they are located, and shall not be located in [front yards](#), unless their height (as defined in Section 20.01) is greater than the [setback](#) requirement, in which case they must be [setback](#) by a distance at least equal to their height. However, an antenna may be located in the [front yard](#) if suitable reception cannot be achieved in any other location on the site, and provided that the antennas in the [front yard](#) are screened as noted in the following sub-section 3.
- (3) Ground-mounted or tower-mounted antennas shall be obscured from view from adjacent properties and from any public [road](#) by a screen wall, [fence](#), evergreen plantings, or a combination thereof in compliance with Township ordinances, provided that screening shall not be required that would unreasonably prevent reception.

**(C) Roof-Mounted Antennas.**

- (1) The maximum length and width of the antenna facility itself shall be eight feet. Antennas mounted on a [building](#) shall not exceed the minimum height necessary to achieve adequate reception, but in no case shall a [building](#)-mounted antenna be permitted to extend more than 20 feet above the [roof line](#) of the [building](#) to which it is attached.
- (2) Roof-mounted antennas shall be permitted on the side of [building](#) facing a [road](#) only if there is no other option available to achieve adequate reception.
- (3) Roof or [structure](#)-mounted antennas shall comply with the [setback](#) requirements for the district in which they are located.

**(D) General Requirements.** All antennas shall comply with the following regulations:

- (1) Antennas shall not be solid sheet or panel construction and shall not be used as a [sign](#) or message board. Antennas shall be painted a flat grey or other color to minimize visibility.
- (2) Permits required by the adopted [building](#) or electrical code shall be obtained prior to construction of an antenna. The applicant shall submit a site plan indicating the exact location where the antenna will be located, plus electrical and structural plans and documentation.
- (3) All wiring to the antenna shall be installed underground.
- (4) In the event that approval is requested for an antenna that is higher than the minimum standards specified in this section, or if other variations from the required standards are proposed, documentation shall be provided demonstrating the need for such variations in order to achieve adequate reception.

## Section 7.10 Safety Provisions

- (A) **Public Service Access.** All [structures](#) shall be provided with adequate access for fire, police, sanitation, and public works [vehicles](#).
- (B) **Fire Protection.** All [structures](#) shall be provided with adequate fire protection systems deemed necessary by locally approved [building](#) codes.
- (1) **Site Development Standards.** To facilitate fire protection during site preparation and construction of [buildings](#), consideration shall be given to the following:
- (a) If public water is available, water mains and fire hydrants shall be installed prior to construction above the foundation. Hydrants shall be spaced to provide adequate firefighting protection for all [buildings](#) and uses, subject to applicable codes and review by the Township officials.
  - (b) Prior to construction of [buildings](#) and other large [structures](#), a hard surfaced roadbed shall be provided to accommodate access of heavy firefighting equipment to the immediate job site at the start of construction. The roadbed shall be maintained until all construction is completed or until another means of access is constructed.
  - (c) Free access from the [street](#) to fire hydrants and to outside connections for standpipes, sprinklers, or other fire extinguishing equipment, whether permanent or temporary, shall be provided and maintained at all times.
  - (d) The [building](#) Permit holder shall provide scheduled daily cleanup of scrap lumber, paper products, corrugated cardboard and other debris. Construction debris shall be disposed of in accordance with methods approved by the [Building Official](#).
- (C) **Excavations and Holes.** [Excavations](#) and holes created in conjunction with a construction project shall be adequately barricaded and illuminated if not filled in at the end of the working day. Where such [excavations](#) or holes are located in a public [right-of-way](#), it shall be the responsibility of the contractor to notify the Township Police of their existence.
- (D) **Building Demolition.** Before a [building](#) or [structure](#) is demolished, the owner, wrecking company, or person who requests the demolition permit shall notify all utilities providing service to the [building](#). A demolition permit shall not be issued until all utilities have provided notification that service has been properly terminated.

## Section 7.11 Non-Motorized Pathways

- (A) **Requirements.** Non-Motorized Pathways shall be required along public [roads](#) within the C, C-I, C-S, C-H, C-L, and C-U districts. [Non-Motorized Pathways](#) must be designed and installed whenever improvements to a property are proposed that require site plan approval from the [Planning Commission](#).
- (B) **Location and Width.** Required [Non-Motorized Pathways](#) shall be a minimum of five (5) feet in width. Pathways shall generally be located one (1) foot off the [property line](#) inside the [road right-of-way](#), except where the planned [right-of-way](#) is greater in width than the existing [road right-of-way](#), in which case the pathway shall be located one (1) foot inside the planned [right-of-way](#). The [Planning Commission](#) may modify these requirements in consideration of the location of utilities, [landscaping](#), or other site improvements.

- (C) **Construction Standards.** In the C-S, C-I, C-L, C-H, and C-U districts, [Non-Motorized Pathways](#) must be paved, although [pervious pavement](#) is permitted and encouraged.
- (D) **Alignment with Adjacent Pathways.** New pathways shall be aligned horizontally and vertically with existing pathways on adjacent properties.
- (E) **Signage.** The [Planning Commission](#) may require installation of [signs](#) for the purpose of safety where it is necessary to separate vehicular traffic from pedestrian traffic, or where it is necessary to alert vehicular traffic of the presence of the pathways.
- (F) **Maintenance.** The owner of the property which fronts on the pathway shall be responsible for maintenance of the pathway, including patching cracked or deteriorated pavement, maintenance of [ground cover](#) on non-paved pathways, snow removal, and removal of debris.
- (G) **Permits.** It shall be the responsibility of the owner or developer to secure any required permits from the Berrien County Road Department or Michigan Department of Transportation to allow pathway construction in a [road right-of-way](#).

## Section 7.12 Streets, Roads, and Other Means of Access

- (A) **Intent.** Unimpeded, safe access to [parcels](#) of land throughout the Township is necessary to provide adequate police and fire protection, ambulance services, and other public services, and to otherwise promote and protect the health, safety, and welfare of the public. The standards and specifications set forth herein are determined to be the minimum standards and specifications necessary to meet the above stated intentions.
- (B) **Public Access Required / Minimum Frontage.** The [front lot line](#) of all lots shall abut onto a publicly dedicated [road right-of-way](#) or approved private [road](#). The required frontage on an approved [road right-of-way](#) shall be equal to or greater than the minimum lot width for the district in which the lot is located, as specified in Section 4.02; except that the minimum frontage of lots that abut the turnaround at the end of a cul-de-sac shall be equal to or greater than 50% of the minimum lot width. On lots located on a curve, frontage shall be measured along a straight line between the two points where the [side lot lines](#) intersect the curved [right-of-way](#) line. Frontage on a "T" turnaround shall not be counted toward the minimum [road](#) frontage requirements. Any parcel or lot existing at the time of the enactment of this Ordinance may be excluded from these requirements as long as the parcel or lot has access provided by an existing lane, road, easement, or similar access route. Such parcel or lot shall not be considered non-conforming by reason of road frontage.
- (C) **Access on Through Lots.** On through lots, a [driveway](#) must be constructed to at least one of the abutting [roads](#).
- (D) **Road and Driveway Standards.** Public [roads](#) shall comply with the requirements of Berrien County or the Michigan Department of Transportation, as applicable. [Driveways](#) shall comply with the following minimum requirements in addition to engineering standards as determined by the Township Engineer.
  - (1) **Surface.** Except in the C-I district, where pavement is required for all parking lots, pavement shall not be required for any [driveway](#) or parking lot unless the [Planning Commission](#) determines that pavement is necessary for circulation and safety reasons. However, all parking lots must be maintained with a smooth, dust-free surface, and must maintain the required number of [parking spaces](#) and meet the dimensional standards in Article 9.

Notwithstanding the above, aprons leading from paved [roads](#) to private parking lots must be paved.

Paving shall not be required for any [road](#) unless required by Berrien County or the State of Michigan. However, all [roads](#) must be maintained with a smooth, dust free surface, and must meet the dimensional standards described below.

**(2) Residential Uses.**

Type of Road or Driveway	Minimum Width
<a href="#">Driveways</a> to individual detached units in a plat or site <a href="#">condominium</a>	9 feet ( <i>see note a</i> )
<a href="#">Driveways</a> to individual detached lots not in a plat or site <a href="#">condominium</a> ( <i>See note b</i> )	9 feet ( <i>see note a</i> )
Public Roads throughout residential <a href="#">development</a> (single or multiple family), including entrance <a href="#">roads</a> ( <i>see note c</i> )	Must comply with Berrien County standards
Private Roads throughout a residential <a href="#">development</a> (single or multiple family), including entrance <a href="#">roads</a> ( <i>see note c</i> )	See Note d
<a href="#">Driveways</a> to individual single-family attached units	9 feet ( <i>see note a</i> )
Roads/ <a href="#">driveways</a> within a parking area ( <i>see note d</i> )	See <a href="#">Article 6.00</a>

**Notes on Table:**

- (a) A [driveway](#) serving two (2) [dwelling units](#), or serving a single [dwelling unit](#) set back more than 150 feet from a public [road](#), shall not be less than twenty (20) feet in width. The maximum [driveway](#) width within the required [front yard setback](#) shall be twenty (20) feet. [Driveways](#) shall be constructed and maintained to support emergency [vehicles](#), provide a minimum height clearance of fourteen (14) feet, and comply with the Chikaming Township Fire Code.
- (b) Shared [driveways](#) for adjoining single-family [parcels](#) may be permitted, provided that an access [easement](#) is recorded that provides for joint [use](#) and maintenance of the [driveway](#). Both [parcels](#) shall comply with minimum [road](#) frontage and lot width requirements as described in Section 4.02.
- (c) An entrance [road](#) extends from the edge of the public [road](#) to the edge of any parking lot, intersection, tee, or similar terminus within a [development](#).
- (d) Private [roads](#) shall be located within an [easement](#) or [right-of-way](#) at least 66 feet wide. The [road](#) shall have a minimum width of 24 feet. The width of cleared vegetation shall sufficient to allow for necessary utilities.

**(3) Commercial/Office/Industrial Uses.** All [roads](#) shall be at least 31 feet wide. All [driveways](#) and internal access drives shall be at least 24 feet wide.

**(4) Miscellaneous.**

Type of Road	Minimum Width
Boulevard entrances with median (not public)	12 feet <i>each direction</i>
Service drives ( <i>minimum 30-foot setback from parallel public road</i> )	24 feet
"T" turnaround	Must comply with the Berrien County Road Department
Cul-de-sac	Minimum cul-de-sac <a href="#">right-of-way</a> or <a href="#">easement</a> radius is 60 feet.

**Notes on Table:**

- (a) Unless otherwise required by the Berrien County Road Department, "T" turnarounds shall only be used at the end of stub [streets](#) that have no [dwelling units](#) fronting on them, and a cul-de-sac shall be constructed at the end of all dead-end public [roads](#), regardless of whether the [roads](#) are expected to be extended in the future.
- (E) **Service Drives/Secondary Access Roads.** If the [Planning Commission](#) determines that proposed or anticipated [development](#) will result in an excessive number of entrance or exit drives onto a public [road](#), thereby creating potentially hazardous traffic conditions and diminishing the carrying capacity of the [road](#), the Commission may permit or require construction of [service drives](#) across abutting [parcels](#) and generally parallel to the public [road](#) to allow traffic to circulate from one [parcel](#) to another without re-entering the public [road](#). The [service drive](#) shall comply with the following requirements:
- (1) An [easement](#) shall be recorded with the Berrien County Register of Deeds allowing free vehicular access across the [service drive](#) between adjoining [parcels](#). The [easement](#) shall be in a form acceptable to the Township Attorney, and it shall be recorded prior to issuance of a Certificate of Occupancy for the [principal building](#).
  - (2) The [service drive](#) shall comply with the design requirements set forth previously in sub-section D. The [service drive](#) shall comply with the engineering and construction standards established by the Township Board's Engineering firm.  
  
In anticipation of a future need for a [service drive](#), the [Planning Commission](#) may require, as a condition of site plan approval, granting of an [easement](#) to allow future vehicular access between adjoining [parcels](#).
  - (3) In lieu of a designated [service drive](#), the [Planning Commission](#) may require the [development](#) of parking to permit vehicular circulation between parking lots on [contiguous lots](#) or [parcels](#).
  - (4) Each property owner shall be responsible for continued maintenance of the [service drive](#) and [easement](#) so that it continues to provide a safe means of access from one [parcel](#) to another.
  - (5) The site plan shall indicate the proposed elevation of the [service drive](#) at the [property line](#) so that elevations of [service drives](#) on adjoining [parcels](#) can be coordinated.
- (F) **Performance Guarantee.** To assure completion of a [service drive](#) in conformance with the requirements set forth herein, the [building official](#) may require the applicant or owner to provide a [performance guarantee](#), in accordance with Section 18.07.

## Section 7.13 Temporary Structures and Uses

- (A) **General Requirements.** [Temporary Buildings](#) and [structures](#) shall comply with the following requirements:
- (1) **Temporary Structures Used for Residential Purposes.** A [building](#) or [structure](#) may be approved for temporary residential [use](#) only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such [temporary building](#) shall not be used as a residence without prior review and approval by the Police, Fire, and [Building Officials](#).

- (2) Temporary Structures Used for Nonresidential Purposes.** [Temporary buildings](#) for nonresidential [use](#), including semi- trucks/[trailers](#) and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the [Building Official](#). Such [temporary structures](#) shall be removed immediately upon completion of the construction project and prior to a request for a Certificate of Occupancy for the project.
- (3) Permits.** Permits for the utilization of temporary [structures](#) shall be issued by the [Building Official](#). The permit shall specify a date for the removal of the temporary [structure](#), and the [Building Official](#) may require posting of a bond to insure removal. A Certificate of Occupancy shall be required for such [structures](#).
- (4) Temporary Special Events.** The Zoning Administrator may grant [temporary use](#) of land and [structures](#) for temporary special events, as defined in Article 20 of this Ordinance, subject to the following conditions:
- (a)** There shall be sufficient parking. Sufficient parking shall be calculated as follows: One space per anticipated attendee, plus one space per employee, plus spaces equal to 10% of the number of employees and anticipated attendees added together.
- (b)** The following apply to specific temporary uses:
- (i) Sidewalk Sale**
    - 1) Maximum duration: 90 days.
    - 2) Location: In commercial districts only.
    - 3) Sidewalk Coverage: Shall maintain no less than five feet of clearance for passage of pedestrians.
  - (ii) Christmas Trees Sales**
    - 1) Maximum duration: 45 days.
    - 2) Location: No restrictions.
    - 3) Clean-up: Stumps, branches, and other debris shall be completely removed from site.
  - (iii) Garage Sales**
    - 1) Maximum number of sales per year: Four
    - 2) Maximum duration of sale: Three consecutive days each.
    - 3) Location: Residential districts.
- (5) Temporary Outdoor Sales and Service.**
- (a)** Temporary outdoor sales and service are permitted only on [parcels](#) where there is an existing legal principal nonresidential [use](#).
- (b)** Temporary outdoor sales and service uses may not operate on a vacant lot, nor shall they operate on a parking lot on a property on which there is no existing legal principal nonresidential [use](#).

- (c) Temporary outdoor sales and service shall be accessory to the principal [use](#) on the lot. If the applicant is not the owner of the lot, the applicant shall provide a signed affidavit from the owner giving permission to the applicant to proceed with the application.
  - (d) Temporary outdoor sales and service shall not be located in the public [right-of-way](#) or on public property unless a permit has been obtained from the appropriate public authority.
  - (e) Permit applications for temporary outdoor sales and service shall be reviewed by Township police, fire, and zoning officials. A permit shall be issued if the proposed [use](#) is in compliance with all of the requirements of this Ordinance. The permit must be maintained on-site and visible at all times.
  - (f) A [temporary use](#) permit shall be effective for thirty (30) consecutive days from the date it is issued. The permit may be renewed for one additional thirty (30) consecutive-day period within a calendar year provided the [use](#) has been conducted in accordance with the requirements of this Ordinance. No property shall have temporary outdoor sales and service operating on it for more than sixty (60) days in any calendar year.
  - (g) The layout of the site on which a temporary outside sales and storage [use](#) is located shall permit [vehicles](#) to drive into an [off-street parking](#) area, so as to not interrupt the flow of traffic on a public [street](#).
  - (h) The area [occupied](#) by an outdoor sales and service [use](#) shall not exceed 7,500 square feet. No more than two (2) such uses shall operate on the same lot or [parcel](#) at the same time, provided that such uses are collectively in compliance with the maximum area and other requirements in this section.
  - (i) The area [occupied](#) by temporary outdoor sales and service activity, plus any required area for emergency [vehicles](#), shall not occupy the required [off-street parking](#) for the permanent principal [use](#) of the lot. The applicant shall demonstrate that there will remain adequate parking and [vehicle](#) maneuvering space for the existing and proposed uses.
  - (j) Temporary outdoor sales and service shall be located on a paved surface, unless the applicant demonstrates to the Zoning Administrator that another surface will cause no negative consequences in terms of drainage, access, property condition, or neighborhood appearance.
  - (k) Temporary outdoor sales and service uses located adjacent to residential uses shall not operate after 8:00 p.m. or before 8:00 a.m.
  - (l) Live entertainment may be provided accessory to the temporary sale or service, but if live entertainment is the principal purpose, then the [use](#) is subject to Section 6.13, rather than this section.
- (B) **Roadside Farm Stands and Farmer's Markets.** The following regulations shall apply to all Roadside Stands and Farmer's Markets, as defined in Section 20.01:
- (1) **Roadside Farm Stands.**
    - (a) **Site Maintenance.** Adequate provisions shall be made for waste collection and removal. Plant and vegetable waste shall be removed daily so that it does not rot or cause odors. Litter shall be picked up and disposed of daily.
    - (b) **Parking.** Off-[street](#) parking may be provided in the required [front yard setback](#) area. Parking shall conform to the regulations in Article 9, except that hard-surfacing shall not be required.

(c) **Product.** The Roadside Farm Stand shall be solely for the purpose of selling agricultural products cultivated on the property where the Roadside Farm Stand is located.

**(2) Farmer's Markets.**

(a) **Structures.** Although considered temporary outdoor sales, farmer's markets may be the principal [use](#) of a lot and may have either permanent or temporary [structures](#) (or both). Unless exempt, [structures](#) shall be subject to inspection under the Single State Construction Code Act and Property Maintenance Code.

(b) **Trash Containers.** A sufficient number of trash containers shall be placed on the premises for public [use](#).

(c) **Parking.** Off-[street](#) parking shall be provided, which may be located in the [front yard](#). Off-[street](#) parking may be located on a grass or gravel area for seasonal uses. Off-[street](#) parking shall be provided at the following rates: five (5) spaces, plus 1 (one) space per 200 sq. ft. of interior retail floor area, plus one (1) space per 1,000 square feet for outdoor activities. Parking shall comply with the dimensional and barrier-free parking requirements in [Article 9](#).

(d) **Exterior Lighting.** Parking lot and pedestrian route lighting shall be required for any farmer's market that operates after dusk or before dawn, subject to [Section 7.08](#). Adequate lighting shall be provided to assure the safety of pedestrians and drivers.

## Section 7.14 Trash Removal and Collection

The regulations in this section are intended to require sufficient screening of outdoor trash receptacles and dumpsters, minimize adverse effects of trash storage, recycling, and disposal activities on adjacent properties and public rights-of-way, and encourage the [development](#) and [use](#) of appropriate screening [structures](#) and measures that complement and enhance the environment and character of the area and the Township as a whole. In addition, these standards provide a reasonable period for those existing dumpsters that do not comply with those standards to be brought into compliance.

(A) **General Requirements.** The owner, lessee, or their agent, and occupants of every [building](#) where waste, [garbage](#), or recyclable materials accumulate shall be responsible for providing clean and proper locations and receptacles for storage, disposal, and recycling of such wastes, subject to the following:

(1) No occupant, owner, lessee, or their agent shall permit the storage or accumulation of waste, [garbage](#), or recyclable materials in open yards or lots.

(2) All waste, [garbage](#), or recyclable materials shall be contained within properly designed receptacles located in designated storage areas and regularly removed from the site.

(3) Outdoor storage areas for such materials shall be kept free of loose litter and debris and maintained in a neat, orderly, and sanitary condition.

(4) Containers shall be placed at the roadside no earlier than 7 pm the evening before pickup and shall be removed from the roadside no later than 7 pm the day of pickup.

(B) **Dumpsters and Trash Receptacles.**

(1) "Trash Receptacles" refer to smaller trash containers used for the temporary storage of litter and waste. They are usually carts or large barrel-shaped cans with no more than 100 gallon capacity.



- (2) Dumpsters” refer to larger trash containers typical of commercial or industrial uses also used for the temporary storage of litter and waste. They are large, box-like units with a capacity of at least one (1) cubic yard.

(C) **Location.**

- (1) Dumpsters shall be permitted in the side or [rear yard](#) provided that no Dumpster shall extend closer to the front of the lot (both [street](#) frontages shall be considered "front" on [corner lots](#)) than any portion of the principal [structure](#).
- (2) Dumpsters shall comply with the [setback](#) requirements for the district in which they are located.
- (3) With the permission of the Township Fire Chief, Dumpsters may be located against the [building](#). Otherwise, a minimum ten (10) feet of separation shall be provided.
- (4) The Dumpster shall not encroach on a required parking area and shall be clearly accessible to servicing [vehicles](#).
- (5) Trash Receptacles shall be permitted to be located in the [front yard](#) along the [road](#) side on collection days. They may be placed at the side of the [road](#).

- (D) **Concrete Pad.** Dumpsters shall be placed on a concrete pad. The concrete pad should extend a minimum of ten (10) feet in front of the Dumpster enclosure.

- (E) **Screening.** Dumpsters shall be screened from view from adjoining properties and public [streets](#) and [thoroughfares](#).

- (1) Dumpsters shall be screened on three sides with a permanent [building](#), masonry wall, or wood fencing, not less than six (6) feet in height.
- (2) The fourth side of the Dumpster screening shall be equipped with an opaque lockable gate that is constructed of wood or wood composite material. The gate shall be the same height as the enclosure around the other three (3) sides. When not in use, enclosure gates shall be closed and locked.

- (F) **Bollards.** Bollards (concrete filled metal posts) or similar protective devices shall be required at the opening to prevent damage to the screening wall or [fence](#).

- (G) **Site Plan Requirements.** The location and method of screening of Dumpsters shall be shown on all site plans.

- (H) **Temporary Dumpsters.** Temporary Dumpsters on site for construction, demolition, or similar temporary purposes may be permitted for the duration of the project provided that consistent progress is made on the project and the dumpster is necessary throughout.

- (I) **Existing Dumpsters.** It is acknowledged that there are some existing Dumpsters in the Township that do not comply with these requirements. These Dumpsters are temporary and portable in nature, and they have a significant impact on the character and image of a site and the surrounding area. Therefore, a reasonable process has been established for these existing units to be brought into compliance with these amended standards.

- (1) New Dumpsters installed or added after the [effective date](#) of this ordinance including relocation and/or modifications to existing units, shall only occur in full compliance with the requirements of this Section.

- (2) On any [parcel](#) where a project requiring a [building](#) permit, site plan approval, or similar approval is proposed, an existing Dumpster at that site that does not comply with the requirements of this Section shall be required to be brought into conformance with this Section as a part of that project.
- (J) No [garbage](#) shall be deposited, dumped or accumulated by any person on any place or premises, private or public, situated in the Township, unless such place or premises is a landfill or salvage yard fully licensed as required by law or unless the [garbage](#) is completely shielded from public view and view from adjoining properties by being housed within a [building](#) or [structure](#), or a receptacle with a lid sufficient to keep out vermin.
- (K) An exception shall be made where: (1) there is in force a valid [building](#) permit for construction on the property where the [building](#) materials are located and the [building](#) materials are to be used as part of that construction or (2) the [building](#) materials are for sale as part of a commercial business.
- (L) Notwithstanding the provisions above, it shall be lawful to establish and maintain on the premises of a residential [use](#) facilities for the organic decomposition or [composting](#) of yard rubbish and vegetable food waste, provided the following conditions are met:
- (1) Accumulation of materials for [composting](#) shall not be permitted in a front yard.
  - (2) The volume of material accumulated for [composting](#) on a single premises shall not exceed five (5) cubic yards.
  - (3) No [animal](#) meat, fat, grease, or bones shall be included in any material to be composted.
  - (4) Materials accumulated for [composting](#) shall be treated and handled in a manner to prevent the creation of noxious or offensive odors beyond the premises, or the harboring of rodents or other [animal](#) pests.

## Section 7.15 Wetland and Inland Waterway Setbacks

- (A) **Applicability.** This section shall apply to all [wetlands](#) within the Township that are identified and regulated by the Michigan Department of Environment Quality, as well as all inland waterways in the Township. All [setbacks](#) listed below shall be from the edge of the regulated [wetland](#) or the Ordinary High Water Mark of the inland waterway.
- (B) **Setback Requirements:**
- (1) Hazardous Substances and Petroleum Storage: 150 feet.
  - (2) Raised Septic Systems: 250 feet.
  - (3) Solid Waste: 300 feet.
  - (4) All other [structures](#): 25 feet.

- (C) **Natural Vegetative Strip.** Within the required [setback](#) from a watercourse or [wetland](#), a natural vegetation strip shall be maintained in its natural vegetative state, except for the clearing of dead or invasive plants. This restriction will help maintain a root and vegetative barrier to keep soil particles and nutrients from entering the watercourses and [wetlands](#), while also helping to minimize water runoff.
- (D) **Construction.** Best management practices shall be employed so as to minimize disturbance of the natural terrain and vegetation during construction on waterfront lots. After construction, the lot, particularly within the [wetland](#) and waterfront [setback](#) area, shall be restored to its prior conditions to the extent possible. A copy of the appropriate State or County permit, if necessary, must be on file in the Township office, prior to any construction that changes the shape of the shoreline or is located in a waterfront or [wetland setback](#) area, such as a dock, seawall, or pilings. A [performance guarantee](#), in an amount determined by the Township, shall be deposited to ensure compliance with all regulations and restoration of all [wetlands](#) impacted by construction.
- (E) **Governing Regulations.** If other federal, state, county or local standards are more restrictive, the more restrictive regulation will govern.

## Section 7.16 Outdoor Storage

In all [zoning districts](#), objects, substances, materials, or equipment which are not contained within a completely enclosed [building](#) shall be enclosed by an opaque [fence](#) not less than 6 feet in height. Above-ground storage facilities for [bulk](#) oil, gasoline or chemicals shall only be permitted where described in this Ordinance, and shall be constructed in conformity with regulations of the State Fire Marshall, shall be entirely enclosed within a substantial [fence](#) not less than 6 feet in height, and shall be located a minimum of 500 feet distant from any R-1, R-1-W, R-2, R-3 or R-4 [zoning district](#).

## Section 7.17 Vendor Trucks and/or Trailers, and Pop Up Operations

- (A) [Vendor trucks](#) shall be permitted as a principal or accessory use in commercial or industrial districts, and as an [accessory use](#) in residential [zoning districts](#). Prior to beginning operation, Vendor Trucks must obtain a Zoning Permit certifying that they meet the followings standards.
- (1) All sites with a [vendor truck](#) must provide five parking spaces for each truck, plus all required parking for the principal [use](#).
  - (2) Waste receptacles shall be provided for the general public in the vicinity of the [vendor truck](#).
  - (3) [Vendor trucks](#) shall comply with all relevant County, State, and Federal regulations, and shall demonstrate compliance to the Zoning Administrator prior to receiving a Zoning Permit.
  - (4) [Vendor trucks](#) in the R-1-W, R-1, R-2, R-3, and R-4 Districts may be on site and operational for no more than four consecutive days at any time. After a [vendor truck](#) has operated on a site for four consecutive days, no [vendor truck](#) may operate on that site for at least 30 days. There shall be no time restrictions on [vendor trucks](#) in any other districts.
  - (5) Multiple [vendor trucks](#) may operate simultaneously on the same site. However, in the R-1-W, R-1, R-2, R-3, and R-4 Districts, no more than two [vendor trucks](#) may operate simultaneously on any site. The [Zoning Board of Appeals](#) may allow additional [vendor trucks](#) in those districts, upon finding that no residential uses will be negatively impacted by the additional trucks.

- (6) [Vendor trucks](#) shall be permitted only on private property.
- (7) The standards above shall not apply to [vendor trucks](#) that do business by travelling on public rights-of-way from neighborhood to neighborhood, such as ice cream trucks. Such [vendor trucks](#) shall not be regulated by this Ordinance.
- (8) Pop-up Operations consist of a separate business entity or operation that may choose to locate in a C, C-I, C-S, C-H, C-L, or C-U zoning district on the grounds of an established business. These operations are temporary in nature and are permitted for a period of three (3) days maximum. Pop-up businesses may not hamper or obstruct the free flow of traffic, access to public sidewalks or pathways, and clear vision areas.

## Section 7.18 Swimming Pools

It shall be unlawful for any person(s) to install, place or construct a [swimming pool](#) upon any lot or [parcel](#) of land in Chikaming Township except in conformity with the applicable provisions of the Michigan Construction Code Act, Act 230, P.A. 1972, as amended, and rules and regulations promulgated thereto, as well as the Township Building Code. The location of a [swimming pool](#), including above-ground and in-ground pools on any lot or [parcel](#) of land must comply with the yard requirements for [accessory structures](#) that are applicable to the [Zoning District](#) in which the [swimming pool](#) is located, as provided in Section 7.02 A [swimming pool](#) shall be considered [impervious surface](#) for purposes of computing [lot coverage](#). A [fence](#), meeting the standards of this Ordinance, must be [erected](#) surrounding all [swimming pools](#).

## Section 7.19 Outdoor Seating

- (A) Outdoor seating for restaurants, bars, coffee shops, ice cream shops, and other businesses in commercial zones shall meet the following requirements.
  - (1) Businesses proposing outdoor seating shall submit a site plan showing the layout of the outdoor seating area for a site plan review by the Planning Commission.
  - (2) The hours of operation for the outdoor seating shall be included on the site plan and are subject to Township approval.
  - (3) Outdoor seating shall be included in the calculation of required parking for the principal use of the site, and any additional required parking spaces triggered by the addition of outdoor seating must be constructed before the outdoor seating can be used.
  - (4) Outdoor seating shall be subject to review and approval by the Fire Department and all relevant County or State approvals.

# Article 8 Nonconformities

## Section 8.01 Intent

(A) Nonconformities are uses, [structures](#), [buildings](#), or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the Ordinance or amendment. Such nonconformities are not compatible with the current or intended [use](#) of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

(B) The following table summarizes the nonconforming regulations contained in this Article:

<b>Summary of Nonconformity Regulations</b>	
<b>Issue</b>	<b>Requirements</b>
Period of non-use before nonconformity must cease*	<i>Nonconforming use of open land</i> : 180 days <i>Nonconforming use of structure or <a href="#">building</a></i> : 12 months
Establishment of new conforming <a href="#">use</a>	Nonconforming use must cease
Change in ownership	No effect on nonconformity
Nonconforming single family <a href="#">use</a>	May be enlarged, subject to conditions (see Section 8.03.J)
Substitution of one nonconformity for another	Permitted under certain conditions (see Section 8.03.K and Section 8.05)
Nonconforming contiguous lots under same ownership	See Section 8.03
Expansion of nonconforming <a href="#">use</a> within <a href="#">building</a>	See Section 8.04
Expansion of nonconforming <a href="#">use</a> beyond existing <a href="#">building</a>	Not permitted
Enlargement of <a href="#">nonconforming structure</a>	See Section 8.04.A.2.B
Maintenance; structural repairs	Generally permitted (see Section 8.05.C)
Renovation; modernization	Maximum value: 50% of assessed value
Rebuilding after catastrophe	Permitted if damage is less than 75% of pre-catastrophe fair market value. The Township may require the property owner to provide an independent appraisal to determine the fair market value.

\* Non-use shall be defined as the disconnection of essential public utilities including electricity, water, or heating fuel, OR the substantial decrease in the use of such utilities to the point where they are no longer consistent with the use in question.

## Section 8.02 General Requirements

(A) The following regulations shall apply to all [nonconforming uses](#), [structures](#), and lots:

- (1) **Continuation of Nonconforming Uses and Structures.** Any lawful [nonconforming use](#) existing on the [effective date](#) of this Ordinance or amendment thereto may be continued and shall not be considered to be in violation of this Ordinance, provided that (unless otherwise noted in this Article) the [use](#) shall not be enlarged or extended to occupy a greater area of land, nor moved in whole or in part to another portion of the lot.

Any lawful [building](#) or [structure](#) existing on the [effective date](#) of this Ordinance or amendment thereto may be continued and shall not be considered in violation of this Ordinance, provided that (unless otherwise noted in this Article) the [building](#) or [structure](#) involved shall not be structurally altered, enlarged, or moved unless such modifications conform to the provisions of this Ordinance for the district in which it is located.

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

- (2) **Purchase or Condemnation.** In order to accomplish the elimination of [nonconforming uses](#) and [structures](#) which constitute a [nuisance](#) or are detrimental to the public health, safety and welfare, Chikaming Township may acquire, by purchase, condemnation or otherwise, private property for the purpose of removal of [nonconforming uses](#) pursuant to Section 208(3) of Public Act 110 of 2006, as amended.
- (3) **Establishment of a Conforming Use or Structure.** In the event that a nonconforming principal [use](#) or [structure](#) is superseded by a conforming principal [use](#) or [structure](#) on a site, the [nonconforming use](#) or [structure](#) shall be immediately and permanently removed.
- (4) **Change of Tenancy or Ownership.** In the event there is a change in tenancy, ownership, or management, an existing [nonconforming use](#) or [structure](#) shall be allowed to continue provided there is no change in the nature or character of such [nonconformity](#).
- (5) **Unlawful Nonconformities.** No [building](#), [structure](#), or [use](#) shall be permitted to continue in existence if it was unlawful at the time it was established.
- (6) **Substitution.** A [nonconforming use](#) may be changed to another [nonconforming use](#) upon approval of the [Zoning Board of Appeals](#) provided that no [structural alterations](#) are required to accommodate the new [nonconforming use](#), and that the proposed [use](#) is equally or more appropriate in the district than the existing [nonconformity](#). In permitting such a change, the [Zoning Board of Appeals](#) may require conditions to accomplish the purposes of this Ordinance.
- (7) **Change of Location.** Should a nonconforming [structure](#) be moved to another [parcel](#) or to another location on the same [parcel](#) for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

## Section 8.03 Nonconforming Lots of Record

- (A) [Nonconforming lots](#) of record are those lots of record, as defined in Article 20, existing and lawful prior to the [effective date](#) of this Ordinance or amendments thereto, which could not be created lawfully thereafter. The following regulations shall apply to any [nonconforming lot of record](#) or [nonconforming lot](#) described in a deed or land contract executed and delivered prior to the [effective date](#) of this Ordinance or amendment thereto:
- (1) **Use of Nonconforming Lots.** Any [nonconforming lot](#) shall be used only for a [use](#) permitted in the district in which it is located. Notwithstanding limitations imposed by other provisions of this Ordinance, a permitted [use](#) may be [Erected](#) on any single [lot of record](#) in existence at the [effective date](#) of adoption or amendment thereto. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, provided that the lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety, and welfare.
  - (2) **Area and Bulk Requirements.** No new division of any [parcel](#) shall be made which creates a non-conforming lot with area or frontage less than the area or [bulk](#) requirements of this Ordinance, for the [zoning district](#) in which it is situated.
  - (3) **Nonconforming Contiguous Lots under the Same Ownership.** If a nonconforming [lot of record](#) abuts one or more [nonconforming lots](#) of record in the same ownership, such lots shall be legally consolidated to reduce or eliminate the non-conformity. No lot shall be used or sold in a manner which diminishes compliance with lot area or frontage requirements of this Ordinance, nor shall any division of a lot be made which creates a lot with area or frontage less than the requirements stated in this Ordinance. These provisions shall not apply to [contiguous lots](#) in single ownership where each of the lots is [occupied](#) by an existing home, unless such lots are at any time consolidated under a single tax identification number or unless one or more of the existing homes is removed.

## Section 8.04 Modification to Nonconforming Uses or Structures

- (A) No [nonconforming use](#) or [structure](#) shall be enlarged, extended, or structurally altered, nor shall any [nonconformity](#) be changed to a different [nonconformity](#) which increases the intensity of [use](#) or [nonconformity](#), except as permitted in this Section.
- (1) **Applicability.** The following regulations shall apply to any [nonconforming use](#) or [structure](#), including:
    - (a) [Nonconforming uses](#) of open land.
    - (b) [Nonconforming use](#) of [buildings](#) designed for a conforming use.
    - (c) [Nonconforming use](#) of [buildings](#) specifically designed for the type of use that occupies them but not suitable for a conforming use.
    - (d) [Buildings](#) designed and used for a conforming use but not in conformance with area and [bulk](#), parking, loading, or [landscaping](#) requirements.

(e) [Nonconforming structures](#), such as [fences](#) and [signs](#).

**(2) Nonconforming Structures by Reason of Dimensional Inadequacies.** Where a lawful [structure](#) exists on the [effective date](#) of this Ordinance or amendments thereto which could not be built under its terms by reason of restrictions on area, height, yards, location on the lot, or other dimensional requirements, such a [structure](#) may be continued so long as it remains otherwise lawful, provided:

(a) Repairs, maintenance and renovation necessary for health or safety reasons or to keep such a [nonconforming structure](#) in a sound condition may be made.

(b) A [nonconforming structure](#) may be enlarged, expanded or altered, so long as the nonconforming characteristic of the structure is not enlarged upon, extended or increased in its degree of nonconformance.

(c) Should such a [nonconforming structure](#) be relocated for any reason or for any distance whatever, it shall thereafter conform to the regulations for the [zoning district](#) in which it is located.

(d) Under no circumstances shall a non-conforming structure be rebuilt if the structure is determined to be located on more than one lot or parcel. The Township may require the owner/applicant to provide a current survey of the property. The survey shall be acceptable to the Zoning Administrator and shall include all structures on the property.

(e) If such a [nonconforming structure](#) becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the [zoning district](#) in which it is located.

(f) Any non-conforming structure that is voluntarily demolished or razed shall not be re-built unless in full compliance with the terms of this Ordinance.

(g) Such a [nonconforming structure](#) which is damaged or destroyed by wind, fire, explosion, a natural calamity may be altered, repaired or replaced and the nonconforming nature thereof continued, provided that:

(i) The repair, replacement or alteration is undertaken within two years following the damage,

(ii) There is no change in [use](#), and

(iii) The extent of the nonconformance with the provisions of this Ordinance is not increased.

(iv) The site shall be secured by the owner within fourteen (14) days of the natural calamity, in order to safeguard the public health, safety, and welfare. The Building Official shall determine what permits and safeguards are required.

**(3) Nonconforming Land or Structures by Reason of Use.** Where a lawful [use](#) of land or a structure exists on the [effective date](#) of this Ordinance or amendments thereto which would not thereafter be permitted in the [zoning district](#), such [use](#) may be continued so long as it remains otherwise lawful, provided:



- (a) The [nonconforming use](#) of land or structure shall not be enlarged, extended or expanded in such a way as to increase the nonconforming nature of the [use](#), such as the addition of [dwelling units](#), additional manufacturing or selling area, or by the addition of facilities which would allow the establishment of other [nonconforming uses](#).
- (b) A [nonconforming structure](#) by reason of [use](#) shall not be moved in whole or in part to any portion of the lot or [parcel](#) other than that [occupied](#) by such structure at the [effective date](#) of adoption or amendment of this Ordinance.
- (c) Normal repairs, maintenance and renovation necessary for health or safety reasons or to keep any structure in a sound condition may be made, but a [nonconforming structure](#) by reason of [use](#) shall not be structurally altered except in order to change its [use](#) to one permitted in the [zoning district](#) in which it is located.
- (d) Any structure in which a [nonconforming use](#) is superseded by a permitted [use](#) shall thereafter conform to the regulations for the [zoning district](#), and the [nonconforming use](#) may not thereafter be resumed.
- (e) If a structure or portion of a structure containing a [nonconforming use](#) becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the [zoning district](#) in which it is located.

**(4) Enlargement, Extension, or Alteration.**

- (a) **Increase in Nonconformity Prohibited.** Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any [nonconformity](#). For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:
  - (i) An increase in the total amount of space devoted to a [nonconforming use](#), or
  - (ii) Greater [nonconformity](#) with respect to dimensional restrictions, such as [setback](#) requirements, height limitations, [density](#) requirements, or other requirements in the district in which the property is located.
- (b) **Permitted Extension.** Any [nonconforming use](#) may be extended throughout any part of a [building](#) which was manifestly arranged or designed for such [use](#) at the time of adoption or amendment of this Ordinance, but no such [use](#) shall be extended to occupy any land outside such [building](#). No [nonconforming use](#) of land shall be enlarged, increased, or extended to occupy a greater area of land, nor shall any such [use](#) be moved in whole or in part to any portion of the lot or [parcel](#) than was [occupied](#) on the [effective date](#) of this Ordinance or amendment thereto.
- (c) **Alterations that Decrease Nonconformity.** Any [nonconforming structure](#) or any structure or portion thereof containing a [nonconforming use](#), may be altered if such alteration serves to decrease the nonconforming nature of the structure or [use](#).

**(5) Repairs, Improvements, and Modernization.**

- (a) **Required Repairs.** Repairs or maintenance deemed necessary by the [Building Official](#) to keep a [nonconforming building](#) structurally safe and sound are permitted. However, if a non-conforming structure or a structure containing a [nonconforming use](#) becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the [Building Official](#), it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- (b) **Additional Permitted Improvements.** Additional repairs, improvements, or modernization of [nonconforming structures](#), beyond what is required to maintain the safety and soundness of the structure, shall be permitted provided such repairs or improvements do not exceed fifty percent (50%) of the assessed value of the structure during any period of twelve (12) consecutive months. The provisions in this paragraph shall apply to all structures except as otherwise provided in this Article for single-family residential uses and for reconstruction of structures damaged by fire or other catastrophe.

**(6) Damage by Fire or Other Catastrophe.**

- (a) Any [nonconforming structure](#) that is damaged by fire, flood, or other catastrophe in excess of seventy-five percent (75%) of the structure's pre-catastrophe fair market value (as determined by the Township Assessor) shall not be rebuilt, repaired, or reconstructed except in complete conformity with the provisions of this Ordinance, or on the exact same footprint, with all other aspects brought into conformity with the Ordinance.
- (b) Any [nonconforming structure](#) or structure housing a [nonconforming use](#) that is damaged by fire, flood, or other catastrophe by less than or equal to seventy-five percent (75%) of the structure's pre-catastrophe fair market value (as determined by the Township Assessor) may be restored to its pre-catastrophe status, provided that restoration is completed within a period of twenty-four (24) months from the date of such fire, flood, or other catastrophe.
- (c) Residential [developments](#) that are non-conforming by virtue of being a higher [density](#) ( i.e. more [dwelling units](#) per acre) than permitted in the [zoning district](#) may be rebuilt to 50% of their previous density, or to the maximum [density](#) permitted in the [zoning district](#), whichever is greater, if damaged by fire, flood, or other catastrophe by more than seventy-five percent (75%) of the structure's pre-catastrophe fair market value (as determined by the Township Assessor).

## Section 8.05 Nonconforming R-1 Lots of Record (NCR-1 Designation)

- (A) **Intent.** In portions of the R-1 [zoning district](#) where there is a preponderance of properties requiring [variances](#) to allow construction or remodeling, [variances](#) are often sought to permit this activity as these lots often do not meet the standards of the Zoning Ordinance, created subsequent to the platting of these lots. The intent of these standards to provide appropriate and standardized requirements for these areas of [parcels](#) less than 20,000 square feet in size to guide and expedite the review and approval process of the [Zoning Board of Appeals](#) and ensure consistency over the course of their decisions. This will allow for beneficial use of the property by the owners in a manner consistent with the goals and objectives of the [zoning district](#) and the Township [master plan](#).

(B) **Designation.** During the zoning review of the proposed development of a vacant non-conforming lot of record in the R-1 district, the Zoning Administrator shall direct the Building Official to thoroughly review drainage and stormwater patterns on the site prior to issuing any Building Permit. Any drainage issues shall be corrected as described in this Ordinance. If the drainage and stormwater can be brought into compliance, the Zoning Administrator shall designate the non-conforming lot of record as NCR-1 (Non-Conforming R-1). Lots designated NCR-1 shall be exempt from the provisions of [Section 8.03](#) and may be legally developed in the same manner as conforming lots, provided that they meet the [development](#) standards set forth in Subsection D below.

(C) **Uses.**

- (1) All [permitted uses](#) permitted in the R-1 district shall be permitted in NCR-1 areas.
- (2) All [accessory structures](#) / uses permitted in the R-1 district shall be permitted in NCR-1 areas.
- (3) All [special land uses](#) permitted in the R-1 shall be permitted in NCR-1 areas following issuance of a [special land use](#) permit that has been recommended by the [Planning Commission](#) and approved by the Township Board, subject, however, to the applicable general and specific standards in Section 17.03.

(D) **Development Standards.** The following [development](#) standards are a requirement for approval of [development](#) of NCR-1 lots.

- (1) [Density](#), height, [bulk](#), and coverage requirements shall be based on the following table. Differentiation between the three designations within the NCR-1 classification (NCR1-A, NCR1-B, and NCR1-C) shall be based solely on the [net lot area](#) and used strictly for allocating these different standards.

Designations	Net Lot Area	Minimum Setbacks (b)			Max Lot Coverage	Building height (c)	
		Front	Side	Rear		Feet	Stories
NCR1-A	9,999 sq. ft. or less	Lesser of 30' or (a)	10'	30'	20%	18 feet	1.5
NCR1-B	10,000 sq. ft. to 14,999 sq. ft.	Lesser of 30' or (a)	10'	30'	20%	20 feet	1.5
NCR1-C	15,000 sq. ft. to 19,999 sq. ft.	Lesser of 30' or (a)	10'	30'	25%	22 feet	2

See footnotes below.

- (a) **Front Yard Setback.** In lieu of complying with the fixed [front yard setback](#) requirements of Section 4.02, [buildings](#) and structures with NCR-1 designations must be set back from the [property line](#) either a distance equal to the average [front yard setback](#) of the nearest two lots on either side of the subject lot or 30 feet, whichever is less. When the lot is a [corner lot](#) or adjacent to a corner lot, the average [setback](#) will be computed based on the nearest two lots on either side of the structure that fronts on the same [street](#), even if one of those structures is across a [street](#).
- (b) [Architectural features](#), such as cornices, eaves, gutters, chimneys, pilasters, and the like may extend into a required yard a maximum of two (2) feet in NCR-1 designated areas.

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# Article 9 Off-Street Parking and Loading Requirements

## Section 9.01 Off-Street Parking Requirements

(A) Schedule of Off-Street Parking:

Use	Minimum Required Parking Spaces
Adult Day Care Home	1.2 per resident
Agritourism	(1)
Art Studio	1 per 500 square feet
Bank	1 per 300 square feet
Barber Shops/Beauty Shops	1 per 300 square feet
Boarding Kennels (Commercial)	None
Breeding Kennels (Commercial)	None
Brewpub/Microbrewery/Distillery	1 per 250 square feet
Bus Station	(1)
Cemetery	None
Child Care Center (Non-Home-Based)	4 per classroom
Child Day Care Home, Family	2
Commercial Livestock	None
Commercial Lodging	
Bed and Breakfast	1.1 per bed room
Boarding House	1.1 per bed room
Boutique Hotel	1.2 per bed room
Campground	1.1 per campsite
Resort (including Detached Unit Resorts)	1.1 per bed room
Hotel/Motel	1.3 per bed room
Single Family Rental Home	1.3 per bed room
Crop Cultivation	None
Domestic Livestock	None
Drive-Thru	None (except what is required for principal use)
Dwelling Units	
Single Family	2
Multiple Family (including Senior Housing)	1 per unit
Above First Floor in Mixed Use Buildings	1 per unit
Manufactured Housing Mobile Structure	2 per unit
Manufactured Housing Permanent Structure	2 per unit
Model Home	2
Accessory Dwelling Unit	1
State-Licensed Residential Facility (non-Daycare)	1 per bed room
Essential Services	None
Farmer's Market	(1)
Funeral Home and Mortuary	1 per 500 square feet
Government and Public Building	(1)
Group Day Care Home	2
Home Based Businesses	2
Hospitals	(1)
Institution of Higher Education	(1)
Manufacturing	1 per 1000 square feet
Medical or Dental Clinic	1 per 500 square feet
Mini-Warehouse or Portable Storage Unit	0.25 per storage unit
Rescue/Foster/Personal Kennel	None
Office	1 per 500 square feet
Open Air Business	(1)
Outdoor Event	(1)
Parking Lot with No Other Principal Use	None
Pet Shop and Pet Grooming	1 per 300 square feet
Preserve/Conservation Area	None

**Article 9: Off-street Parking and Loading Requirements**  
Section 9.01

Use	Minimum Required Parking Spaces
Primary/Secondary School (Private)	3 per classroom
Recreation - Indoor	(1)
Recreation - Outdoor	(1)
Recycling Collection Station	(1)
Religious Institution	1 per 3 seats of capacity in the worship space
Restaurant/Bar	1 per 250 square feet
Retail Store	1 per 300 square feet
Roadside Farm Stands	5
Sexually Oriented Businesses	1 per 300 square feet
Shooting Range - Outdoor	1.2 per shooting bay
Solar Energy System	None
Stables (Horses)	None
Theater	1 per 3 seats in maximum capacity
Utility Structures and Substations	None
Vehicle Dealership	1 per 300 square feet of interior space
Vehicle Filling Stations (Gas Stations)	1 per 300 square feet of indoor retail space, plus 1 space per pump (located next to the pump)
Vehicle Repair	2 per repair bay
Vehicle Wash	5
Veterinary Clinics	1 per 500 square feet
Warehousing	1 per 1000 square feet
Wholesale	1 per 500 square feet
Wind Energy Conversion System	None
Wireless Telecommunications	None

- (1) For these uses, the applicant shall submit a parking standard for approval by the Planning Commission, based on the specifics of the proposed use. If approved by the Planning Commission, the proposed standard shall be used to calculate the minimum number of spaces.
- (2) **Additional Off-Street Parking; Maximum Parking.** Nothing in this Ordinance shall be deemed to prevent voluntary establishment of [off-street parking](#) facilities to serve an existing [use](#) of land or [buildings](#), or to prevent provision of additional parking facilities beyond what is required by the Ordinance, provided all such parking is in conformance with the regulations herein. Except for single-family detached residential uses, any person proposing the provision of greater than 125% of the minimum required [off-street parking](#) as specified in this Article shall demonstrate to the [Planning Commission](#) sufficient justification for the additional parking.
- (3) **Uses Not Cited.** For those uses not specifically mentioned, the requirements for [off-street parking](#) for a similar [use](#) shall apply, as determined by the [Planning Commission](#).
- (4) **Units of Measurement.**
  - (a) **Floor Area.** For the purposes of determining required number of [parking spaces](#), "floor area" shall be measured in accordance with the definitions in Article 19. All parking requirements that are based on square footage shall be based on gross floor area.
  - (b) **Fractional Spaces.** When calculations for determining the required number of [parking spaces](#) results in a fractional space, any fraction of less than one-half (1/2) may be disregarded, while a fraction of one-half (1/2) or more shall be counted as one space.
  - (c) **Places of Assembly.** For religious institutions, theaters, or similar places of assembly in which those in attendance occupy benches, pews, or similar seating, each twenty-four (24") inches of such seating shall be counted as one seat.
  - (d) **Persons.** Any parking standard calculated on the basis of 'persons', 'students', 'employees', or a similar group shall be based upon the maximum permitted occupancy of the [building](#), structure or facility.

(B) **Off-Street Parking Standards.** The following standards shall be used in determining the required number and characteristics of off-street [parking spaces](#):

- (1) **Use of Loading Space.** Required loading space shall not be counted or used for required parking.
- (2) **Banked Parking.** If the minimum number of required [parking spaces](#) exceeds the amount necessary to serve a proposed [use](#), the [Planning Commission](#) may approve the construction of a lesser number of [parking spaces](#), subject to the following:
  - (a) The banked parking shall be shown on the site plan and set aside as [open space](#), including the provision of trees, [shrubs](#) s, and other [landscaping](#).
  - (b) Banked parking shall be located in areas suitable for future parking that meet Ordinance requirements.
  - (c) The Township may require construction of the banked parking area upon finding that [vehicles](#) are regularly overflowing the designated parking area
- (3) **Bicycle Parking Where Public Bicycle Parking is Not Provided.** Parking facilities for bicycles shall be encouraged on all premises that provide [off-street parking](#) for [vehicle](#) in the C-S, C-H, C-L, and C-U districts. Bicycle parking facilities shall allow the parking of at least four bicycles and shall allow a cyclist to safely secure a bicycle from incidental damage or theft, while not hindering access for pedestrians or other [vehicles](#). Bicycle parking facilities shall be located in highly-visible and accessible areas.
- (4) **Barrier-Free Parking Requirements.** Each parking lot that serves a [building](#), except single family [dwelling units](#), shall have a number of level [parking spaces](#), identified by an above-[grade sign](#) which indicates the spaces are reserved for physically handicapped persons. Barrier-free parking shall comply with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended, the adopted Township Building Code, and the Federal Americans with Disabilities Act. Amendments or additional legislation at the State or Federal level may result in changes to this Section.
  - (a) **Dimensions of Barrier-Free Parking Spaces.** Each barrier-free parking space shall have no more than a nominal three percent (3%) [grade](#) and shall be not less than eight (8) feet in width and be adjacent to an access aisle not less than five (5) feet in width. Required van-accessible barrier-free spaces must be eight (8) feet in width and be adjacent to an access aisle not less than eight (8) feet in width.
  - (b) **Minimum Required Number of Barrier-Free Parking Spaces.** The number of barrier-free spaces required is as follows:

Total Number of Parking Spaces Provided in Lot	Minimum Number of Barrier-Free Spaces Required	Number of Van-Accessible Barrier-Free Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 and Over	8	1

(5) **Parking Spaces Required.** The amount of required [off-street parking](#) (including stacking spaces for certain uses) shall be determined in accordance with the schedule above. Applicants are encouraged to minimize the amount of parking provided in order to minimize excessive areas of pavement, which contribute to high volumes of storm water runoff. The [Planning Commission](#) may modify the numerical requirements for [off-street parking](#), based on evidence that another standard would be more reasonable, because of the level of current or future employment and/or level of current or future customer traffic.

**(6) Location.**

**(a) Proximity to Building or Use Being Served.** [Off-street parking](#) for multiple-family and non-residential uses shall be located on the same lot or [parcel](#) as the [building](#) or [use](#) being served or within six hundred (600) feet of the [building](#) it is intended to serve (measured from the nearest point of the [building](#) or [use](#) to the nearest point of the parking).

**(b) Within Yards.** [Off-street parking](#) in the C, C-I, M, R-3, and C-H districts may be located in any yard. [Off-street parking](#) in the C-S, C-U, and C-L districts may be located in the side or [rear yards](#) only. All [parking spaces](#) must be set back at least 5 feet from any wall of the [principal building](#) on the site.

**(7) Residential Parking.** Off-street [parking spaces](#) in the R-1, R-1-W, R-2, and R-4 districts shall consist of a parking strip, [driveway](#), garage, or combination thereof, and shall be located on the premises they are intended to serve. No parking shall be permitted on a regular basis on lawns, public rights-of-ways or other areas not designed for parking and circulation.

**(8) Control of Off-Site Parking.** It shall be unlawful to park or store any motor [vehicle](#) on another's private property without the written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.

**(9) Access to Parking.** Each [off-street parking](#) space shall open directly onto a clearly-defined aisle or [driveway](#) meeting the standards of Section 7.14 to provide safe and efficient access to or from a street or alley in a manner that will least interfere with the smooth flow of traffic. Parking designed for backing directly onto a street or [road](#) is prohibited.

**(10) Collective Use of Off-Street Parking.** [Off-street parking](#) for separate [buildings](#) or uses may be provided collectively subject to the following. [Mixed use buildings](#) shall use this section to compute their parking requirement.

**(a)** If two or more businesses wish to combine parking, the following standards must be met:

**(i)** The minimum parking requirement shall be the combined minimum requirement for the uses in question (see [Section 9.01.C.8](#)) subtracting 20% of the total.

**(ii)** The maximum distance between a parking space and the entrance to a business counting the parking space towards its minimum parking requirement, shall be 600 feet.

**(iii)** All necessary easements must be signed, recorded, and copies submitted to the Township.

**(11) Cross Access.** Common, shared parking facilities are encouraged in the Township. Wherever feasible, cross-access connections between adjacent parking lots (or a reserved connection when no adjacent parking lot exists but can reasonably be expected to be constructed at a future date) are required.

**(12) Storage and Repair Prohibited.** The storage of merchandise, sale of motor [vehicles](#), storage of inoperable [vehicles](#), or repair of [vehicles](#) are prohibited in required [off-street parking](#) lots or areas. Emergency service required to start [vehicles](#) shall be permitted.

**(13) Duration.** Except when land is used as permitted storage space in direct connection with a legitimate business, a twenty-four (24) hour time limit for parking in non-residential [off-street parking](#) areas shall prevail provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked [vehicle](#) in any parking area in any district for any period of time. The Township may enact a program to exempt certain residents from this requirement in via a permit that would be affixed to their cars.

**(C) Scope of Off-Street Parking Requirements.** Compliance with the [off-street parking](#) regulations shall be required as follows:



- (1) **General Applicability.** For all [buildings](#) and uses established after the [effective date](#) of this Ordinance, [off-street parking](#) shall be provided as required in this Article prior to issuance of a Certificate of Occupancy. However, where a [building](#) permit has been issued prior to the [effective date](#) of the Ordinance and construction has been diligently carried on, compliance with the parking requirements at the time of issuance of the [building](#) permit shall be required.
- (2) **Change in Use or Intensity.** Whenever [use](#) of a [building](#), structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new [use](#), regardless of any [variance](#) which may have been in effect prior to change of [use](#). If the intensity of [use](#) of any [building](#), structure, or lot is increased through the addition of [dwelling units](#), increase in floor area, increase in seating capacity, or through other means, additional [off-street parking](#) shall be provided for such increase in intensity of [use](#).
- (3) **Existing Parking Facilities.** [Off-street parking](#) facilities in existence on the [effective date](#) of this Ordinance shall not reduce the number of [parking spaces](#) below the parking requirement for the [use](#) being served, or if already deficient, shall not be further reduced below the parking requirements for the [use](#) being served as set forth in this Ordinance.

An area designated as required [off-street parking](#) shall not be changed to any other [use](#) unless comparable facilities are provided elsewhere in accordance with the provisions of this Ordinance.

- (D) **Layout and Construction.** [Off-street parking](#) facilities containing four (4) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

- (1) **Review and Approval Requirements.** Plans for the construction of any parking lot in conjunction with a new [development](#) shall be submitted for review and approval according to the normal site plan review procedures. Plans for expansion of an existing parking lot that is not associated with other new [development](#) shall be submitted to the [Building Official](#) for review and approval prior to the start of construction. Upon completion of construction, the parking lot must be inspected and approved by the [Building Official](#) before a Certificate of Occupancy can be issued for the parking lot and for the [building](#) or [use](#) the parking is intended to serve.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate existing and proposed [grades](#), drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout. The plans shall conform to the construction and design standards established by the Township.

In the event that required parking cannot be completed because of cold or inclement weather, a temporary Certificate of Occupancy may be issued by the [Building Official](#) provided the applicant first deposits a [performance guarantee](#) in accordance with Section 18.07.

**(2) Dimensions.**

- (a) [Off-street parking](#) shall be designed in conformance with the following standards and diagram:

Parking Angle	Parking Stall Dimensions		Drive Aisle Width	Total Width (wall-to-wall) of Drive Aisle and Parking	
	Width	Depth to Wall		One Row of Stalls (x)	Two Rows of Stalls (y)
0° (parallel)	24.0 feet	8.0 feet	16.0 feet ( <i>one-way</i> ) 24.0 feet ( <i>two-way</i> )	24.0 feet ( <i>one-way</i> ) 32.0 feet ( <i>two-way</i> )	32.0 feet ( <i>one-way</i> ) 40.0 feet ( <i>two-way</i> )
Up to 45°	8.5 feet	16.6 feet	12.0 feet ( <i>one-way only</i> )	28.6 feet	45.2 feet
46° to 60°	8.5 feet	18.2 feet	16.0 feet ( <i>one-way only</i> )	34.2 feet	52.4 feet
61° to 75°	8.5 feet	18.5 feet	20.0 feet	38.5 feet	57.0 feet
76° to 90°	9.0 feet	18.5 feet	24.0 feet	42.5 feet	61.0 feet

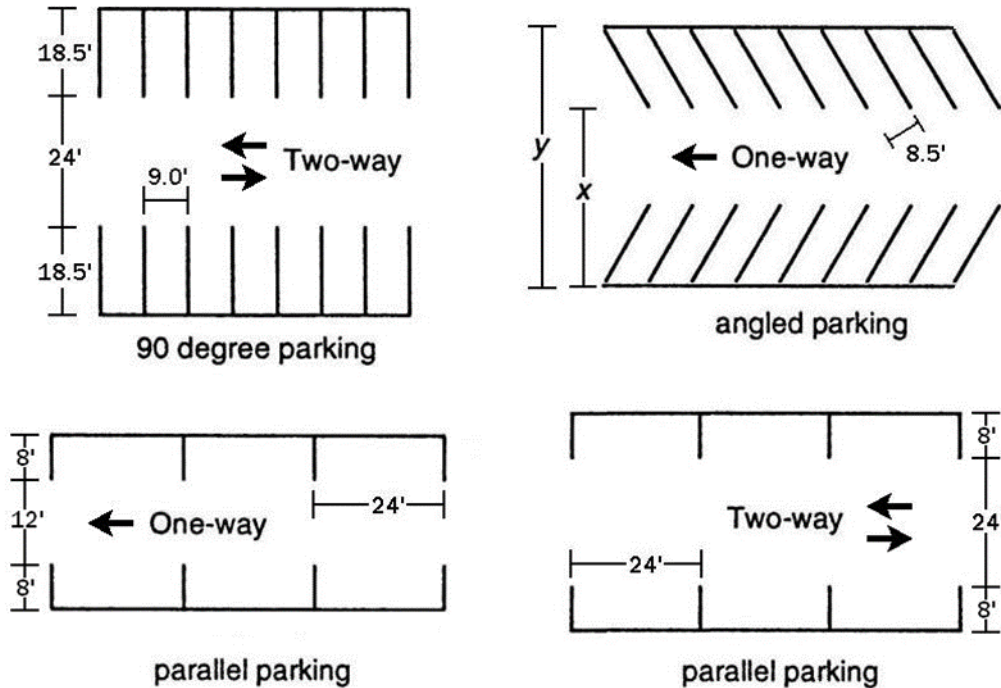


Figure 4.1: Off-Street Parking Layouts

(b) **Driveways.** [Driveways](#) providing access to residential, commercial or industrial uses shall comply with the standards in Section 7.14.

(3) **Layout.**

- (a) **Striping.** All paved parking lots must be striped with conforming [parking spaces](#) matching the approved plan for the parking lot and in compliance with ADA requirements for barrier-free [parking spaces](#). The striping must be maintained so as to be visible to drivers.
- (b) **Ingress and Egress.** All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and [driveways](#). Spaces backing directly onto a street shall be prohibited. Entrances and exits from [off-street parking](#) lots shall be located at least twenty-five (25) feet from the nearest point of any adjacent property zoned for single-family residential [use](#).
- (c) **Parking Rows.** Continuous rows of parking shall be limited to not more than twenty (20) contiguous spaces. Longer rows shall provide landscaped breaks (e.g., islands or bio swales) with shade trees.
- (d) **Consolidated Landscaping.** [Parking spaces](#) and rows shall be organized to provide consolidated landscape areas and opportunities for on-site storm water management. The use of bio swales and/or [rain gardens](#) is encouraged.
- (e) **Pedestrian Circulation.** The parking lot layout shall accommodate direct and continuous pedestrian circulation, clearly divided from vehicular areas. Pedestrian crosswalks shall be provided and integrated into the pedestrian circulation network.

(4) **Surfacing and Drainage.**

- (a) All parking lots for ten cars or more, including access lanes, [driveways](#), and other [vehicle](#) maneuvering areas shall be paved with pervious concrete or asphalt to achieve a smooth, dustless surface, unless approved otherwise by the [Planning Commission](#). All other [off-street parking](#) areas, access lanes, [driveways](#) and other [vehicle](#) maneuvering areas shall be maintained with a smooth, dustless surface (including re-grading and watering down the unpaved surface as necessary), but need not be paved, except in the following circumstances:
  - (i) Within the C-I district, where all parking lots must be paved.
  - (ii) When required by the [Planning Commission](#) due to safety or circulation concerns.
  - (iii) When required to meet the standards for barrier-free parking.
- (b) [Off-street parking](#) areas, access lanes, and [driveways](#) shall be [graded](#) and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property.
- (c) Grading, surfacing and drainage plans shall be subject to review and approval by the [Township Engineer](#). Where appropriate, on-site storm water management shall be provided to 1) capture and hold water during storms to be released later, and 2) to screen pollutants so they do not enter lakes, streams, [wetlands](#), or rivers.
- (5) **Curbs, Wheel Stops.** Wheel stops must be provided to prevent [vehicles](#) from extending over grass areas, [setback](#) lines, or lot lines.
- (6) **Lighting.** All parking areas, [driveways](#), and walkways shall be illuminated to ensure the security of property and the safety of persons using such areas, in accordance with the requirements in Section 7.08. The lighting may be shielded, pedestrian-level lighting rather than overhead light poles. Parking lot entrances shall be illuminated.
- (7) **Signs.** Accessory [directional signs](#) shall be permitted in parking areas in accordance with Article 12.00.
- (8) **Screening and Landscaping.** All [off-street parking](#) areas, except those serving single family residences, shall be screened and landscaped in accordance with the provisions set forth in Article 10.00.
- (9) **Maintenance.** All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting [fixtures](#), [signage](#), and related appurtenances shall be maintained in good condition.
- (10) **Electric Vehicle Charging Stations.** If and when appropriate, charging stations shall be provided for electric-powered [vehicles](#). The placement of charging stations shall be subject to review by the [Planning Commission](#).
- (E) **Recreational Vehicle Parking.** [Recreational vehicles](#) as defined in Section 20.01, including campers and other recreational equipment, may be parked or stored by the owner on residentially zoned property subject to the following requirements. Unless otherwise noted, the requirements in this sub-section apply to [recreational vehicles](#) that are parked or stored for a period of more than forty-eight (48) hours.
  - (1) **Use as Living Quarters.** At no time shall recreational vehicles, while parked or stored, be used for permanent living or housekeeping purposes.

- (2) **Connections to Utilities.** Recreational vehicles parked or stored shall not be connected to water, gas, or sanitary sewer lines.
- (3) **Location.** Recreational vehicles that are not parked or stored in a building may be parked or stored on a lot provided that the vehicles are located no closer to the front of the lot than any portion of the principal structure and comply with minimum front, side, and rear setback requirements.
- (4) **Lot Coverage.** Recreational vehicles may occupy no more than twenty percent (20%) of the required rear yard.
- (5) **Temporary Parking.** Notwithstanding the above provisions concerning "Location", recreational vehicles may be parked elsewhere on the lot prior to or after a trip for loading or unloading purposes for a period of not more than 48 hours prior to and 48 hours after use of the vehicle within a seven (7) day period.
- (6) **Condition.** Parked or stored recreational vehicles must be kept in good repair. Vehicles capable of being moved from place to place under their own power must be maintained in good running condition. All such vehicles must be properly registered in the name of the resident of the dwelling unit.
- (7) **Storage of Mobile Homes.** The parking or storage of an unoccupied mobile home as defined in Section 20.01, being designed as a permanent structure for residential occupancy, is prohibited, except as may be permitted in the Mobile Home Park District.
- (8) **Waiver of Regulations.** The provisions concerning connection to utilities, use as living quarters, and location may be waived for a period of up to two weeks to permit repair of the resident or owner's equipment or to permit the parking of a recreational vehicle of a guest. Permits for any such waiver shall be obtained from the Zoning Administrator. No more than two (2) permits shall be issued for each activity (repair, storage of guest vehicle) per calendar year. The Planning Commission has the authority to grant extensions of these time frames in case of emergencies or destruction or damage to the permanent principal building through no fault or intent of the resident or owner.

## Section 9.02 Loading Space Requirements

- (A) **Scope of Loading Space Requirements.** Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public [use](#) of streets, [alleys](#), parking areas, [driveways](#), sidewalks, and other public areas.
  - (1) **General Applicability.** On the same premises with every [building](#), or part thereof, [erected](#) and [occupied](#) for manufacturing, storage, warehousing, display and sale of goods, including department stores, wholesale stores, markets, [hotels](#), hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or [vehicles](#), there shall be provided and maintained adequate space for loading and unloading as required in this Section.
  - (2) **Change in Use or Intensity.** Whenever [use](#) of a [building](#), structure, or lot is changed, loading space shall be provided as required by this Ordinance for the new [use](#), regardless of any [variance](#) which may have been in effect prior to change of [use](#).
- (B) **General Requirements.**

- (1) **Location.** Required loading space shall be located to the rear or side of the [building](#) being served. The loading space shall be clearly marked and defined with appropriate signage and striping. Loading/unloading operations shall not interfere with traffic on streets or [off-street parking](#).
- (2) **Size.** Unless otherwise specified, each required loading space shall be a minimum of ten (10) feet in width and fifty (50) feet in length, with a vertical clearance of fifteen (15) feet.
- (3) **Surfacing and Drainage.** Loading areas shall be hard-surfaced with concrete, bituminous material, or surfaced with [pervious pavement](#), to create a smooth, dustless surface. Loading areas shall be [graded](#) and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property. Grading, surfacing, and drainage plans shall be subject to review and approval by the [Building Official](#) and/or [Township Engineer](#).
- (4) **Storage and Repair Prohibited.** The storage of merchandise, sale of motor [vehicles](#), storage of inoperable [vehicles](#), or repair of [vehicles](#) is prohibited in required loading space.
- (5) **Use of Loading Space.** Required loading space shall not be counted or used for required parking.
- (6) **Shared loading.** Shared loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
  - (a) Each business served shall have access to the shared loading area.
  - (b) Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the shared loading space, unless otherwise determined by the Planning Commission.
  - (c) No [building](#) served shall be more than three hundred (300) feet from the shared loading area, unless otherwise determined by the Planning Commission.
- (7) **Minimum Loading Space.** The amount of required loading space shall be determined in accordance with the schedule that follows. The [Planning Commission](#) may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or [use](#).

**Schedule of Loading Space Requirements**

Gross Floor Area	Number of Loading Spaces
0 – 4,999 sq. ft.	<i>see note below</i>
5,000 – 19,000 sq. ft.	1 space
20,000 sq. ft. and over	1 space, plus 1 space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
Establishments containing less than 5,000 square feet of <a href="#">gross floor area</a> shall be provided with adequate off-street loading space that is accessible by motor vehicle, but which does not interfere with pedestrian or vehicular traffic. The size of any such loading space shall be based on the types of delivery vehicles typically utilized by the establishment, provided that in industrial districts sufficient land area must be available to provide a 10 ft. by 50 ft. space if the use of the property changes.	

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# Article 10 Landscaping and Screening

## Section 10.01 Intent and Scope of Requirements

- (A) **Intent.** Landscaping enhances the visual image of the Township, while preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, nonresidential uses. These provisions are intended to set minimum standards for the design and use of [landscaping](#), [greenbelts](#), and screening, and for the protection and enhancement of the Township's environment. More specifically, the intent of these provisions is to:
- (1) Improve the appearance of [off-street parking](#) areas, vehicular use areas, and property abutting public rights-of-way,
  - (2) Protect and preserve the appearance, character, and value of the neighborhoods that abut non-residential areas, parking areas, and other intensive [use](#) areas, thereby protecting the public health, safety and welfare,
  - (3) Reduce soil erosion and depletion, and
  - (4) Increase soil water retention, thereby helping to prevent flooding.
- (B) **Scope of Application.** The requirements in this Article shall not apply to single family detached [dwelling units](#), or within the agricultural district.
- (C) **Minimum Requirements.** The requirements in this Article are minimum requirements, and under no circumstances shall they preclude the developer and the Township from agreeing to more extensive [landscaping](#).
- (D) **Design Creativity.** Creativity in landscape design is encouraged. Accordingly, required trees and [shrubs](#) may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and, equally important, the intent of the Township to coordinate [landscaping](#) on adjoining properties.
- (E) **Summary of Regulations.** The following table summarizes the [landscaping](#) regulations contained in this Article. In the case of a discrepancy between the table and the text of Section 10.02, the text shall control.

**Summary of Minimum Landscaping Requirements (see Section 10.02)**

	General Landscaping Ratio	Plant Height	Minimum Planting Area Width	Minimum Plant Material Quantities		
				Deciduous or Evergreen Trees <sup>c</sup>	Ornamental Trees	Shrubs <sup>c</sup>
General Site Landscaping	--	--	--	One tree per 3,000 sq. ft. <sup>a</sup>	--	--
Landscaping Adjacent to Road ROW	--	--	15 feet	One tree per 40 linear feet	One tree per 100 linear feet	Eight shrubs per 40 linear feet
Greenbelts <sup>b</sup>	--	--	20 feet	One tree per 30 linear feet	One tree per 100 linear feet	Eight shrubs per 30 linear feet

Landscape Screening	--	3 feet, minimum	d	e	--	--
Parking Lot Landscaping	30 sq. ft. per parking space	--	9 feet	One shade tree per 5 spaces	--	--
<p>a. Multiple-family residential <a href="#">developments</a> and mobile home parks shall provide 2 trees and 4 shrubs per <a href="#">dwelling unit</a> or lot.</p> <p>b. Greenbelts provided in conjunction with a screening wall or <a href="#">fence</a> shall be a minimum of nine feet in width.</p> <p>c. Shrubs may be substituted for up to 50% of the total number of required trees, at a rate of eight (8) shrubs for each tree.</p> <p>d. The minimum width of landscape screening shall be equal to the minimum width for the installation used (i.e., <a href="#">greenbelt</a> or berm).</p> <p>e. Landscaped screening shall consist of closely-spaced (not more than 15 feet on center) evergreens, arranged to form a complete visual barrier within three years of planting.</p>						

**Summary of Plant Material Specifications (see Section 10.04, sub-section A)**

	Minimum Caliper	Minimum Height	Minimum Spread
Deciduous Trees	2.5 inches <i>measured at 12 inches above grade</i>	--	--
Ornamental Trees	1.5 inches <i>measured at 6 inches above grade</i>	--	--
Evergreen Trees	--	6.0 feet	2.5 feet
Shrubs	--	2.5 feet	2 feet
Hedges	--	2.5 feet	--

## Section 10.02 General Landscaping Requirements

- (A) **General Site Requirements.** All developed portions of [real property](#) shall conform to the following general [landscaping](#) standards, except where specific landscape elements, such as a [greenbelt](#), [berms](#), or screening are required:
- (1) All unpaved portions of the property shall be planted with grass, [ground cover](#), shrubbery, or other suitable live plant material. Such plant material shall extend to the edge of any abutting paved area, [roadway](#), or gravel shoulder, except that trees and [shrubs](#) shall be set back a minimum of ten feet from the edge of any uncurbed paved area, [roadway](#), gravel shoulder, or other unpaved public or private Right-of-Way. Grass areas in the [front yard](#) of all non-residential uses shall be planted with [sod](#) or hydro-seeded.
  - (2) A mixture of evergreen and deciduous trees shall be planted on non-residential property at the rate of one (1) tree per 3,000 square feet or portion thereof of any unpaved open area for which specific [landscaping](#) requirements do not appear later in this Article. Required trees may be planted at uniform intervals, at random, or in groupings. This requirement shall be doubled, to one (1) tree per 1,500 square feet for lots in the C district that abut Red Arrow Highway.
- (B) **Berms.** Where required, [berms](#) shall conform to the following standards:
- (1) **Dimensions.** Unless otherwise indicated or appropriate, required berms shall be measured from the [grade](#) of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal (33 percent slope), with at least a two (2) foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the maximum height of required berms shall be three (3) feet.



(2) **Protection from Erosion.** Any required berm shall be planted with sod, [ground cover](#), or other suitable live plant material to protect it from erosion so that it retains its height and shape. The [use](#) of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be prohibited unless specifically reviewed and approved by the [Planning Commission](#).

(3) **Required Plantings.** [Berms](#) shall be landscaped in accordance with the requirements for Screening, in this Section 10.02(D).

(4) **Measurement of Berm Length.** For the purposed of calculating required plant material, berm length shall be measured along the exterior edge of the berm.

(C) **Greenbelts.** Where required, [greenbelts](#) shall conform to the following standards:

(1) **Measurement of Greenbelt Length.** For the purposes of calculating required plant material, [greenbelt](#) length shall be measured along the exterior edge of the [greenbelt](#).

(2) **General Planting Requirements.**

(a) **Grass or Ground Cover Requirements.** Grass, [ground cover](#), or other suitable live plant materials shall be planted over the entire [greenbelt](#) area, except where paved walkways are used.

(b) **Tree and Shrub Requirements.** A minimum of one (1) deciduous or evergreen tree and eight (8) [shrubs](#) shall be planted for each thirty (30) linear feet or portion thereof of required [greenbelt](#). Trees and [shrubs](#) may be planted at uniform intervals, at random, or in groupings. However, when a [greenbelt](#) is used to provide a required screen, the plantings must meet the standards of Section 10.02.D.

(c) **Greenbelt Width.** The minimum width of any required [greenbelt](#) shall be 20 feet, except where used to obscure a screening wall as noted below, in which case the [greenbelt](#) shall be at least nine feet in width.

(d) **Distance from Sidewalk.** Plant materials other than turf grass or [ground cover](#) shall not be placed closer than four (4) feet to the [right-of-way](#) line where the [greenbelt](#) abuts a public sidewalk.

(3) **Greenbelts Used for Screening.** Greenbelts used for screening shall be landscaped in accordance with the requirements for Screening, Section 10.02.D.

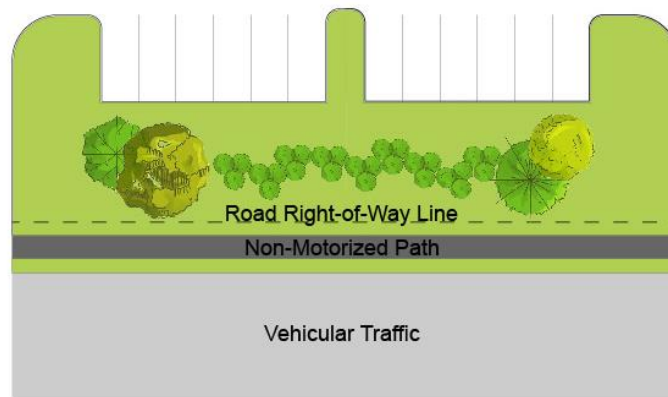
(4) **Linking Greenbelts.** Every effort shall be made to link [greenbelts](#) on adjacent [parcels](#) so as to provide a continuous landscaped or [natural area](#).

(D) **Screening.**

(1) **General Screening Requirements.** Wherever an evergreen or landscaped screen is required, screening shall consist of closely spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least eight (8) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that a complete visual barrier is maintained throughout the year.

- (2) **Screening of Equipment.** Mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, and similar equipment shall be screened on at least three (3) sides. Insofar as practical, said screening shall exceed the vertical height of the equipment being screened by at least six (6) inches within two (2) years of planting.
- (3) **Screening of Parking Lots from Roads.** Landscaping shall be required between parking lots and [roads](#) in order to soften the view of the parked cars from the [roads](#). The minimum width of the planting strip shall be fifteen (15) feet. The planting strip shall be planted with at least 1 tree and 8 [shrubs](#) per 40 linear feet of frontage.

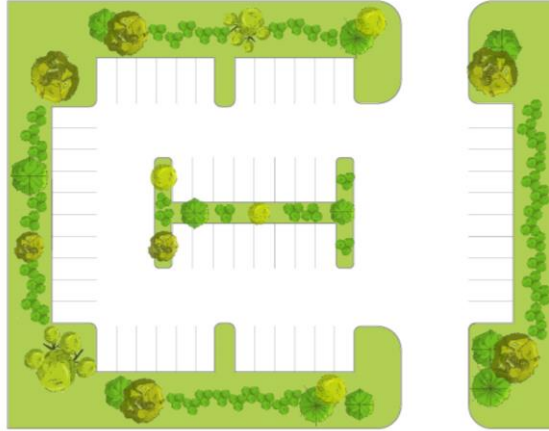
Public rights-of-way located adjacent to required landscaped areas and [greenbelts](#) shall be planted with grass or other suitable live [ground cover](#), and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped areas or [greenbelts](#).



**Screening of Parking Lots from Roads (Section 10.02.D.3)**

(E) **Parking Lot Landscaping.** In addition to required screening, all off street parking areas shall be landscaped as follows:

- (1) **Landscaping Ratio.** [Off-street parking](#) areas containing greater than ten (10) spaces shall incorporate at least thirty (30) square feet of interior [landscaping](#) per parking space.
- (a) Interior parking lot [landscaping](#) may include the following:
- (i) Internal islands and medians
  - (ii) Landscaped areas surrounded on three sides by a parking area (i.e., peninsulas or fingers)
  - (iii) Landscaped areas at the corners of a parking area and bordered by parking on at least two sides.



**Parking Lot Landscape Options**

- (b) Interior parking lot [landscaping](#) shall be located within the parking area to improve its appearance and screen lot edges, reinforce circulation routes, define pleasing pedestrian routes through the parking lot, and maximize shade and storm water benefits.
- (c) Interior parking lot landscape areas should be coordinated with the location of light poles and other utilities.

**(2) Minimum Dimensions.**

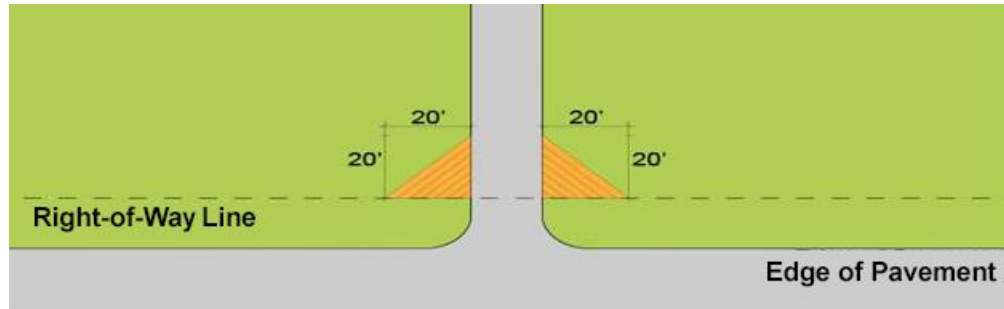
- (a) Landscaped areas in parking lots shall be no less than nine feet in any single dimension and no less than 300 square feet in area.
- (b) Landscaped areas in or adjacent to parking lots shall be protected with curbing or wheel stops to prevent encroachment of [vehicles](#).

**(3) Other Landscaping.** Required [landscaping](#) elsewhere on the [parcel](#) shall not be counted in meeting the parking lot [landscaping](#) requirements.

**(4) Required Plantings.**

- (a) At least fifty percent (50%) of each interior landscaped area shall be covered by living plant material, such as [sod](#), [shrubs](#), [ground cover](#), or trees. Plant materials other than turf grass or [ground cover](#) shall not be placed closer than two feet to the curbed edge of any interior parking lot landscape area. Trees shall be set back a minimum of four feet from the curbed edge of any interior parking lot landscape area.
- (b) A minimum of one deciduous shade tree shall be planted within the parking lot for every ten [vehicle parking spaces](#) in the lot.
- (c) The landscape plan shall indicate the types, sizes, and quantities of all plant material proposed for interior parking lot landscape areas.

- (F) **Clear Corner Vision.** All [landscaping](#) in all [zoning districts](#) must allow clear corner vision for all street intersections and [driveway](#) entrances. [landscaping](#) must be less than three feet tall within a triangle formed by two points, each 20 feet away from the intersection of the [right-of-way](#) line and the [driveway](#), and the line connecting them.



- (G) **Potential Damage to Utilities.** In no case shall [landscaping](#) material be planted in a way that will interfere with or cause damage to underground utility lines, public [roads](#), or other public facilities. Trees shall be set back from overhead utility lines as required by required by the relevant [easements](#).

### Section 10.03 Specific Landscaping Requirements for Zoning Districts

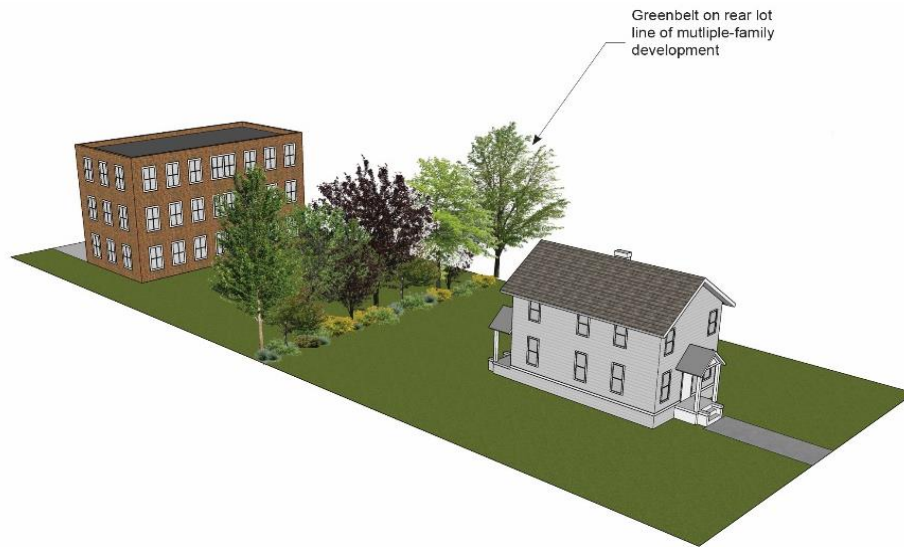
- (A) **Requirements for the Interchange Commercial, Commercial, and Industrial Districts (C, C-I, and M).** All lots or [parcels](#) of land located in commercial [zoning districts](#) shall comply with the following [landscaping](#) requirements:
- (1) **General Site Landscaping.** All developed portions of the lot or [parcel](#) shall conform to the General Site Requirements in Section 10.02. A, except where specific landscape elements are required.
  - (2) **Landscaping Adjacent to Road.** All commercial, office, and industrial [developments](#) shall comply with the requirements for screening the parking lot from the [road](#) in Section 10.02.D.3.
  - (3) **Screening.** Screening in the form of a landscaped berm or [greenbelt](#) shall be required wherever a non-residential [use](#) abuts directly upon land zoned for residential [use](#), and/or where loading areas would be visible from residential districts. Landscaped screening shall comply with the requirements in Section 10.02.D. If a wall is used instead of [landscaping](#), the requirements in Article 11.00 shall be complied with, but a landscaped [greenbelt](#) (planted in accordance with Section 10.02.C) shall be required on the side of the wall facing the residential district.
    - (a) The [Planning Commission](#) may permit a screening wall to be installed in lieu of a [berm](#) or [greenbelt](#), but only if the applicant can demonstrate that there is insufficient space for the required [berm](#) or [greenbelt](#), and that the site cannot be redesigned to accommodate a conforming berm or [greenbelt](#). The [Planning Commission](#) may also choose to reduce the width of the required berm or [greenbelt](#), provided that all required landscape plantings are still provided, rather than allow the requested wall.
  - (4) **Parking Lot Landscaping.** [Off-street parking](#) areas containing greater than ten (10) spaces shall comply with the requirements for parking lot [landscaping](#) in Section 10.02.E.

(5) **Waivers along Red Arrow Highway Due to Sufficient Existing Vegetation.** The [Planning Commission](#) may waive any or all of the above requirements for any lot in the C district that abuts Red Arrow Highway, but ONLY upon determining that the [development](#) plan for the site retains sufficient existing trees and other vegetation so as to make any additional [landscaping](#) redundant.

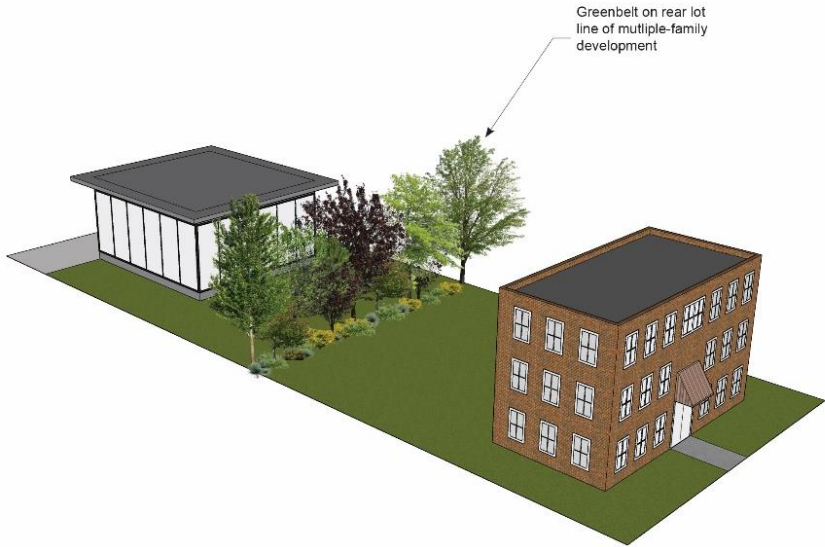
(B) **Requirements for the R-3 District.** All lots or [parcels](#) of land located in a multiple family [zoning district](#) shall comply with the following [landscaping](#) requirements:

- (1) **General Site Landscaping.** A minimum of two (2) deciduous or evergreen trees plus four (4) [shrubs](#) shall be planted per [dwelling unit](#). Unless otherwise specified, required [landscaping](#) elsewhere in the multiple family [development](#) shall be counted in meeting these requirements for trees.
- (2) **Landscaping Adjacent to Road.** All multiple family [developments](#) shall comply with the requirements for [landscaping](#) adjacent to the [road](#) in Section 10.02.D.
- (3) **Screening.** Screening in the form of a landscaped berm OR [greenbelt](#) shall be required where either the [rear yard](#) of a [dwelling unit](#) on the R-3 [parcel](#) OR the [rear yard](#) of a [dwelling unit](#) on the adjacent [parcel](#) abuts the lot line OR where the abutting [use](#) is non-residential, unless there is already screening along the non-residential lot line.

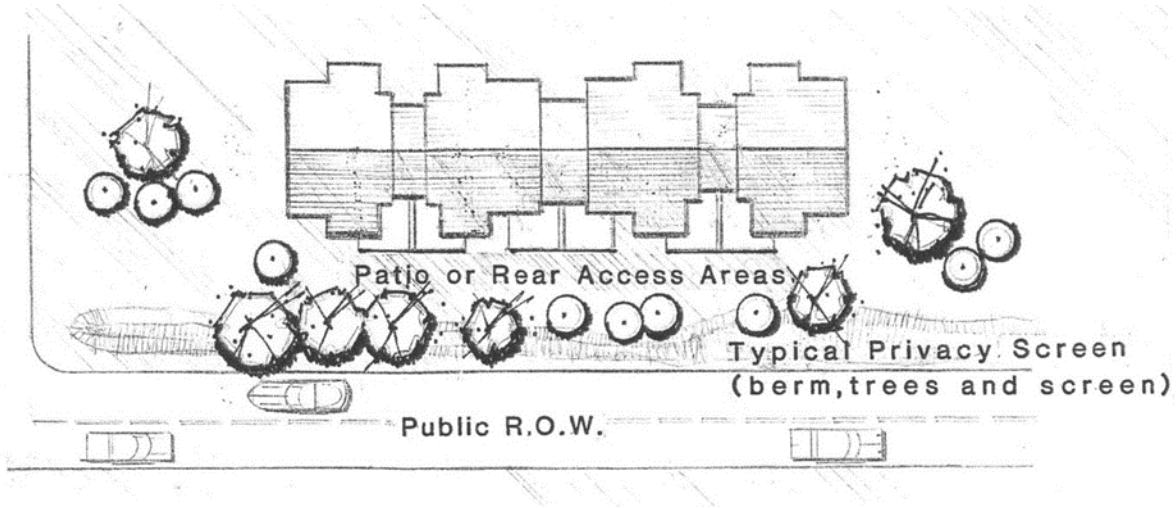
### Multi-Family Screening Adjacent to Single Family



**Multi-Family Screening Adjacent to Non-Residential**



- (4) **Parking Lot Landscaping.** [Off-street parking](#) areas containing greater than ten (10) spaces shall comply with the requirements for parking lot [landscaping](#) in Section 10.02.E.
- (5) **Privacy Screen.** Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public street, a landscaped privacy screen shall be provided (see illustration). The screen may consist of a combination of trees, [shrubs](#) , and berms, subject to review by the [Planning Commission](#).



**Privacy Screen**

- (C) **Requirements for Non-Residential Uses in Residential Districts.** All non-residential uses developed in residential [zoning districts](#) shall comply with the following [landscaping](#) requirements:
- (1) **General Site Landscaping.** All developed portions of the lot or [parcel](#) shall conform to the General Site Requirements in Section 10.02.A, except where specific landscape elements are required.
  - (2) **Landscaping Adjacent to Road.** All non-residential [developments](#) located in residential districts shall comply with the requirements for [landscaping](#) adjacent to the [road](#) in Section 10.02.D.
  - (3) **Screening.** Screening in the form of a landscaped [berm](#) or [greenbelt](#) shall be required wherever a non-residential [use](#) abuts directly upon land zoned for residential purposes.
  - (4) **Parking Lot Landscaping.** [Off-street parking](#) areas containing greater than ten (10) spaces shall comply with the requirements for parking lot [landscaping](#) in Section 10.02.E.
- (D) **Requirements for Mixed-Use Districts (C-S, C-H, C-L, and C-U).** All lots or [parcels](#) of land located in [mixed-use zoning districts](#) shall comply with the following [landscaping](#) requirements:
- (1) **General Site Landscaping.** All developed portions of the lot or [parcel](#) shall conform to the General Site Requirements in Section 10.02.A, except where specific landscape elements are required.
  - (2) **Landscaping Adjacent to Road.** In the C-H and C-L districts, all commercial, office, and industrial [developments](#) shall comply with the requirements for [landscaping](#) adjacent to the [road](#) in Section 10.02.D. The C-S and C-U districts shall be exempt from Section 10.02.D, unless the [front yard](#) in question is 5 feet or greater in depth, in which case Section 10.02.D shall apply.
  - (3) **Screening.** Screening in the form of a landscaped berm, [greenbelt](#), or wall shall be required wherever a non-residential [use](#) abuts directly upon land zoned for residential purposes, and/or where loading areas would be visible from residential districts.
  - (4) **Parking Lot Landscaping.** [Off-street parking](#) areas containing greater than ten (10) spaces shall comply with the requirements for parking lot [landscaping](#) in Section 10.02.E.

## Section 10.04 Standards for Landscape Materials

Unless otherwise specified, all landscape materials shall comply with the following standards:

- (A) **Plant Quality.** Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, and hardy in west Michigan.
- (B) **Plant Material Specifications.** The following specifications shall apply to all plant material proposed in accordance with the [landscaping](#) requirements of this Ordinance:
  - (1) **Deciduous Shade Trees.** Deciduous shade trees shall be a minimum of two and one half (2.5) inches in [caliper](#) measured twelve (12) inches above [grade](#) with the first branch a minimum of four (4) feet above [grade](#) when planted.
  - (2) **Deciduous Ornamental Trees.** Deciduous ornamental trees shall be a minimum of one and one half (1 1/2) inches in [caliper](#) measured twelve (12) inches above [grade](#) with a minimum height of four (4) feet above [grade](#) when planted.
  - (3) **Evergreen Trees.** Evergreen trees shall be a minimum of six (6) feet in height when planted. Furthermore, evergreen trees shall have a minimum spread of three (3) feet, and the size of the burlapped root ball shall be at least ten (10) inches in diameter.
  - (4) **Shrubs.** Shrubs shall be a minimum of two (2) feet in height when planted. Low growing [shrubs](#) shall have a minimum spread of twenty four (24) inches when planted.
  - (5) **Hedges.** [Hedges](#) shall be planted and maintained so as to form a continuous, unbroken, visual screen within two (2) years after planting, barring unusual growing conditions, such as drought or disease. [Hedges](#) shall be a minimum of two (2) feet in height when planted.
  - (6) **Ground Cover.** Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
  - (7) **Grass.** Grass area shall be planted using native species of western Michigan. Grass, [sod](#), and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, [nurse grass](#) seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other [mulch](#) shall be used to protect newly seeded areas.
  - (8) **Mulch.** [mulch](#) used around trees, [shrubs](#) , and vines shall be a minimum of three (3) inches deep, and installed in a manner as to present a finished appearance.
  - (9) **Undesirable Plant Material.** The plant materials listed by the Michigan Department of Natural Resources as invasive (and found at [www.michigan.gov/invasives](http://www.michigan.gov/invasives) at the time of the adoption of this ordinance) are prohibited in the Township.



## Section 10.05 Installation and Maintenance

The following standards shall be observed where installation and maintenance of landscape materials are required:

- (A) **Installation.** Landscaping shall be installed in a sound, workmanlike manner to ensure the continued growth of healthy plant material. Trees, [shrubs](#), [hedges](#), and vines shall be generously [mulched](#) at the time of planting.
- (B) **Seeding or Sodding.** Lots or [parcels](#) shall be seeded or sodded within ninety (90) days after occupancy.
- (C) **Protection from Vehicles.** Landscaping shall be protected from [vehicles](#) through use of wheel stops in parking lots. Except for storm water management features such as bio swales, landscape areas shall be elevated above the pavement to a height that is adequate to protect the plants from snow removal, salt, and other hazards.
- (D) **Off-Season Planting Requirements.** If [development](#) is completed during the off-season when plants cannot be installed, the owner shall provide a [performance guarantee](#) to ensure installation of required [landscaping](#) in the next planting season, in accordance with Section 18.06.
- (E) **Maintenance.** [landscaping](#) required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the [Building Official](#), unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
  - (a) Trees, [shrubs](#), and other plantings and lawn areas shall be watered regularly throughout the growing seasons.
  - (b) All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed.

## Section 10.06 Treatment of Existing Plant Material

The following regulations shall apply to existing plant material:

- (A) **Consideration of Existing Elements in the Landscape Design.** In instances where healthy plant material exists on a site prior to its [development](#), the [Planning Commission](#) may permit substitution of such plant material in place of the requirements set forth previously in this Section, provided such substitution is in keeping with the spirit and intent of this Article and the Ordinance in general.
  - (1) Existing [Hedges](#), [berms](#), walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such landscaping is in conformance with the requirements of this section.
- (B) **Preservation of Existing Plant Material.** Site plans shall show all existing trees that are located in the portions of the site that will be built upon or otherwise altered, and are five (5) inches or greater in diameter, measured 4.5 feet above [grade](#).
  - (1) Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of fencing at the drip line around each tree. No [vehicle](#) or other construction equipment shall be parked or stored within the drip line of any tree or other plant material intended to be saved.

(2) In the event that healthy plant materials are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree, in accordance with the following schedule, unless otherwise approved by the Planning Official based on consideration of the site and [building](#) configuration, available planting space, and similar considerations:

**Schedule of Replacemeny Trees(see Section 10.06, sub-section B)**

Damaged Tree Size (DBH)*	Replacement Tree Size	Replacement Ratio
Less than 6 inches	2½ inches caliper	Tree-for-tree
Greater than 6 inches	2½ tinches caliper	One replacement tree for each six inches DBH* (or fraction thereof) of damaged tree
<i>*DBH = Diameter at Breast Height, measured 4.5 feet above grade.</i>		

# Article 11 Walls and Fences

## Section 11.01 Screening Walls and Fences

Where permitted or required by this Ordinance, [screening](#) walls and [fences](#) shall be subject to the requirements in this Section. A screening wall or [fence](#) is one where more than fifty (50%) percent of the vertical surface is opaque so as to obstruct vision or prevent observation of activities enclosed by the [fence](#).

- (A) **Screening Wall and [fence](#) Specifications.** For the uses and districts listed below, a screening wall or [fence](#) shall be provided as specified along [property lines](#) that abut a lot in a residentially-zoned district or a lot in any [zoning district](#) that is used for residential purposes. The height of the wall or [fence](#) shall be measured from ground level adjacent to the wall or [fence](#), provided that fill shall not be permitted for the purpose of achieving a higher [fence](#) than otherwise would be permitted.

**Wall and Fence Specifications**

Proposed Use	Wall or Fence Height Requirements	
	<i>Minimum</i>	<i>Maximum</i>
Any Off-Street Parking	4.5 feet	8.0 feet
Office or Commercial District	4.5 feet	8.0 feet
Industrial District	6 feet, or minimum required to completely screen storage, loading, and service areas	8.0 feet
Utility <b>Buildings</b> , Substations	6.0 feet	8.0 feet

- (B) **Substitution or Waiver.** As a substitute for a required screening wall or [fence](#), the [Planning Commission](#) may, in its review of the site plan, approve the [use](#) of other existing or proposed living landscape features (such as closely spaced evergreens) that would produce substantially the same results in terms of screening, durability, and permanence.

The [Planning Commission](#) may waive the requirements for a screening wall or [fence](#) upon making the determination that:

- (1) The adjoining residential district is in transition and will become nonresidential in the future, or
- (2) Existing physical features provide adequate screening, or
- (3) The abutting residential district is a sufficient distance (at least two hundred (200) feet) from the area or district to be screened so that the [Planning Commission](#) determines the screening is unnecessary to meet the intent of the Ordinance, or
- (4) The abutting residential district is separated from the area or district to be screened by an arterial or collector [road](#).

## Section 11.02 Fences and Walls in Residential Districts

- (A) **Fences in Residential Districts.** [Fences](#) in the R-1, R-1-W, R-2, R-3, R-4, and AG districts may be located in the required front, side or [rear yard](#) subject to the following requirements. [fences](#) in [waterfront yards](#) shall be subject to Section 5.01.C.

- (1) **Maximum Height.** The maximum height shall be eight (8) feet.
- (2) **Fence Design.** [Fences](#) in the [front yard](#) shall be non-obscuring (i.e., less than 50% opaque) in design and shall not exceed 48 inches in height.

(B) **Fences in Public Areas.**

- (1) **Fences** that enclose public parks, playgrounds, or similar public areas located within a developed residential area shall not exceed six (6) feet in height, measured from the surface of the ground. No greater than twenty-five (25) percent of the vertical surface of such **fences** shall be opaque so as to not obstruct vision.
- (2) **Fences** designed as part of a recreational structure (e.g., ball field backstops, tennis court enclosures) shall be exempt from the height limitation required above.

(C) **Walls in Residential Districts.** Walls shall be permitted only in the side or **rear yards** of residential districts, subject to the following requirements:

- (1) **General Standards.** The maximum wall height shall not exceed six (6) feet, measured from ground level adjacent to the wall, provided that fill shall not be permitted for the purpose of achieving a higher wall than otherwise would be permitted.
- (2) **Walls on Corner Parcels.** On corner **parcels**, walls shall not be permitted to extend closer to the **road** than any portion of the **principal building**.

(D) **District Regulations.** Regulations for specific **zoning districts** in Article 13 shall supersede the provisions of this Section in the event of conflict.

### Section 11.03 General Fence and Wall Standards

(A) **Wall, Fence, and Gate Materials.** Walls shall be constructed of masonry material that is architecturally compatible with the materials used on the facade of the principal structure on the site, such as face brick, decorative block, or poured concrete with simulated brick or stone patterns.

**Fences** shall consist of materials commonly used in conventional **fence** construction, such as wood, wood composite, vinyl, and metal. Razor wire shall not be permitted. **Fences** that carry electric current shall be permitted only in the AG and R-2 district to contain animals. Barbed wire may be permitted in non-residential districts, provided that the barbed wire is at least six (6) feet above the ground. Wood **fences** shall be constructed of cedar or an appropriate **grade** of pressure-treated wood.

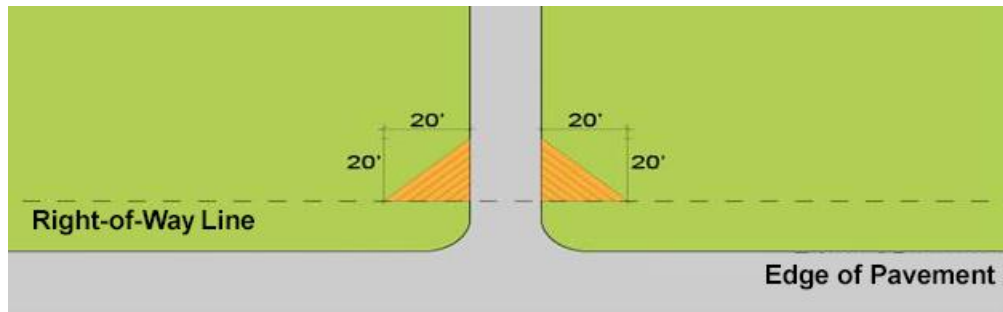
(B) **Finished Appearance.** If one side of a **fence** or wall has a more finished appearance than the other, then the side of the **fence** or wall with the more finished appearance shall face the exterior of the lot.

(C) **Obstruction to Use of Adjoining Property.** No **fence** or wall shall be **Erected** where it would prevent or unreasonably obstruct the **use** of adjacent property, nor shall a **fence** or wall be **Erected** where it would obstruct or prevent the continued safe use of an existing **driveway** or other means of access to adjacent property. In enforcing this provision, the **Building Official** may require a **fence** or wall to be lowered or set back a minimum distance from a **driveway** or **property line**.

(D) **Fence and Wall Maintenance.** **Fences** and walls shall be maintained in good condition. Rotten, crumbled or broken components shall be replaced, repaired, or removed. As required, surfaces shall be painted, stained, or similarly treated.

(E) **Signs on Fences.** No advertising **signs** or **banners** may be attached to any **fence**.

- (F) **Fences Enclosing Utility Facilities.** It is necessary to control entry into facilities, stations, and yards, housing public utilities in the interest of public safety and to protect resources that are vital to well-being of the general public. Consequently, utilities are permitted to [fence](#) their facilities as necessary, regardless of the [zoning district](#) in which the facilities are located, subject to administrative review and approval.
- (G) **Deed Restriction, Subdivision, Regulations, Condominium Regulations.** Property owners in a subdivision or [condominium](#) are advised to investigate whether there are deed restrictions, subdivision regulations, or [condominiums](#) bylaws that regulate [fences](#) in the [development](#), although the Township does not enforce such regulations.
- (H) **Fence and Wall Heights.** The maximum height of a [fence](#) or wall shall be measured from [grade](#) level adjacent to the [fence](#) or wall, to the top of the [fence](#) or wall. Where the elevation is higher on one side than on the other, such as with a retaining wall, the [grade](#) level measurement shall be made on the side with the lower elevation.
- (I) **Clear Corner Vision.** All [fences](#) in all [zoning districts](#) must allow clear corner vision for all street intersections and [driveway](#) entrances. [fences](#) must be less than three feet tall within a triangle formed by two points, each 20 feet away from the intersection of the [right-of-way](#) line and the [driveway](#), and the line connecting them.



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# Article 12 Signs

## Section 12.01 Purpose

The intent of this Article is to encourage the effective use of [signs](#) as a means of communication in the Township, to maintain the aesthetic environment, and to promote the Township's ability to attract sources of economic [development](#) and growth. The placement and design of [signs](#) should further the land [use](#) planning objectives of the Township and minimize the possible adverse effect of [signs](#) on nearby public and private property. Signs should be compatible with neighborhood character and protect the value of surrounding properties. The regulations contained in this Article are based on a determination that an excessive amount and improper placement of [signs](#) results in reduced ability of motorists to see and clearly interpret [signs](#) and to safely and efficiently maneuver to their desired destination, as well as degradation of the aesthetic environment of the Township, which is important to economic prosperity and property values in the Township. These regulations also are based on a recognition that businesses and other land uses in the Township require an amount of [signage](#) sufficient to provide awareness to passing motorists of the location and nature of the business.

## Section 12.02 Scope of Requirements

It shall be unlawful for any person, firm, or corporation to erect, construct, or alter any [sign](#) in the Township except in conformance with the provisions of this Article, subject to issuance of a permit, except as otherwise provided herein.

## Section 12.03 Enforcement

### (A) Plans, Specifications, and Permits.

- (1) **Permits.** Any person or entity desiring to construct, reconstruct, replace, modify, or alter any permitted [signage](#) on the property shall first obtain a permit authorizing such [signage](#). Written application for a [sign](#) permit, on forms provided for such by the Township, shall be submitted to the Zoning Administrator. A permit shall require payment of a fee, which shall be established by the Township Board. The Township Board may waive any fee at its discretion.
- (2) **Applications.** Application for a [sign](#) permit shall be made upon forms provided by the Zoning Administrator. Where several [signs](#) are proposed for the same use, all such [signs](#) may be included in a single permit application. The following information shall be required:
  - (a) Name, address, and telephone number of the applicant.
  - (b) Location of the [building](#), structure, or lot on which the [sign](#) is to be attached or [Erected](#).
  - (c) Position of the [sign](#) in relation to nearby [buildings](#), structures, [property lines](#), and [right-of-way](#) lines.
  - (d) A permit fee, when applicable, in an amount established from time to time by Resolution of the Township Board.
  - (e) Plans of the [sign](#) drawn to scale, accurately depicting its dimensions, height and location in relation to surrounding lot lines and public rights-of-way.
  - (f) Identification of means of illumination of the [sign](#), if any.
  - (g) Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.

- (h) Name and address of the person, firm, or corporation owning, erecting, and maintaining the [sign](#).
- (i) Information concerning required electrical connections.
- (j) Insurance policy or bond, as required in this Article.
- (k) Written consent of the record owner of the property upon which the [sign](#) is proposed to be located, or by other evidence that the applicant is entitled to erect and maintain the [sign](#) as proposed.
- (l) Other information required by the Zoning Administrator to make the determination that the [sign](#) is in compliance with all applicable laws and regulations.

**(3) Review of Application.**

- (a) **Planning Commission Review.** Sign permit applications submitted in conjunction with the proposed construction of a new [building](#) or addition to an existing [building](#) shall be reviewed by the [Planning Commission](#) as a part of the required site plan review. Proposed [signs](#) must be shown on the site plan.
- (b) **Zoning Administrator Review.** The Zoning Administrator shall review the [sign](#) permit application for any [sign](#) proposed on a site or existing [building](#) where no other new construction is proposed.
- (c) **Approval of Application.** An application for a [sign](#) permit shall be approved if the application, plans and other supporting information are in conformance with the provisions of this Article.
- (d) **Issuance of Permit.** Following review and approval of a [sign](#) application by the [Planning Commission](#) or Zoning Administrator, as appropriate, the Zoning Administrator shall have the authority to issue a [sign](#) permit.

- (4) Exceptions.** A [sign](#) shall not be enlarged or relocated except in conformity with the provisions set forth herein for new [signs](#), nor until a proper permit has been secured. However, a new permit shall not be required for ordinary servicing or repainting of an existing [sign](#) message, cleaning of a [sign](#), or changing of the message on the [sign](#) where the [sign](#) is designed for such changes (such as, but not limited to, changeable copy on a marquee or monument [sign](#)). Furthermore, a permit shall not be required for certain exempt [signs](#) listed in Section 12.05.A.

- (5) Removal Agreement or Bond.** The Zoning Administrator may require a [performance guarantee](#) to guarantee the future removal of a [sign](#). All [signs erected](#) by a business must be removed within 30 days if that business closes. Freestanding [sign](#) structures may remain in place, but must be fitted with a blank face or a Real Estate Sign until put in use again by a new business.


**(B) Inspection and Maintenance.**

- (1) **Inspection of New Signs.** All [signs](#) for which a permit has been issued shall be inspected by the Zoning Administrator when [erected](#). Approval shall be granted only if the [sign](#) has been constructed in compliance with the approved plans and applicable Zoning Ordinance and [building](#) Code standards.
  - (a) In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the [sign](#) erector shall advise the Zoning Administrator when such fastenings are to be installed so that inspection may be completed before enclosure.



- (2) Inspection of Existing Signs.** The Zoning Administrator shall have the authority to routinely enter onto property to inspect existing [signs](#). In conducting such inspections, the Zoning Administrator shall determine whether the [sign](#) is located in the permitted area, adequately supported, painted to prevent corrosion, and so secured to the [building](#) or other support as to safely bear the weight of the [sign](#) and pressure created by the wind.
- (3) Removal of Unsafe or Unlawful Signs.** Signs which are unlawful or deemed to be unsafe by the Zoning Administrator shall be removed or made safe in conformity with the provisions of this Article.
- (4) Notice; Contents; Hearing Officer; Filing Notice with Officer; Service.**
- (a)** When the whole or any part of a [sign](#) or [sign](#) structure is found to be in a dangerous or unsafe condition or otherwise not in compliance with this Ordinance, the Zoning Administrator shall then issue a notice of noncompliance.
- (b)** Such notice shall be directed to the owner, agent or lessee if registered with the Township Clerk for that purpose. If no owner, agent or lessee has been registered, then such notice shall be directed to each owner of or party in interest in the property on which the [sign](#) is located in whose name that certain [real property](#) appears on the last local tax assessment records.
- (c)** The notice shall specify the time and place of a hearing on the noncompliance of the [sign](#), at which time and place the person to whom the notice is directed shall have an opportunity to show cause, as to why the [sign](#) should not be ordered to be demolished or otherwise made safe.
- (d)** A hearing officer, which shall not be the Zoning Administrator or Code Enforcement Officer, shall be appointed by the Township Supervisor to serve at the pleasure of said Supervisor. The Zoning Administrator shall file a copy of the notice of noncompliance with the hearing officer.
- (e)** All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the most recent Township tax records, at least 20 days before the date of hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing such notice, a copy thereof shall be posted upon a conspicuous part of the [sign](#) structure at least 20 days before said date of hearing. The owner of any property upon which a [sign](#) is [erected](#) is ultimately responsible for any costs for repair, demolition, and enforcement of this Ordinance.
- (f)** The owner or party in interest in whose name the [real property](#) appears upon the most recent Township tax assessment records shall be notified of the cost of repair or demolition by first class mail at the address shown on such records. If such owner or party in interest fails to pay the same within 30 days after mailing by the assessor of notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.

- (C) **Nonconforming Signs.** All [signs erected](#) or constructed after the [effective date](#) of this Ordinance shall conform to the requirements set forth herein and any amendments hereof. Any [sign](#) or [billboard erected](#) or constructed after the [effective date](#) of this Ordinance that does not conform to the requirements of this Ordinance shall be deemed an unlawful structure.

A [sign](#) in existence on the [effective date](#) of this Ordinance which was constructed in conformity with the ordinances and other applicable laws in effect on the date of its construction, but which, by reason of its size, height, location, design, or construction, is not in conformance with the requirements of this Ordinance, shall be a lawful [nonconforming sign](#), and shall conform to the following regulations. A [sign](#) in existence on the [effective date](#) of this Ordinance which was NOT constructed in conformity shall be considered out of compliance. The Zoning Administrator shall cause such [signs](#) to be removed. 

- (1) **Inventory of Lawful Nonconforming Signs.** After the passage and enactment of this Ordinance, the Zoning Administrator shall, as soon as practicable, conduct an inventory and survey of the Township, to identify all lawful [nonconforming signs](#). The inventory of [nonconforming signs](#) shall be kept on file in the office of the Township Clerk.
  - (2) **No Increase in Nonconformity.** A lawful [nonconforming sign](#) may be continued and shall be permitted to remain in place, provided that no action is taken which increases the degree or extent of the [nonconformity](#). However, any [sign](#) that has been destroyed by fire, storm, or other unintentional act, or any [sign](#) that has been intentionally demolished, shall be either replaced by a conforming [sign](#), or not replaced at all.
  - (3) **Repairs and Maintenance.** Normal maintenance shall be permitted, provided that any [nonconforming sign](#) that is destroyed by any means to an extent greater than fifty percent (50%) of the [sign's](#) pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded [signs](#); replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices.
  - (4) **Nonconforming Changeable Copy Signs.** The message on a nonconforming changeable copy [sign](#) or nonconforming bulletin board [sign](#) may be changed provided that the change does not create any greater [nonconformity](#).
  - (5) **Substitution.** No [nonconforming sign](#) shall be replaced with another [nonconforming sign](#).
  - (6) **Modifications to the Principal Building.** Whenever the principal [building](#) on a site on which a [nonconforming sign](#) is located is modified to the extent that site plan review and approval is required, all [nonconforming signs](#) shall be removed.
- (D) **Waiver Process.** The [Planning Commission](#) shall have the ability to waive or modify any of the standards in this chapter, provided that the following criteria are met. A waiver granted under this section shall apply for only the lifespan of the [sign](#) in question and shall not be transferable to any other [sign](#) or lot.
- (1) The applicant provides all requested information and pays all applicable application and review fees, to be determined by the Township Board.
  - (2) The proposed [sign](#) does not endanger the public health, safety, and welfare by virtue of being distracting to drivers, obscuring vision, being unnecessarily bright, being designed or constructed poorly, or in any other way.

- (3) The [sign](#) does not block the view of other nearby [signs](#) to the extent that it would harm the ability of neighboring businesses to operate.
  - (4) The [sign](#) will not be a [nuisance](#) to any residential uses.
  - (5) A [sign](#) designed to meet the standards of the Ordinance would not adequately serve the purpose desired by the applicant.
- (E) **Removal by Zoning Administrator.** The Zoning Administrator may remove or cause to be removed any permanent [sign](#) that did not receive a permit prior to installation or any temporary [sign](#) that violates any provision of this Ordinance. The [sign](#) owner will be invoiced for removal costs at a rate to be determined by the Township Board.

## Section 12.04 General Provisions

- (A) **Permitted Exempt Signs.** A [sign](#) permit shall not be required for the following [signs](#), provided all applicable requirements and standards as specified are met, and which shall be permitted subject to applicable provisions herein. See Sections [12.06](#) and [12.07](#).
- (1) All [signs](#) of two square feet or less in area.
  - (2) Signs on a bus, truck, [trailer](#), or other [vehicle](#) while operated and used for transport in the normal course of a business, provided that the [vehicle](#) shall be operable and licensed at all times.
  - (3) Public [signs](#), including the authorized [signs](#) of a government body or [public utility](#) such as traffic control [signs](#) and devices, emergency and warning [signs](#), legal notices, warnings of a hazard, and similar [signs](#).
  - (4) Any [sign](#) required to be displayed by law or necessary for the public safety or civil defense.
  - (5) Public and private traffic control [signs](#) which conform to the requirements of the **Michigan Manual of Uniform Traffic Control Devices**.
  - (6) Interior [signs](#).
  - (7) Historical plaques [erected](#) and maintained by non-profit or governmental organizations, memorial [signs](#), tablets, [building](#) cornerstones and erection date stones.
  - (8) Signs intended to safely and efficiently direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain [buildings](#) or locations on the site. Such [signs](#) shall not exceed four (4) square feet in area, or four (4) feet in height, and must be outside the existing or planned [right-of-way](#) line.
  - (9) One [sign](#), not exceeding thirty-two (32) square feet, on a site with a [building](#) that is actively under construction.
  - (10) Integral decorative or architectural features of [buildings](#) or [artwork](#), including murals, so long as such features or works do not contain an explicit message, words in any language, moving parts, or illumination. All murals must be painted with the permission of the property owner.
- (B) **Prohibited Signs.** The following [signs](#) are prohibited in all districts. See Sections [12.06](#) and [12.07](#).
- (1) Any [sign](#) not expressly permitted.

- (2) Signs which incorporate flashing, revolving, shaking, spinning, or moving lights; or where any illumination can shine directly into the eyes of any occupant of any [vehicle](#) traveling upon any highway, [driveway](#) or parking area, or into any window of any residence within 200 feet, or where the illumination interferes with the visibility or readability of any traffic [sign](#) or device.
- (3) Festoons, spinners, pennants, and streamers, unless specifically permitted elsewhere in this Article.
- (4) [Tube lights](#), whether LED, neon, or any other type of light, and string lights other than holiday decorations.
- (5) Moving [signs](#), including any [sign](#) which has any visible moving parts, visible revolving parts, visible mechanical movement, or any other visible movement achieved by electrical, electronic, or mechanical means, including intermittent electric pulsations or movement caused by normal wind current or multi-vision [signs](#), as defined herein. [Flag and banner signs](#) shall be exempt from this regulation.
- (6) Any [sign](#) or [sign](#) structure which:
  - (a) Is structurally or electrically unsafe;
  - (b) Constitutes a hazard by reason of inadequate maintenance, dilapidation, or abandonment;
  - (c) Has deteriorated to the point where it has become a blight on surrounding properties; or
  - (d) Is not kept in good repair, such that it has broken parts, non-operational lights, or similar issues.
- (7) Any [sign](#) attached to trees or utility poles (except [signs](#) approved or installed by a utility or a government with utility permission), support pole [signs](#), or any [sign](#) attached to street furniture such as benches and trash receptacles.
- (8) Signs affixed to a parked and unregistered [vehicle](#) without a valid license plate.
- (9) Any [sign](#) obstructing free access to or egress from a required door, window, fire escape, or other required exit.
- (10) Any [sign](#) which makes use of the words "Stop", "Look", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic and create a public safety hazard.
- (11) Any [sign](#) containing obscene material.
- (12) Any [sign](#) unlawfully installed, [erected](#), or maintained.
- (13) Any [sign](#) projecting into the public [right-of-way](#), except projecting [signs](#) in the C-S, C-U, and C-L districts.
- (14) Any [sign erected](#) on any property, public or private, without the consent of the property owner.
- (15) Any [sign](#) which incorporates any open spark or flame.
- (16) Any [sign](#) located within the public [right-of-way](#), except those placed by authorized public entities. In some cases, as described in this section, [signs](#) may overhang the public [right-of-way](#).

- (17) Inflatable and balloon signs that exceed permitted sign ranges. See Sections [12.06](#) and [12.07](#).
  - (18) Billboards, except when permitted by State of Michigan regulations that supersede this Ordinance.
  - (19) Signs using [electronic display](#), video display, or projected images.
  - (20) Feather signs that exceed the permitted size ranges. See Sections [12.06](#) and [12.07](#).
- (C) The Township Zoning Administrator shall have the authority to immediately remove or cause to be removed any [sign](#) which has been placed or located within the public [right-of-way](#) contrary to the provisions of the Ordinance or not authorized by the Berrien County Road Department. The Township or its agents shall not incur any obligation to retain, store, or maintain any materials or salvage resulting from the removal of such [signs](#).
- (D) **Temporary Signs.** Temporary [signs](#) shall be permitted as specified in the table at the end of this Article. Aside from any exempt temporary [signs](#), property owners must receive a permit as described in this Article prior to the erection of a temporary [sign](#) and must follow all applicable requirements as described below. See See Sections [12.06](#) and [12.07](#).
- (1) Temporary [signs](#) shall be permitted in the [zoning districts](#) specified in the table at the end of this Article.
  - (2) Each [sign](#) shall be placed in a manner which provides five feet of free passage for pedestrians, and does not interfere with normal pedestrian or [vehicle](#) traffic.
  - (3) All [sign](#) frames shall be constructed of a weatherproof material and shall be kept in good repair.
  - (4) Any temporary [sign](#) in place for more than 90 consecutive days shall be considered a permanent [sign](#) and be subject to all relevant provisions of this Ordinance for permanent [signage](#).

## Section 12.05 Sign Design Standards

- (A) **Construction Standards.** All [signs](#) placed upon any [building](#), structure, lot or [parcel](#) shall comply with the following standards. See Sections See Sections [12.06](#) and [12.07](#).
- (1) **General Requirements.** All [signs](#) shall be designed and constructed in a safe and stable manner in accordance with the Township's adopted [building](#) code and electrical code. All electrical wiring associated with a freestanding [sign](#) shall be installed underground.
  - (2) **Building Code.** In addition to complying with the requirements of this Article, the design and construction of all [signs](#) shall comply with the most current version of the Michigan Building Code, as adopted and amended by the Township.
  - (3) **Framework.** All [signs](#) shall be designed so that the supporting framework, other than the supporting poles on a freestanding [sign](#), is contained within or behind the face of the [sign](#) or within the [building](#) to which it is attached so as to be totally screened from view.
  - (4) **Sign Placement.** No [sign](#) shall project into or be placed within the [right-of-way](#) of a highway, public or private street, [road](#), [alley](#) or utility [easement](#) nor be attached to or affixed to a utility pole or other similar device.
  - (5) **Sign Color.** The color saturation and hue of any illuminated [sign](#) shall be such as to preclude confusion with traffic signals.

**(6) Sign Maintenance.** Every [sign](#) in the Township, including those [signs](#) for which permits are required or exempt [signs](#) for which no permits are required, shall be maintained in good structural condition at all times. All [signs](#), including exempt [signs](#), shall be kept neatly painted, including all metal parts and supports. The Township shall have the authority to order the painting, repair, alteration or removal of [signs](#) which become dilapidated or are abandoned, or which constitute a hazard to public safety.

**(B) Illumination.**

**(1) General Requirements.** Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the [sign](#), or internal to it. Signs may be internally or externally illuminated, except where prohibited in this Article. Uplighting of [signage](#) shall be prohibited.

**(2) Non-Glare, Shielded Lighting.** Use of glaring, unshielded, undiffused lights or [bulbs](#) shall be prohibited. The source of illumination shall not be visible, shall be fully shielded, and shall cause no glare hazardous to pedestrians, motorists or adjacent residential uses or districts. Light sources for externally-illuminated [signs](#) shall be arranged so that light is deflected away from adjoining properties and so that it does not cast glare onto a public [right-of-way](#).

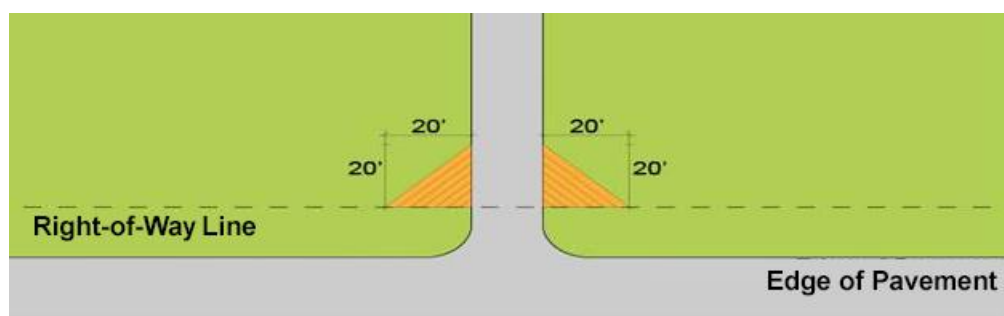
**(3) Light Trespass.** All illuminated [signs](#) shall be placed so as to prevent their rays and illumination from being cast upon neighboring residences. The light cast from any [sign](#) illumination must reach below 0.5 foot candles at all lot lines.

**(4) Bare Bulb Illumination.** Illumination by unshielded bare [bulbs](#) or flames is prohibited..

**(5) Flashing Signs.** There shall be no flashing or intermittent illuminations causing interference with clear driver vision along any highway, street or [road](#) or at any intersection of two or more streets.

**(6) Internal Illumination.** Internal illumination shall only be permitted in the C-I and M districts. In all other districts, it shall be prohibited.

**(C) Clear Corner Vision.** All freestanding [signs](#) in all [zoning districts](#) must allow clear corner vision for all street intersections and [driveway](#) entrances. Freestanding [signs](#) must be less than three feet tall within a triangle formed by two points, each 20 feet away from the intersection of the [right-of-way](#) line and the [driveway](#), and the line connecting them, as displayed below:

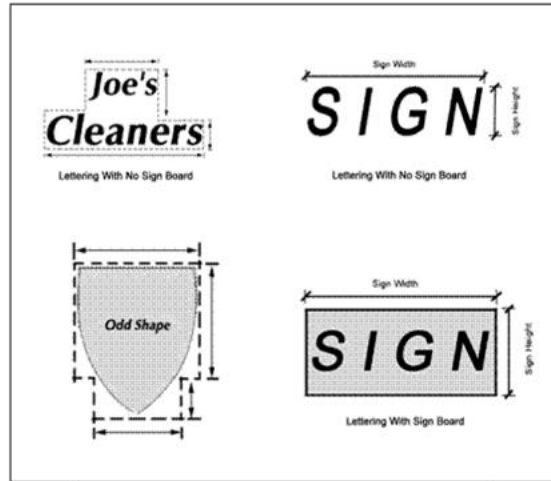


**(D) Measurement.** See Sections [12.06](#) and [12.07](#).

**(1) Sign Area.** Sign area shall be computed as follows:

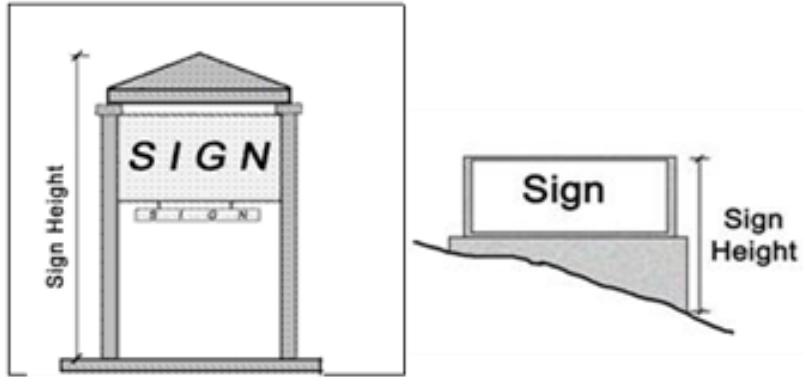
**(a) General Requirements.** Where a [sign](#) consists of a generally flat surface or [sign](#) face on which lettering and other information is affixed, the [sign](#) area shall be computed by measuring the entire face of the [sign](#).

- (b) **Individual Letters, Logos, or Irregular Shapes.** Where a [sign](#) consists of individual letters, logos, or other messages affixed directly to a [building](#), the area of the [sign](#) shall be computed by measuring the area of the envelope required to enclose the lettering, logo, or other message. For irregularly shaped [signs](#), the area shall be computed as including the entire area as measured by enclosing the most protruding points or edges of a [sign](#) within the area of the smallest rectangle comprising all of the display area of the [sign](#) and including all of the elements of the matter displayed (see illustration below).



Measurement of Sign Area

- (c) **Freestanding Sign.** The area of a double-faced freestanding [sign](#) shall be computed using only one (1) face of the [sign](#) provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back-to-back so that only one face is visible at any given time.
- (2) **Setback and Distance Measurements.** The following guidelines shall be used to determine compliance with [setback](#) and distance measurements:
- (a) The distance between two [signs](#) shall be measured along a straight horizontal line that represents the shortest distance between the two [signs](#).
  - (b) The distance between a [sign](#) and a parking lot or [building](#) shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or [building](#).
  - (c) The distance between a [sign](#) and a [building](#) or [property line](#) shall be measured along a straight horizontal line that represents the shortest distance between the [sign](#) and the [building](#).
- (3) **Sign Height Measurement.** The height of a [sign](#) shall be measured from the lowest [grade](#) directly below the [sign](#). The maximum [sign](#) height shall be measured to the top of the [sign](#).



Sign Height



## Section 12.06 Permanent Sign Standards

Type of Sign	District Permitted	Maximum Size	Maximum Height	Maximum Number	Setback Required
Wall*	C; C-I; M; C-S; C-L; C-H; C-U, and Non-Residential Uses in Other Districts	1 sq. ft. per 1.5 lineal feet, up to 48 sq. ft. (72 sq. ft. in C-I)	1/3 of <b>building height</b>	1 per tenant frontage	N/A
Freestanding*	C-I	72 sq. ft.	9 feet	1 per road frontage	12.5 feet from non-interstate ROW  25 feet from interstate ROW
Freestanding*	C; M; C-S; C-L; C-H; C-U, and Non-Residential Uses in Other Districts	48 sq. ft.	5 feet	1 per road frontage	12.5 feet from non-interstate ROW  25 feet from interstate ROW
Freestanding*	AG, RE, R-1-W, R-1, R-2, R-3, and R-4	36 square feet	5 feet	1	6 feet from non- interstate ROW  25 feet from interstate ROW  150 feet from Lake Michigan OHWM, except as provided in Section 5.01.C
Marquee*	C; C-I; M; C-S; C-L; C-H; and C-U	5 sq. ft. per 1 lineal foot	No Max	1	None
Awning* / Canopy*	C; C-I; M; C-S; C-L; C-H; and C-U	25% of canopy	No Max	None	None
Window*	C; C-I; M; C-S; C-L; C-H; and C-U	25% of window	No Max	None	None
Projecting*	C; C-I; M; C-S; C-L; C-H; and C-U	12 sq. ft.	10 feet off ground	1 per entrance	None

\* See [Section 20.01 under "Sign"](#) for Definition

## Section 12.07 Temporary Sign Standards

Type of Sign	District Permitted	Type of Sign Permitted	Max. Size	Max. Height	Max. Number	Setback Required	Permit Required	Duration Permitted
On-premise commercial advertising sign*	AG, R-1-W, R-1, R-2, R-3, and R-4	Portable Ground	6 sq. ft.	6 ft.	1	[a]	No	90 Days
On-premise commercial advertising sign*	C, C-I, C-S, C-H, C-L, C-U, and M	Portable Ground	16 sq. ft.	6 ft.	1	[a]	No	90 Days
Off-premise commercial advertising sign*	All	Portable Ground	3 sq. ft.	3 ft.	1	[a]	No	90 days in a calendar year
Feather Sign, Balloon Sign, or Inflatable Sign*	C, C-I, C-S, C-H, C-L, C-U, and M	Portable Ground	32 sf	12 ft	2	[a] [c]	No	Only when business is open
Noncommercial Message Sign*	All [d]	Portable, Ground or Wall	6 sq. ft.	4 ft.	1	[c]	No	90 Days
Banner Signs*	C, C-I, C-S, C-H, C-L, C-U, and M	Ground-mounted or wall-mounted	32 sq. ft.	Ground-mounted : 16 ft.; wall-mounted : shall not extend above the roof.	1 [b]	[a]	No	One or more banners may be on display for no more than two (2) consecutive weeks and no more than four (4) times per year.
Sandwich Board Sign*	C-I, C, C-S, C-L, C-H, C-U, M	Portable Ground	6 sq. ft. per side	4 feet	1	(e)	No	Only when business is open
Flagpoles Under 20 feet in height in Non-Residential Districts*	C, C-S, C-L, C-H, C-U	N.A.	10 sf	8 feet	1	15 ft	No	Only when business is open

N.A. = Not Applicable

\* See [Section 20.01 under "Sign"](#) for Definition

### Footnotes – Temporary Signs.

- (a) The temporary [sign](#) shall be located outside of the [right-of-way](#).
- (b) On a corner [parcel](#) in a commercial or mixed [use](#) district two (2) [signs](#), one facing each street, shall be permitted.
- (c) The temporary [sign](#) may be located in the required [setback](#) area, provided that the applicant has obtained permission from the property owner and provided further that the [sign](#) does not obstruct the vision of drivers or detract from the visibility of any traffic [sign](#) or traffic control device. No such [sign](#) shall be located within the [road right-of-way](#).
- (d) Noncommercial message [signs](#) are prohibited on property owned or under the control of the Township, County, State, or United States.
- (e) The [sign](#) must be located to maintain at least three feet of clear sidewalk for passing pedestrians.

# Article 13 Performance Standards

## Section 13.01 Intent and Scope of Application

- (A) **Intent.** The purpose of this Article is to establish controls on the impacts generated by [permitted uses](#) so as to prevent an unreasonable negative impact that might interfere with another person's [use](#) of his or her property, or that might cause harm to the public health, safety, and welfare.
- (B) **Scope of Application.** After the [effective date](#) of this Ordinance, no structure or tract of land shall hereafter be used, created or [occupied](#), and no structure, or part thereof, shall be [erected](#), altered, reconstructed, or moved, except in conformity with all applicable performance standards set forth in this Article. No site plan or other land [use](#) or [development](#) application shall be approved unless evidence is presented to indicate conformity with the requirements of this Article.
- (C) **Submission of Additional Data.** Nothing in this Article shall preclude the applicant or other interested party from submitting additional data or evidence related to a specific case. In consideration of such data or evidence, the [Zoning Board of Appeals](#) may grant a variance from the regulations set forth in this Article, provided that the [ZBA](#) finds that no harm to the public health, safety, and welfare will result and that the intent of this Ordinance will be upheld.

## Section 13.02 Performance Standards

No activity, operation or [use](#) of land, [buildings](#), or equipment shall be permitted if such activity, operation, or [use](#) produces an environmental impact or irritant to sensory perception which exceeds the standards set forth in this Section.

- (A) **Noise.** No new or substantially modified structure shall be approved for construction unless the owner or developer of such land demonstrates that the completed structure and the activities associated with and on the same property as the structure will comply with the noise limits established in the Township Noise and Nuisance Ordinance, No. 131, at the time of initial full-scale operation of such activities.
- (B) **Surface Water Flow.** No site plan review application and no proposal for division of land shall be approved if subsequent [development](#) within the required [setbacks](#) would result in identifiable disruption to the existing or natural flow of water within drainage ditches, natural water courses, or drains having a recorded [easement](#), unless evidence of a feasible alternate method of drainage is presented and approved by the [Township Engineer](#) and County Drain Commissioner, as appropriate.
- (C) **Dust, Smoke, Soot, Dirt, Fly Ash and Products of Wind Erosion.** Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended, or other applicable state or federal regulations. No person, firm or corporation shall operate or maintain any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, unless such processes or devices use or are equipped with recognized and approved equipment, methods, or technology to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air.
- (1) The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Emission of particulate matter from material products, or surfaces subject to wind erosion shall be controlled by paving, oiling, wetting, covering, landscaping, fencing, or other means.
  - (2) Residential wood stoves, wood-burning fireplaces, personal campfires, and personal grills/barbecues shall be exempt from this section.

- (D) **Odor.** Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public [nuisance](#) or hazard on adjoining property, or which could be detrimental to human, plant, or [animal](#) life. Residential wood stoves, wood-burning fireplaces, personal campfires, and personal grills/barbecues shall be exempt from this section.
- (E) **Glare and Heat.** Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (1/2) of one (1) foot candle when measured at any point along the [property line](#) of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any [property line](#) at any time.
- (F) **Impacts from Other Activities.** Upon request, property owners shall provide the Township with evidence of compliance with relevant county, state and federal laws, ordinances, rules and regulations related to any of the following activities.
- (1) Storage and handling of flammable liquids, liquefied petroleum, and explosives.
  - (2) Use of above or below ground storage tanks to contain flammable or toxic material.
  - (3) The storage, use, or manufacture of detonable material.
  - (4) Emission of gasses that could be injurious or destructive to life or property.
  - (5) Use of electronic equipment in an industrial, commercial, residential or other operation.
  - (6) Use of radioactive material and production of radioactive waste.
  - (7) Use of solar panels or wood burners.
  - (8) Wind-powered generators.
- (G) **Construction Hours.** The erection, [excavation](#), demolition, construction, alteration, or repair of any [building](#) or structure shall only be permitted between the hours of 7 AM and 7 PM. In R-1, R-1-W, R-2, R-3, and R-4 [zoning districts](#), construction shall be prohibited on Sundays. In all [Zoning Districts](#), construction shall be prohibited on Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The following activities shall be exempt from this section.
- (1) Minor construction, alteration, or repair activity which does not create a loud noise or noise which annoys, disturbs, injures, or unreasonably impairs the comfort, repose, healthy, peace, or safety of others.
  - (2) Construction that is necessary in the interest of public health and safety.

### Section 13.03 Procedures for Determining Compliance

In the event that the Township receives complaints or otherwise acquires evidence of possible violation of any of the performance standards set forth in this Article, the following procedures shall be used to investigate, and if necessary, resolve the violation:

- (A) **Official Investigation.** Upon receipt of evidence of possible violation, the Zoning Administrator shall make a determination whether there is reasonable cause to suspect the operation is indeed in violation of the performance standards. The Zoning Administrator may initiate an official investigation in order to make such a determination.
- (1) Upon initiation of an official investigation, the Zoning Administrator is empowered to require the owner or operator of the facility in question to submit data and evidence deemed necessary to make an objective determination regarding the possible violation. Failure of the owner or operator to supply requested data shall constitute grounds for taking legal action to terminate the [use](#) and/or deny or cancel any permits required for continued [use](#) of the land. Data which may be required includes, but is not limited to the following:

- (a) Plans of the existing or proposed facilities, including [buildings](#) and equipment.
- (b) A description of the existing or proposed machinery, processes, and products.
- (c) Specifications for the mechanisms and techniques used or proposed to be used to control emissions regulated under the provisions of this Article.
- (d) Measurement of the amount or rate of emissions of the material purported to be in violation.

**(B) Method and Cost of Determination.**

- (1) The Zoning Administrator shall take measurements and complete the investigation necessary to make an objective determination concerning the purported violation. Where required measurements and investigation can be accurately made by the Zoning Administrator with equipment and personnel normally available to the Township without extraordinary expense, such measurements and investigation shall be completed before notice of violation is issued. If necessary, skilled personnel and equipment or instruments shall be secured in order to make the required determination.
- (2) If the alleged violation is found to exist, the costs of making such determination shall be charged against those responsible, in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists then the costs of this determination shall be paid by the Township.

**(C) Appropriate Remedies.** If, after appropriate investigation, the Zoning Administrator determines that a violation does exist, the Zoning Administrator shall take, or cause to be taken, lawful action as provided by this Ordinance to eliminate such violation. The owners or operators of the facility deemed responsible shall be given written notice of the violation. The Zoning Administrator shall take appropriate action in accordance with the owner or operator's response to the notice of violation. Appropriate action includes the following:

- (1) **Correction of Violation within Time Limit.** If the alleged violation is corrected within the specified time limit, even if there is no reply to the notice, the Zoning Administrator shall note "Violation Corrected" on the Township's copy of the notice, and the notice shall be retained on file. If necessary, the Zoning Administrator may take other action as may be warranted by the circumstances of the case, pursuant to the regulations in this and other ordinances.
- (2) **Violation Not Corrected and No Reply from Owner or Operator.** If there is no reply from the owner or operator within the specified time limits, and the alleged violation is not corrected in accordance with the regulations set forth in this Article, then the Zoning Administrator shall take such action as may be warranted to correct the violation, as specified in Section 17.09, Violations and Penalties.
- (3) **Reply Requesting Extension of Time.** If a reply is received within the specified time limit indicating that an alleged violation will be corrected in accordance with the regulations set forth in the Zoning Ordinance, but that more time is required than was granted by the original notice, the Zoning Administrator may grant an extension if:
  - (a) The Zoning Administrator deems that such extension is warranted because of the circumstances in the case, and
  - (b) The Zoning Administrator determines that such extension will not cause imminent peril to life, health, or property.
- (4) **Reply Requesting Technical Determination.** If a reply received within the specified time limit requests further review and technical analysis even though the alleged violations continue, then the Zoning Administrator may call in properly qualified experts to complete such analysis and confirm or refute the initial determination of violation.

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# Article 14 Establishment of Zoning Districts

## Section 14.01 Adoption of Zoning Map

- (A) The boundaries of the [Zoning Districts](#) listed in [Section 5.01](#) are hereby established as shown on the Official Zoning Map of Chikaming Township. The Zoning Map with all notations, references, and other information shown thereon shall be, and is hereby declared to be a part of this Ordinance as if fully described herein.
- (B) In accordance with the provisions of this Ordinance and Michigan Public Act 110 of 2006, as amended, changes made in district boundaries and other matters portrayed on the Zoning Map shall be entered on the Zoning Map after the amendment has been approved by the Township Board and has been published in a newspaper of general circulation in the Township. The Township Board may also decide to publish the amendment digitally on the Township's website. No changes of any nature shall be made to the Zoning Map except in conformity with the procedures set forth in Section 17.05 of this Ordinance.
- (C) Regardless of the existence of copies of the Zoning Map which may, from time to time, be made or published, the official Zoning Map shall be located at the Township Hall and shall be the final authority with regard to the current zoning status of all land in the Township.

## Section 14.02 Interpretation of District Boundaries

The following rules shall apply to the interpretation of [zoning district](#) boundaries:

- (A) Boundaries indicated as approximately following the center lines of streets, [roads](#), railroad rights-of-way, or [alleys](#) shall be construed to follow such center line.
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (C) Boundaries indicated as approximately following Township limits shall be construed as following such limits.
- (D) Boundaries indicated as approximately following the center lines of streams, rivers, or other bodies of water shall be construed to follow such center lines.
- (E) Boundaries indicated as approximately following the shoreline of an inland (non-Lake Michigan) body of water shall be construed to follow such shoreline; in the event of a change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the shoreline of Lake Michigan shall be construed to follow the Regulatory Ordinary High Water Mark of Lake Michigan.
- (F) Boundaries indicated as parallel to or as an extension of features cited in paragraphs A through E above shall be construed as being parallel to or an extension of the features cited. Distances not specified on the official Zoning Map shall be determined using the scale on the map.
- (G) Where there is any uncertainty, contradiction, or conflict concerning the intended location of [zoning district](#) boundaries, the [Zoning Board of Appeals](#) shall interpret the exact location of [zoning district](#) boundaries.
- (H) Insofar as some or all of the various districts may be indicated on the zoning map by patterns that, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of the rights-of-way.

### **Section 14.03 Zoning of Vacated Areas**

Whenever any street, [alley](#), or other public way within the Township is vacated, such street, [alley](#), or other public way shall be automatically classified in the same [Zoning District](#) as the property to which it attaches, and shall be subject to the requirements for said [Zoning District](#).

### **Section 14.04 Zoning of Filled Land**

Whenever any fill is permitted in any stream or other body of water, the land created automatically and without further governmental action becomes subject to the same zoning regulations that are applicable to the land to which the newly created land attaches.

### **Section 14.05 District Requirements**

[Buildings](#) and uses in any district shall be subject to all applicable standards and requirements set forth in this Zoning Ordinance, including but not limited to [Article 17.00](#) Schedule of Regulations.



# Article 15 PUD, Planned Unit Development

## Section 15.01 Intent

- (A) [Planned Unit Development](#) provides a regulatory option that is intended to provide a degree of flexibility so as to achieve [development](#) that is in accord with the Township's [Master Plan](#); economy and efficiency in the [use](#) of land, [natural resources](#), energy, and in the provision of public services and utilities; useful [open space](#) particularly suited to the proposed [development](#); conservation of natural features; and, [development](#) that satisfies the needs of Township residents. A subdivision plat must be approved as a Planned Unit Development.
- (B) Furthermore, [Planned Unit Development](#) is intended to encourage innovation in land [use](#), particularly on sites with significant natural, historical, and architectural value, or on sites that exhibit difficult [development](#) constraints. [Planned Unit Development](#) allows for a mix of land uses and clustering of residential structures, so as to reduce [development](#) costs, preserve natural features, and maintain [open space](#).
- (C) [Planned Unit Development](#) is intended to further the following objectives:
- (1) Preserve open fields, woodlands, [wetlands](#), areas of steep topography, creeks, ponds and similar natural assets;
  - (2) Encourage a creative approach to [development](#) design in the Township;
  - (3) Encourage an efficient, aesthetic and desirable [use](#) of open areas and a reduction in [development](#) costs by allowing the developer to avoid and preserve natural obstacles on the site;
  - (4) Encourage [open space](#) and recreational facilities within and around new [development](#);
  - (5) Promote the goals of the Township's Master Land Use Plan to maintain the Township's rural character, maintain an attractive landscaped corridor along the Township's major [road](#) frontages, maintain the traffic carrying capacity of the Township's major [roads](#), and protect environmentally-sensitive areas;
  - (6) Provide the Township with a higher degree of control over the [use](#) of land and structures and design details of [development](#) in locations where application of conventional zoning requirements may not be appropriate;
  - (7) Provide the opportunity for inclusion in a single, unified [development](#) plan of associated or ancillary uses which are related to or supportive of the principal [use](#).

## Section 15.02 Eligibility Criteria

To be eligible for planned unit [development](#) approval, the applicant must demonstrate that the following criteria will be met:

- (A) **Minimum Size.** The minimum size of a [Planned Unit Development](#) shall be one (1) acre of contiguous land if the existing zoning is M, C, C-I, C-S, C-H, C-L, or C-U, and 5 (five) acres if the existing zoning is AG, R-1, R-1-W, R-2, R-3, or R-4. However, in the interest of maximizing the [use](#) of [Planned Unit Development](#) as a tool to promote high quality planning and [development](#), the [Planning Commission](#) may permit a smaller [Planned Unit Development](#) if: (a) the proposed project has unique characteristics and benefits (including historic and/or architectural value), and/or (b) the [parcel](#) in question has unique characteristics that significantly impact [development](#), such as unusual topography, tree stands, [wetlands](#), poor soil conditions on portions of the [parcel](#), water courses, unusual shape or proportions, or utility [easements](#) which cross the [parcel](#).

- (1) In such case, the applicant shall submit a letter to the Township requesting a waiver of the minimum planned [development](#) size requirements. The request shall be submitted prior to submittal of a site plan and application for [Planned Unit Development](#) approval. The [Planning Commission](#) shall review the request and make the final decision concerning a request to waive the planned [development](#) size requirements.
- (B) **Unified Control.** 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, or assuring completion of the project, in conformity with this Ordinance. The property owner must have a physical street address.
  - (1) The applicant shall provide legal documentation of single ownership or control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the [development](#) can be completed as shown on the plans, and further, that all portions of the [development](#) that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all [development](#) successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Township Clerk.

### Section 15.03 Project Design Standards

Proposed [Planned Unit Developments](#) shall comply with the following project design standards:

- (A) **Location.** A [Planned Unit Development](#) may be approved in any location, regardless of pre-existing zoning.
- (B) **Permitted Uses.** Any land [use](#) allowed as a principal permitted [use](#) or approvable [special use](#) in this ordinance may be included in a [Planned Unit Development](#) as a principal or [Accessory Use](#), provided that:
  - (1) When the [underlying zoning](#) is AG, R-1, R-2, or R-3, a maximum of ten (10) percent of the gross site area may be [occupied](#) by commercial or office uses.
  - (2) When the [underlying zoning](#) is C, the [Planned Unit Development](#) shall contain only C uses.
  - (3) If the [underlying zoning](#) is C-I, the [Planned Unit Development](#) shall contain only C-I uses.
  - (4) If the [underlying zoning](#) is M, the [Planned Unit Development](#) shall contain only M uses.
  - (5) Industrial uses listed in the M districts shall not be permitted in [Planned Unit Developments](#) where the [underlying zoning](#) is residential or commercial.
  - (6) There shall be a reasonably harmonious relationship between the locations of [buildings](#) on the site relative to [buildings](#) on lands in the surrounding area.
  - (7) Nonresidential uses shall be separated and buffered from residential units in a manner that is consistent with good site design and planning principles.
  - (8) The mix of uses and the arrangement of those uses within a [Planned Unit Development](#) shall not impair the public health, safety, welfare, or quality of life of residents or the community as a whole.

- (C) **Residential Density.** The overall [density](#) of residential uses within a [Planned Unit Development](#) shall not exceed the [density](#) that could be achieved with the [underlying zoning](#). In determining the [density](#) achievable with the [underlying zoning](#), only the [net buildable area](#) of the site shall be considered. The "[net buildable area](#)" consists of the portion of a site which is not encumbered by regulated [wetlands](#), [steep slopes](#), existing and proposed [road](#) rights-of-way (including proposed [road](#) rights-of-way within the [development](#)), [easements](#), existing structures or lots, or other existing or proposed features that would prevent construction of a [building](#) or [use](#) of the site for residential purposes.
- (1) To assist in determining [net buildable area](#), the applicant shall submit an alternate plan that shows how the site could be developed economically and legally under the [underlying zoning](#).
  - (2) An increase in [density](#) may be permitted by the Township Board, upon recommendation from the [Planning Commission](#), upon finding that the increase is justified because certain characteristics of the proposed [development](#) would result in a substantial benefit to the users and the community as a whole. Among the characteristics which the [Planning Commission](#) and Township Board may consider in making this determination are the following:
    - (a) The [Planned Unit Development](#) exhibits extraordinary design excellence, examples of which include, but are not limited to: innovative energy efficient design; provision of additional [open space](#) above the required amount; added improvements to assure vehicular and pedestrian safety; or, added landscaping or other site features to assure a long-term aesthetically pleasing appearance.
    - (b) The proposed arrangement of uses and residential densities within the [Planned Unit Development](#) enhances the compatibility of proposed [development](#) with existing or planned land [use](#) on adjacent land.
- (D) **Dimensional Standards.** Modification to dimensional standards may be approved by the Township Board, upon recommendation from the [Planning Commission](#), upon making the determination that other [setbacks](#) would be more appropriate because of the topography, existing trees and other vegetation, proposed grading and landscaping, or other existing or proposed site features.
- (E) **Distances between Buildings.** [Buildings](#) within a [Planned Unit Development](#) shall comply with the following spacing requirements:
- (1) Any detached single family structure (or [accessory structure](#) thereto) shall be located at least thirty (30) feet from any other detached single family structure (or [accessory structure](#) thereto).
  - (2) The minimum [rear yard setback](#) and minimum lot size for detached single family structures and [accessory structures](#) thereto in a [Planned Unit Development](#) shall be based on good planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency [vehicles](#), the need for adequate amounts of light and air between [buildings](#), and the need for proper amounts of [open space](#) for the exclusive use of residents on the site.
  - (3) The distance between adjacent, freestanding, nonresidential structures shall be based on good planning and design principles, taking into account the need for: free access for emergency [vehicles](#), adequate amounts of light and air between [buildings](#), and proper amounts of landscaping.
    - (a) Modification to these [building](#) spacing requirements may be approved by the Township Board, upon recommendation from the [Planning Commission](#), upon making the determination that other [building](#) spacing requirements would be more appropriate because of the particular design and orientation of [buildings](#).

- (F) **Parking and Loading.** [Planned Unit Development](#)s shall comply with the parking and loading requirements specified in Article 9.00 of the Zoning Ordinance.
- (G) **Landscaping.** [Planned Unit Development](#)s shall comply with the following [landscaping](#) requirements:
- (1) **General Site Requirements.** All unpaved portions of the site that are not left in a natural state shall be planted with grass, [ground cover](#), shrubbery, or other suitable live plant material, which shall extend to any abutting [road](#) shoulder or curb edge. Seeded areas shall be watered and fertilized regularly so as to provide a healthy lawn within ninety (90) days after planting.
  - (2) **Landscaping Adjacent to Roads.** All commercial, office, and multiple family uses shall comply with the requirements for [landscaping](#) adjacent to [roads](#) in Section 10.02(B).
  - (3) **Berm Requirements.** Wherever front, side, or [rear yards](#) adjacent to public rights-of-way are used for parking, a [berm](#) shall be required to screen the parking from view of the [road](#). The berm shall be a minimum of two (2) feet in height, and shall be planted in accordance with the previous requirements for [landscaping](#) adjacent to [roads](#).
  - (4) **Screening.** Screening in the form of a landscaped [berm](#), [greenbelt](#), wall or [fence](#) shall be required wherever a commercial or office [use](#) is located adjacent to a residential [use](#), school, park, or similar public area. A landscaped berm or [greenbelt](#) is preferred rather than a wall or [fence](#) by itself. Depending on the design, a wall or [fence](#) with some [landscaping](#) could be found to be equally desirable. Landscaped screening shall comply with the requirements in Section 10.02(E). If a wall or [fence](#) is used instead of [landscaping](#), the following requirements shall be complied with:
    - (a) **Location.** Required [obscuring walls](#) or [fences](#) shall be placed inside and adjacent to the lot line except where underground utilities interfere with placement of the wall or [fence](#) at the [property line](#), in which case the wall or [fence](#) shall be placed on the utility [easement](#) line located nearest the [property line](#).
    - (b) **Time of Construction.** Wherever construction of an [obscuring wall](#) or [fence](#) is required adjacent to residentially-zoned property, the wall or [fence](#) shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the wall or [fence](#).
    - (c) **Corner Clearance.** No wall or [fence](#) shall be [erected](#) that will obstruct the view of drivers in [vehicles](#) approaching an intersection of two [roads](#) or the intersection of a [road](#) and a [driveway](#).
    - (d) **Wall Specifications.** Required walls shall be constructed of masonry material that is architecturally compatible with the materials used on the facade of the principal structure on the site, such as face brick, decorative block, or poured concrete with simulated brick or stone patterns.
    - (e) **Fence Specifications.** [fences](#) used for screening shall be constructed of cedar, or No. 1 pressure-treated wood, or durable synthetic wood-like material. Chain link [fences](#) shall not be permitted for screening purposes. [Hedges](#) may be used in place of [fences](#). All [fences](#) shall meet the requirements of Article 11, unless a requirement is specifically waived through the PUD process.
    - (f) **Height Requirements.** Walls or [fences](#) used for screening shall be a minimum of six (6) feet in height.

- (5) **Parking Lot Landscaping.** [Off-street parking](#) areas containing greater than ten (10) spaces shall be provided with interior landscaping in compliance with Section 10.02(F).
- (6) **Standards for Plant Material.** Proposed plant materials shall comply with the standards set forth in Section 10.04.
- (7) **Treatment of Existing Plant Material.** In instances where healthy plant material exists on the site prior to its [development](#), the Township may permit substitution of such plant material in place of the requirements set forth previously, provided such substitution is in keeping with the spirit and intent of this Article and the Ordinance in general, subject to the regulations in Section 10.06.
- (8) **Variation from Specific Requirements.** The Township Board, upon receiving a recommendation from the [Planning Commission](#), may allow variation from the specific requirements set forth herein, upon finding that the substitute [landscaping](#) is in keeping with the spirit and intent of this Article, and has equal landscape value as the required [landscaping](#). In evaluating landscape values, the Township Board and [Planning Commission](#) shall consider preservation of natural features, aesthetic qualities, numbers of plants, and similar considerations.
- (H) **Open Space Requirements.** Planned [developments](#) containing a residential component shall provide and maintain usable [open space](#) that is accessible to all residents, which shall comply with the following requirements:
- (1) A minimum of twenty (20) percent of the gross area of the site or portion thereof that is designated for residential [use](#) shall be set aside for such common [open space](#). The boundaries of the gross site area shall encompass [buildings](#), [roads](#), sidewalks, [landscaping](#), [natural areas](#), water bodies, and other features that are an integral part of the residential [development](#) plan.
- (2) Reduction in lot area below the minimum lot area specified by the [underlying zoning](#) shall be set aside and reserved as permanent [open space](#) to the maximum feasible extent, recognizing that a portion of the [parcel](#) must be set aside for [roads](#), stormwater detention, and other facilities.
- (3) Open space shall be located on the [parcel](#) to meet the following objectives:
- (a) To enhance the overall aesthetic appeal of the [development](#).
- (b) To preserve distinctive natural features.
- (c) To provide opportunities for leisure activities for residents of the [development](#).
- (d) To minimize impact from [development](#) on [wetlands](#), rivers, and other sensitive environmental areas.
- (e) To maintain open character along main [roads](#).
- (4) Any pervious land area that is available for the common [use](#) of all residents may be included as required [open space](#), except as follows:
- (a) No more than twenty five percent (25%) of the required usable [open space](#) shall include the area of any water bodies or [wetlands](#) which are covered only periodically with standing water (such as hardwood swamps or "wet" meadows). Required usable [open space](#) shall not include the area of any designated [wetland](#) that is covered by water or muck such that it is not a suitable environment for walking or similar passive leisure pursuits.

- (b) Required usable [open space](#) shall not include the area of any public or private [road](#), the area of any [easement](#) providing access to the site, the area of any commercial recreation [use](#) (such as a golf course), or the area of any required [setbacks](#).
- (5) The Township Board, upon receiving a recommendation from the [Planning Commission](#), may require [open space](#) to be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land or through a conservation [easement](#), whereby all rights to develop the land are conveyed to a land conservation organization or other public body, assuring that the [open space](#) will be developed according to the site plan. Such conveyance shall:
- (a) Indicate the proposed [use\(s\)](#) of the required [open space](#).
  - (b) Indicate how the leisure and recreation needs of all segments of the population residing in or using the planned [development](#) will be accommodated.
  - (c) Provide for the privately-owned [open space](#) to be maintained by private property owners with an interest in the [open space](#).
  - (d) Provide maintenance standards and a maintenance schedule.
  - (e) Provide notice of possible assessment to the private property owners by Chikaming Township for the cost of maintenance of the [open space](#) in the event that it is inadequately maintained and becomes a public [nuisance](#) or in the event that other public facilities are not maintained.
  - (f) Be recorded with the Berrien County Register of Deeds to provide record notice of the restrictions to all persons having an interest in the property contained in the planned unit [development](#).
- (6) Notwithstanding the requirements cited above, [open space](#) may be redeveloped for another purpose subject to the following conditions:
- (a) The [redevelopment](#) of [open space](#) shall require an amendment to the [Planned Unit Development](#) in accordance with the procedures in Section 15.04, and shall therefore constitute an amendment to the Zoning Ordinance which shall be subject to the right of petition and referendum by the electors of the Township, as provided for by current Michigan law.
  - (b) **Redevelopment** of [open space](#) shall not be permitted for the first twenty-five (25) years after the date of the initial approval of the [Planned Unit Development](#) by the Township Board. Commencing on the twenty-fifth (25th) anniversary of the initial approval, and at every subsequent twenty-five (25) year interval thereafter, there shall be a one (1) year period during which proposals to redevelop the [open space](#) may be submitted for review and action by the Township. Proposals to redevelop may not be submitted at any other time except during these one (1) year periods.
  - (c) In the event that a proposal to redevelop [open space](#) is properly submitted during an appropriate one (1) year time frame, the Township shall proceed with review and shall take action on the proposal even if the review process extends beyond the one (1) year period.
  - (d) Proposals to redevelop [open space](#) shall require the written consent of at least ninety percent (90%) of all persons having an interest in the property contained in the [Planned Unit Development](#) at the time the proposal is submitted.

- (e) The overall [density](#) of residential [development](#) proposed for redeveloped [open space](#) shall not exceed the [density](#) that could be achieved with the [underlying zoning](#) that was in place at the time the original [Planned Unit Development](#) plan was adopted.
- (f) These provisions for [redevelopment](#) of [open space](#) may be included in the conveyance described in the preceding subsection.
- (I) **Frontage and Access.** [Planned Unit Developments](#) shall front onto a paved public [road](#) and the main means of access to the [development](#) shall be via the paved public [road](#). The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any street or [road](#) intersection (as measured from the nearest intersection [right-of-way](#) line). All PUDs with internal [road](#) networks and greater than 500 feet of frontage shall be required to have at least two entrances from a public [road](#).
  - (1) Each residential lot shall have frontage on, and each residential [dwelling unit](#) shall have direct access to, an approved public [road](#). Individual residential [dwelling units](#) in a [Planned Unit Development](#) shall not have direct access onto a county primary [road](#) or state highway.
  - (2) For PUDs with internal [road](#) networks, at least one stub street shall be created connecting to all [property lines](#) not abutting a public [road](#).
- (J) **Natural Features.** The [development](#) shall be designed to promote preservation of [natural resources](#) and features. If natural [animal](#) or plant habitats of significant value exist on the site, the [Planning Commission](#) or Township Board may require that the [Planned Unit Development](#) plan preserve the areas in a natural state and adequately protect them as [open space](#) preserves or passive recreation areas. One hundred percent (100%) of any preserved [natural areas](#) may be counted toward meeting the requirements for [open space](#).
- (K) **Pedestrian Access.** [Non-Motorized Pathways](#)s shall be provided along all [roads](#) within the [Planned Unit Development](#).
- (L) **Additional Considerations.** The [Planning Commission](#) and Township Board shall take into account the following considerations, which may be relevant to a particular project: perimeter [setbacks](#); [road](#), drainage and utility design; underground installation of utilities; the extent to which sidewalks, trails, [open space](#), playgrounds and other areas used by pedestrians are insulated from [roads](#), drives, and parking areas used by [vehicles](#); achievement of an integrated [development](#) with respect to signage, lighting, [landscaping](#) and [building](#) materials; and, noise reduction and visual screening mechanisms, particularly in cases where non-residential uses adjoin residentially used or zoned property.

## Section 15.04 Approval Procedures

- (A) **Intent.** The procedures and standards in this Section are intended to provide a uniform method for review of [Planned Unit Development](#) proposals. These procedures and standards are intended to assure full compliance with the standards contained in this Ordinance, particularly Article 14.00, and other applicable local ordinances and state and federal laws.

- (1) The approval of a [Planned Unit Development](#) application shall require an amendment to the Zoning Ordinance to revise the zoning map and designate the subject property as "PUD, [Planned Unit Development](#)." Approval granted under this Article, including all aspects of the final plan and conditions imposed on it, shall constitute an inseparable part of the zoning amendment.
- (B) **General Application Requirements.** The application for [Planned Unit Development](#) shall be made on the forms and according to the guidelines approved by the [Planning Commission](#). The application shall be submitted to the Chikaming Township Zoning Department and shall be accompanied by all required fees and documents as specified herein. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the plan may be tabled due to lack of representation.
- (C) **Pre-Application Conference.** In order to facilitate review of a [Planned Unit Development](#) proposal in a timely manner, the applicant may request an informal pre-application conference with the Township Zoning Administrator. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the application and supporting materials.
  - (1) The applicant shall present at such a conference or conferences, at minimum, a sketch plan of the proposed planned [development](#), plus a legal description of the property in question; the total number of acres in the project; a statement of the approximate number of residential units and the approximate number of acres to be [occupied](#) by each type of [use](#); the number of acres to be preserved as open or recreational space; and, all known [natural resources](#) and natural features to be preserved.
  - (2) No formal action shall be taken at a pre-application conference. There shall be no fee for a pre-application conference. At any time during the course of preparation of plans prior to submission of a formal application, the Township will upon request provide electronic copies of information concerning Zoning Ordinance procedures and standards.
- (D) **Phase 1 Review.** Planned [development](#) projects shall undergo a two-step plan review and approval process. The procedures for Phase 1 review are outlined in this sub-section. The Phase 1 site plan shall be subject to the site plan review requirements in Section 15.02 of this Ordinance, where applicable, as well as the additional requirements in this Section.
  - (1) **Information Required for Phase 1 Plan Review.** The information required for Phase 1 plan review shall be provided according to the requirements of Section 15.04(M). The applicant shall submit nine (9) individually folded copies (minimum size 24 inches by 36 inches) and one (1) digital copy and supporting materials. These materials shall be submitted to the Township no later than noon thirty (30) calendar days prior to the [Planning Commission](#) meeting at which the review is requested.
  - (2) **Professional Review.** The [Planning Commission](#) may request professional review of the preliminary plans by appropriate agencies or consultants. If such review is requested, the designated agencies or consultants shall prepare and transmit reports to the [Planning Commission](#) stating their findings and conclusions and any recommended changes or revisions. The Township shall require the applicant to pay the cost of any such review fees.
  - (3) **Public Hearing.** The [Planning Commission](#) shall hold a public hearing on any [Planned Unit Development](#) proposal before it is approved.
    - (a) **Scheduling a Public Hearing.** The [Planning Commission](#) shall schedule a public hearing after any designated agencies or consultants have completed their review and submitted their findings concerning the proposed project.



- (b) **Notice Requirements.** The public hearing shall be noticed following the procedures listed in Section 17.11.
- (4) **Planning Commission Phase 1 Review.** Following the public hearing, the planned unit [development](#) proposal and plan shall be reviewed by the [Planning Commission](#) and Township Board in relation to applicable standards and regulations, compliance with the [Planned Unit Development](#) regulations, and consistency with the intent and spirit of this Article.
- (a) **Phase 1 Recommendation by the Planning Commission.** Based on the standards and requirements set forth in this Ordinance and in this Section, the [Planning Commission](#) shall recommend Phase 1 approval, approval subject to conditions, or denial of the proposed [Planned Unit Development](#) project and site plan to the Township Board.
- (b) **Phase 1 Approval by Township Board.** Based on the standards and requirements set forth in this Ordinance and in this Section, and the [Planning Commission](#) Recommendation, the Township Board shall grant Phase 1 approval, approval subject to conditions, or deny the proposed [Planned Unit Development](#) project and site plan.
- (c) **Effect of Phase 1 Approval or Denial.** A Phase 1 approval shall mean that the planned [development](#) project and plan meet the requirements of this Ordinance. Subject to any conditions imposed by the Township Board as part of its motion, Phase 1 approval assures the applicant that the Township Board may grant final approval if:
- (i) All state and county approvals are obtained;
  - (ii) No unresolved negative comments are received by any governmental agencies or public utilities; and
  - (iii) All federal, state and local laws and ordinances are met.
- (d) An unresolved negative comment shall be one that indicates that existence of a condition which is contrary to the requirements of this Ordinance or other applicable ordinances or laws, where such requirement has not been waived or dismissed as a result of an approval by the [Planning Commission](#) and Township Board.
- (e) A denial shall mean that the proposed project and plan does not meet the requirements of this Ordinance. Any denial shall specify the reasons for denial and those requirements of the Ordinance that are not met. In the event that the applicant submits a revised plan after the [Planning Commission](#) has issued a denial, the revised plan shall be considered a new case, which shall begin at the first stage of the review process. In order to initiate such review, the applicant shall be required to submit a new review fee.
- (f) If the [Planning Commission](#) determines that revisions are necessary to bring the planned [development](#) proposal into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised Phase 1 plan. Following submission of a revised plan, the planned [development](#) proposal shall be placed on the agenda of the next available meeting of the [Planning Commission](#) for further review and possible action. No additional public notice shall be required.
- (5) **State and County Approval.**
- (a) All [Planned Unit Development](#) projects shall require the review and approval of the agencies listed below prior to final site plan approval. The Township may accept a tentative or preliminary approval or a statement from the agency detailing the conditions under which final approval will be granted, provided that such approval or statement provides reasonable assurance to the Township that the [development](#) complies with the standards of the agencies having jurisdiction.

- (i) The Berrien County Road Department or, if any part of the project includes or abuts a state highway or includes streets or [roads](#) that connect with or lie within the [right-of-way](#) of a state highway, the Michigan Department of Transportation;
  - (ii) The Berrien County Drain Commissioner;
  - (iii) The Berrien County Health Department and the Michigan Department of Environment, Great Lakes, and Energy (EGLE) shall approve the fresh water system and the waste water disposal system;
  - (iv) The Michigan Department of Energy, Great Lakes, and the Environment (EGLE) if [wetlands](#) or other site features are under the jurisdiction of EGLE; and
  - (v) Other agencies that have review and approval authority over any aspect of the project.
- (b) In the event that negative comments are received from any of these agencies, the [Planning Commission](#) shall consider the nature of such comments with respect to Ordinance requirements, conditions on the site, response from the applicant, and other factual data related to the issue or concern. Negative comments shall not automatically result in denial of the plan, but every effort shall be made to resolve any issues or concerns cited by these agencies prior to taking action on the plan.
- (c) In addition to the specific required approvals, all planned [development](#) project site plans shall have been submitted to each of the public utilities serving the site, and any other state agency designated by the [Planning Commission](#), for informational purposes. The [Planning Commission](#) shall consider any comments made by these agencies prior to final site plan approval.

**(E) Planning Commission Phase 2 (Final) Review and Recommendation**

- (1) **Submission of Revised Site Plan.** The applicant shall submit nine (9) individually folded copies (minimum size 24 inches by 36 inches) and one (1) digital copy of the revised site plans and supporting materials. These materials shall be submitted to the Township no later than noon thirty (30) calendar days prior to the [Planning Commission](#) or Township Board meeting at which the review is requested.
- (2) **Final Approval by Planning Commission.** The [Planning Commission](#) shall review the application for [Planned Unit Development](#), together with the public hearing findings and any requested reports and recommendations from the [Building Official](#) and Township [Public Safety officials](#), [Township Engineer](#), and other reviewing agencies. The Township Attorney shall review and comment on the proposed [Development](#) Agreement and all related documents. Based on its review of the proposed plans and supporting documentation, the [Planning Commission](#) shall make findings of fact with respect to compliance with the standards and criteria in this Ordinance. The [Planning Commission](#) shall then set forth its findings and recommendation in a written report to the Township Board, based on the requirements and standards of this Ordinance. The [Planning Commission](#) may recommend approval, approval with conditions, or denial as follows:
- (a) **Approval.** Upon determination by the [Planning Commission](#) that the final plan for [Planned Unit Development](#) is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the [Planning Commission](#) shall recommend approval.

- (b) Approval with Conditions.** The [Planning Commission](#) may recommend that the Township Board impose reasonable conditions upon the approval of a [Planned Unit Development](#), to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed [development](#) will be capable of accommodating increased public service loads caused by the [development](#), protecting the natural environment and conserving [natural resources](#) and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect the [natural resources](#) and the public health, safety and welfare of individuals in the [development](#) and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance. In the event that the [Planned Unit Development](#) is approved subject to specified conditions, such conditions shall become a part of the record of approval, and such conditions shall be modified only as provided in this Ordinance. Where construction is not proposed to begin immediately, or where a project is proposed for construction in phases, the [Planning Commission](#) may recommend that final approval be granted subject to subsequent review and approval of detailed site plans for each facility or phase, provided that:
- (i)** The location and approximate size of such [buildings](#) shall be shown on the overall plan for the [Planned Unit Development](#),
  - (ii)** Detailed site plans for such [buildings](#) shall be submitted for review and approval in accordance with the site plan review requirements in Section 17.02, and
  - (iii)** Phasing requirements shall be complied with.
- (c) Denial.** Upon determination by the [Planning Commission](#) that a [Planned Unit Development](#) proposal does not comply with the standards and regulations set forth in this Ordinance or otherwise would be injurious to the public health, safety, welfare, and orderly [development](#) of the Township, the [Planning Commission](#) shall recommend denial.
- (3) Transmittal of Findings to Township Board.** 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 recommended conditions relating to an affirmative decision.
- (F) Township Board Action Required.** Following receipt of the [Planning Commission](#)'s report, the application shall be placed on the agenda of the next available Township Board meeting. The applicant shall provide additional copies of the plan as requested by the Township to be provided to the Board. The Township Board shall review the final plan and proposed [Planned Unit Development](#) Agreement, together with the findings of the [Planning Commission](#), and, if requested, any reports and recommendations from consultants and other reviewing agencies. Following completion of its review, the Township Board shall approve, approve with conditions, or deny a planned [development](#) proposal in accordance with the guidelines in this Ordinance.
- (1) Planned Unit Development Agreement.** If the Township Board approves the Planned Development proposal, the Township and applicant shall execute a [Planned Unit Development](#) Agreement, subject to Township Legal Counsel approval which shall be recorded in the office of the Berrien County Register of Deeds. Final approval of the [Planned Unit Development](#) plan shall become effective upon recording of the Agreement and evidence of the recording being presented to the Township.
  - (2) Effect of Approval.** Approval of a [Planned Unit Development](#) proposal shall constitute an amendment to the Zoning Ordinance. All improvements and use of the site shall be in conformity with the [Planned Unit Development](#) and any conditions imposed. Notice of the adoption of the amendment shall be published in accordance with the requirements set forth in this Ordinance.

- (G) **Recording of Planning Commission and Township Board Action.** Each action taken with reference to a [Planned Unit Development](#) shall be duly recorded in the minutes of the [Planning Commission](#) or Township Board, as appropriate. The grounds for the action taken shall also be recorded in the minutes.
- (H) **Zoning Board of Appeals – Review Not Required.** Upon receiving recommendations from the [Planning Commission](#), the Township Board has the flexibility to modify standards, provided such modifications achieve recognizable benefits and higher quality [development](#). The [Zoning Board of Appeals](#) has no authority to review such modifications.
- (I) **Completion of Site Design.** Following final approval of the [Planned Unit Development](#) proposal, a [building](#) permit may be obtained for the entire project or specific phases provided that final site plan approval for the project or the phase, as applicable, has been obtained, and provided further that the engineering plans for the project or the phase, as applicable, have been approved by the [Township Engineer](#) and [Building Official](#). It shall be the responsibility of the applicant to obtain all other applicable Township, County, or State permits prior to issuance of a [building](#) permit.
- (1) Construction shall commence on at least one phase of the project within twelve (12) months of final approval. The Township Board may also approve [Planned Unit Development](#) Agreements that waive this requirement. The Township Board may also consider a twelve (12) month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the 12-month expiration date. In the event that construction has not commenced and a request for extension has not been received within 12 months, the Township may initiate proceedings to void the PUD approval.
- (2) It shall be the responsibility of the owner of a property for which approval has been granted to maintain the property in accordance with the approved [Planned Unit Development](#) amendment on a continuing basis until the property is razed, or until an amendment to the [Planned Unit Development](#) is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the Zoning Ordinance and shall be subject to the penalties appropriate for such violation.
- (3) Prior to expansion or conversion of a [Planned Unit Development](#) project to include additional land, site plan review and approval shall be required pursuant to the requirements of this Article and Ordinance.
- (J) **Performance Guarantee.** A [performance guarantee](#) shall be deposited with the Township to insure faithful completion of improvements.
- (K) **Application Data Requirements.** Applications for [Planned Unit Development](#) shall include all data requirements specified in this sub-section. All information required to be furnished under this sub-section shall be kept updated until a Certificate of Occupancy has been issued.
- (1) **Requirements for Phase 1 Review.** In addition to the requirements in Section 17.02, and applicable information specified on the site plan checklist, the following information shall be submitted for Phase 1 review:
- (a) The name, address and telephone number of:
- (i) All persons with an ownership interest in the land on which the [Planned Unit Development](#) project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, lessee, or land contract vendee).

- (ii) All engineers, attorneys, architects or registered land surveyors associated with the project.
- (iii) The developer or proprietor of the [Planned Unit Development](#) project.
- (b) The legal description of the land on which the [Planned Unit Development](#) project will be developed together with appropriate tax identification numbers.
- (c) The area of the land (in acres) on which the [Planned Unit Development](#) project will be developed.
- (d) A detailed overall plan for the planned [development](#) which shows all of the information required on the conceptual land [use](#) plan plus the following:
  - (i) A general location map.
  - (ii) The location of existing [roads](#) and highways adjacent to the proposed [development](#).
  - (iii) The layout of [dwelling units](#), parking, [open space](#), and recreation and park areas.
  - (iv) Locations and [setbacks](#) of each structure and [use](#) in the [development](#). Where construction is proposed to occur in later phases subject to future detailed site plans, the location and [setbacks](#) of the maximum [building](#) footprint shall be shown on the plan.
  - (v) Typical layouts and facade design for each type of [use](#) or [building](#). Detailed information, including floor plans, facade elevations, and other information normally required for site plan review, shall be provided for [buildings](#) which are proposed for construction in the first phase.
  - (vi) The [building](#) footprint of proposed [buildings](#). In the case of single family detached [development](#), the plan should indicate the [setbacks](#) and outline of the area within which a house could be constructed on each lot.
  - (vii) The vehicular circulation system planned for the proposed [development](#).
  - (viii) The proposed layout of parking areas, [open space](#), and recreation/park areas.
  - (ix) Proposed [landscaping](#) and screening, which shall comply with the requirements in Article 10.00, unless such requirements have been modified as a result of the Planned Development review process.
- (e) Topographic survey and soils inventory based on the Berrien County Soils Survey.
- (f) General locations and approximate dimensions of [wetland](#) areas and significant site features such as tree stands, unusual slopes, streams and water drainage areas. Final staking and survey identification by a Township-approved [wetlands](#)-consultant shall be required prior to final approval.
- (g) A description of the proposed sewage treatment and water supply systems.
- (h) A general description of the proposed storm water and drainage system.
- (i) A map showing existing zoning designations for the subject property and all land within one quarter mile.

- (j) A map and written explanation of the relationship of the proposed planned [development](#) to the Township's [Master Plan](#) and Future Land Use Map.
- (k) Maps and written analysis of the significant natural, cultural, and geographic features of and near the site. Features which shall be considered include existing vegetation, topography, water courses, wildlife habitats, streets and rights-of-way, [easements](#), structures, and soils.
- (l) An analysis of the traffic impact of the proposed planned [development](#) on existing and proposed streets shall be required for the following types of projects.
  - (i) Residential projects containing 100 or more [dwelling units](#) in the total project.
  - (ii) Commercial, office, industrial, warehouse, institutions, entertainment, and [mixed used development](#) proposals involving 100,000 square feet or more in [gross floor area](#).
  - (iii) The traffic analysis shall be based on accepted engineering standards and methods established by the Institute of Transportation Engineers, Michigan Department of Transportation, and/or Berrien County Road Department. The traffic analysis shall address, at a minimum, the following considerations: estimated 24-hour and peak hour traffic prior to and after [development](#), percentage and numerical increase in traffic volumes on adjoining [roads](#), proximity and relationship to intersections, adequacy of sight distances, required vehicular turning movements, [roadway](#) geometrics, provisions for pedestrian traffic, and adaptability of the [development](#) to non-motorized transportation. The traffic analysis shall further assess the degree to which the [development](#) will cause an increase in traffic congestion or traffic safety concerns. The traffic analysis shall indicate [road](#) improvements or modifications necessary to accommodate the traffic generated by the [development](#).
- (m) An analysis of the fiscal impact (costs and revenues) of the proposed planned [development](#) on Chikaming Township and the school district in which the [development](#) is located. The fiscal impact analysis shall consider the amount of revenue generated from all sources, including but not limited to property taxes and state shared revenues. In determining the estimated property tax revenue, the analysis shall consider the estimated state equalized value of the [development](#) at each stage in relation to the current millage rate of each taxing jurisdiction. In determining the impact on school costs, the analysis shall estimate the total number of school-age children living in the [development](#) at each phase, based on regional demographic data or on demographic data collected by the school district. This information shall be compared with the average annual cost of education per pupil, based on school budgetary information. The fiscal impact analysis shall also consider the need for new school [buildings](#) and other capital expenditures to accommodate increased enrollment. In determining the impact on Township costs, the analysis shall assess the need for additional police, fire, recreation, administrative, library, or other fiscal impacts.
- (n) Documentation that the applicant has sufficient [development](#) experience to complete the proposed project in its entirety.
- (o) A general schedule for completing the planned [development](#), including the phasing or timing of all proposed improvements.
- (p) The precise number of non-residential and residential units to be developed on the subject [parcel](#).
- (q) Specific locations and dimensions of [wetland](#) areas and significant site features such as tree stands, unusual slopes, streams and water drainage areas.

- (r) A complete description of the proposed sewage treatment and water supply systems, including documentation from a qualified engineer indicating the feasibility of implementing such systems.
  - (s) Storm water and drainage system details.
  - (t) Location of sidewalks along [roads](#) and elsewhere within the [development](#).
  - (u) A specific schedule for completing the planned [development](#), including the phasing or timing of all proposed improvements.
- (2) Requirements for Phase 2 (Final) Review.** In addition to the requirements in Section 17.02 and applicable information specified on the Site Plan checklist, the following information shall be included on, or attached to, all planned [development](#) plans submitted for Phase 2 (final) review:
- (a) All information required for Phase 1 review as specified previously.
  - (b) Detailed site plans for all [buildings](#) and uses which the applicant intends to begin construction on immediately upon final [Planned Unit Development](#) approval. Where construction is not proposed to begin immediately, or where a project is proposed for construction in phases, the [Planning Commission](#) may recommend that final approval be granted subject to subsequent review and approval of detailed site plans for each facility or phase, in accordance with Section 17.02.
  - (c) Detailed engineering plans for all portions of the project which the applicant intends to begin construction on immediately upon final [Planned Unit Development](#) approval. Where construction is not proposed to begin immediately, or where a project is proposed for construction in phases, the [Planning Commission](#) may recommend that final approval be granted subject to subsequent review and approval of detailed engineering plans for each facility or phase. Such plans shall be prepared in accordance with the Township engineering standards, and shall at minimum include the following:
    - (i) Engineering plans for all [roads](#), drive aisles, and paved areas,
    - (ii) Site drainage plans, including retention and/or detention areas,
    - (iii) Engineering plans for proposed utility systems, including sanitary sewerage and water systems.
    - (iv) Plans for controlling soil erosion and sedimentation during construction.
- (3)** Following approval of a [Planned Unit Development](#) proposal and an amendment to the Zoning Ordinance, final site plan and engineering review and approval shall be required prior to obtaining a [building](#) permit and commencement of construction for each facility or phase.
- (4)** A draft [Planned Unit Development](#) Agreement, setting forth the terms and conditions negotiated and to be agreed to by the applicant and the Township, and upon which approval of the [Planned Unit Development](#) proposal will be based. The [Planned Unit Development](#) Agreement shall, at minimum, include the following:
- (a) A description of the land that is subject to the agreement.
  - (b) A description of the [permitted uses](#) of the property, the [density](#) or intensity of [use](#), and the maximum height and size of proposed [buildings](#).

- (c) History of the review procedures and action taken by the [Planning Commission](#) or Township Board.
- (d) List of all plans, documents, and other materials submitted by the applicant.
- (e) Review and explanation of all special provisions agreed to by the applicant and Township during the course of review of the Planned [Development](#) proposal.
- (f) An explanation of all public improvements to be undertaken by the applicant or the Township in conjunction with the proposed Planned [Development](#) project.
- (g) Description of any required dedications and permits.
- (h) Confirmation that the proposed [development](#) is consistent with applicable Township ordinances and planning objectives.
- (i) Duration of the [Planned Unit Development](#) Agreement, along with terms under which a termination date may be extended by mutual agreement.
- (j) Applicability of future amendments to the general zoning regulations to land that is subject to the proposed [Planned Unit Development](#) Agreement.
- (k) Extent to which the [Planned Unit Development](#) plan may be modified subject to administrative approval, [Planning Commission](#) approval, or Township Board approval.

**(L) Revision to Approved Plans.**

- (1) **General Revisions.** Approved final plans for a planned [development](#) may be revised in accordance with the procedures set forth in Section 15.05.
- (2) **Minor Changes.** Minor revisions to approved [Planned Unit Development](#) Plans and Agreements shall require Phase 2 [Planned Unit Development](#) approval only by the [Planning Commission](#) and Township Board. Notice to the public shall not be required. Minor revisions are those that: 1) will not adversely affect the initial basis for granting approval, and 2) will not adversely affect the overall [Planned Unit Development](#) in light of the intent and purpose of such [development](#).
  - (a) Examples of minor revisions include, but are not limited to: 1) minor lot line changes and/or minor changes in the [road](#) alignment in a residential [development](#), and 2) changes to the [landscaping](#) plan that was part of the approved [Planned Unit Development](#) plans. Revisions that affect the layout of utilities shall not be considered minor.
  - (b) Revisions not deemed minor may be approved according to the process outlined in subsections C-G above.

## **Section 15.05 Review and Approval Standards**

In considering any application for approval of a [Planned Unit Development](#) plan, the [Planning Commission](#) and Township Board shall make their determinations on the basis of the standards for [Planned Unit Development](#) approval set forth in Section 15.04, as well as the following standards and requirements:



- (A) **Conformance with the Planned Unit Development Concept.** The overall design and all uses proposed in connection with a [Planned Unit Development](#) shall be consistent with and promote the intent of the [Planned Unit Development](#) concept, as well as with specific project design standards set forth herein.
- (B) **Compatibility with Adjacent Uses.** The proposed [Planned Unit Development](#) shall set forth specifications with respect to height, [setbacks](#), [density](#), parking, circulation, [landscaping](#), views, and other design and layout features which exhibit due regard for the relationship of the [development](#) to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to:
- (1) The [bulk](#), placement, and materials of construction of proposed structures.
  - (2) The location and screening of vehicular circulation and parking areas in relation to surrounding [development](#).
  - (3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding [development](#).
  - (4) The hours of operation of the proposed uses.
  - (5) The provision of [landscaping](#) and other site amenities.
- (C) **Public Services.** The proposed [Planned Unit Development](#) shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public [roads](#), police and fire protection services, and educational services, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the [Planned Unit Development](#) is completed. All utility services shall be underground.
- (D) **Impact of Traffic.** The [Planned Unit Development](#) shall be designed to minimize the impact of traffic generated by the proposed [development](#) on surrounding uses. In determining whether this requirement has been met, consideration shall be given to:
- (1) Access to major [thoroughfares](#).
  - (2) Estimated traffic to be generated by the proposed [development](#) and the potential increase in traffic congestion.
  - (3) Proximity and relation to intersections.
  - (4) Adequacy of driver site distances.
  - (5) Location of and access to [off-street parking](#).
  - (6) Required vehicular turning movements.
  - (7) Provisions for pedestrian traffic.
  - (8) Proposals to alleviate traffic congestion, traffic safety concerns, and other traffic impacts.
- (E) **Protection of Natural Environment.** The proposed [Planned Unit Development](#) shall be protective of the natural environment, and shall be in compliance with all applicable environmental protection laws and regulations.

- (F) **Compatibility with the Master Plan.** The proposed [Planned Unit Development](#) shall be consistent with the general principles and objectives of the adopted Township [Master Plan](#).
- (G) **Compliance with Applicable Regulations.** The proposed [Planned Unit Development](#) shall be in compliance with all applicable Federal, state, and local laws and regulations.

## Section 15.06 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 [Planned Unit Development](#) and the residents of the surrounding area.
- (B) In addition, proposed phasing shall comply with the following requirements:
- (1) **Coordination of Residential and Non-Residential Components.** In [developments](#) which include residential and non-residential components, the residential component shall be completed at the same rate or prior to the non-residential component. For example, if fifty percent (50%) of the non-residential component is proposed to be completed in a certain phase, then at least fifty percent (50%) of the residential component should be completed in the same phase. One hundred percent (100%) of the residential component shall be completed prior to the final phase of non-residential construction. The construction of [roads](#), utilities, and other infrastructure shall be considered completion of a residential component, where the intent is to sell lots or [building](#) sites to others who will construct the housing units.
    - (a) The purpose of this provision is to ensure that [Planned Unit Developments](#) are constructed in an orderly manner and to ensure that the [Planned Unit Development](#) approach is not used as a means of circumventing restrictions on the location or quantity of certain types of land [use](#). For purposes of carrying out this provision, the percentages shall be approximations as determined by the [Planning Commission](#) based on the floor area and land area allocated to each [use](#). Such percentages may be varied should the Township Board, upon recommendation from the [Planning Commission](#) determine that the applicant has presented adequate and effective assurance that the residential component or components of the project shall be completed within the specified period.
  - (2) **Commencement of Construction.** Construction of the first phase of the project may commence at any time during the first 12 months following site plan approval, and construction shall commence for each subsequent phase of the project within twenty-four (24) months of the schedule set forth on the approved plan for the [Planned Unit Development](#). However, the applicant may submit a revised phasing plan for review and approval by the [Planning Commission](#). The applicant shall also submit a statement indicating the conditions which made the previous phasing plan unachievable. Once construction of a [Planned Unit Development](#) has commenced, approval of a revised phasing plan shall not be unreasonably withheld or denied, provided that the revised phasing does not materially change the integrity of the approved [Planned Unit Development](#) proposal.
    - (a) In the event that construction has not commenced within the required time period and a revised phasing plan has not been submitted, the Township may initiate proceedings to amend the zoning classification of the undeveloped portion of the site. For the purposes of this Section, "commencement of construction" shall mean sustained progress resulting in, by way of example, construction of utilities, [roads](#), foundations, or similar substantial improvements.

# Article 16 Open Space Preservation Option

## Section 16.01 Open Space Preservation Option.

- (A) Open Space Preservation [developments](#) may be approved in the R-1 and R-2 districts, subject to the standards and review procedures set forth herein.
- (B) **Purpose.** The purpose of [open space](#) Preservation Option is to preserve undeveloped land, thereby maintaining undeveloped [open space](#). The regulations in this sub-section C propose to accomplish this purpose by providing for grouping of homes onto the most buildable portions of a site so that the remainder of the site can be preserved in an undeveloped state.
- (1) As used in this subsection, the term “undeveloped state” shall have the meaning given to it in Section 102(t) of the Michigan Zoning Enabling Act (P.A. 110 of 2006), which states the following:
- (2) “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) **Applicability.** Parcels in the R-1 and R-2 districts may be developed according to the standard conditions and requirements for the [zoning district](#), or it may be developed according to the Open Space Preservation Option standards in this sub-section (c). If the Open Space Preservation Option is selected, the property shall be developed under the conditions and requirements in this sub-section, other applicable zoning regulations, and other applicable Township ordinances. The Open Space Preservation Option may be used only if the subject property is served by a public sanitary sewer system.
- (D) **Review and Approval Process.** Proposals for Open Space Preservation [development](#) shall be reviewed following the same procedures used for conventional subdivision or [condominium](#) proposals, except that the applicant shall complete a site features inventory prior to [development](#). The inventory shall consist of maps and written analysis which shall identify, describe and quantify the following features, at minimum: existing vegetation, topography at two-foot contour intervals, water courses, drainage patterns, wildlife habitats, [roads](#) and [road](#) rights-of-way, [easements](#), soils (based on Natural Resources Conservation Service soils information or soil borings), EGLE-regulated [wetlands](#), [floodplains](#), woodlands and tree lines, rare and endangered species habitats, and any additional features uniquely affecting the site.
- (E) **Permitted Density.** The overall [density](#) of residential uses in an Open Space Preservation [development](#) shall not exceed the [density](#) that would be permitted if the site were developed as a conventional single family subdivision.
- (1) The permitted [density](#) shall be based on the [net buildable area](#) of the site which consists of the portions of the site that are not encumbered by regulated [wetlands](#), [steep slopes](#), existing and proposed [road](#) rights-of-way, [easements](#), existing structures or other existing or proposed features that would prevent construction of a [building](#) or [use](#) of the site for residential purposes.
- (2) To assist the [Planning Commission](#) in determining [net buildable area](#) and maximum [density](#), the applicant shall submit an alternative plan that shows how the site could be developed under conventional zoning.
- (3) Modifications permitted under the [open space](#) Preservation Option that result in reduction in land area dedicated to individual [dwelling units](#) shall be compensated for by an equivalent amount of [open space](#), which shall be maintained and preserved in accordance with the standards specified in this subsection.

(F) **Dimensional Standards.**

- (1) **Setbacks.** Open Space Preservation [developments](#) shall comply with the following minimum yard [setback](#) requirements:

**Building Setbacks**

Along perimeter adjacent to public <a href="#">road</a>	50 ft.
Along perimeter, but not adjacent to a <a href="#">road</a>	30 ft.
Along an internal <a href="#">road</a>	20 ft.
<a href="#">Setback</a> from a lake, pond, stream or <a href="#">wetlands</a>	60 ft.

- (a) The minimum rear and [side yard setback](#) for detached single family [structures](#) and [accessory structures](#) thereto shall be based on sound planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency [vehicles](#), the need for adequate amounts of light and air between [buildings](#), and the need for proper amounts of [open space](#) for the use of residents on the site.

**Parking Lot Setbacks**

Along perimeter adjacent to public <a href="#">road</a>	50 ft.
Along perimeter, but not adjacent to a <a href="#">road</a>	20 ft.
<a href="#">Setback</a> from lakes, ponds, streams, and <a href="#">wetlands</a>	60 ft.

- (b) Docks, Bulkheads, patios, terraces, [decks](#), gazebos, and pathways shall be permitted within the 60-ft. waterfront/[wetland setback](#), subject to review and approval by the Township Board, upon receiving a recommendation from the [Planning Commission](#).

- (2) **Minimum Lot Size.** Open Space Preservation [developments](#) shall comply with the following minimum lot size requirements:

Zoning District	Minimum Lot Size
R-1/R-1-W	7,200 sq. ft.
R-2	21,780 sq. ft.

- (a) Variation from these lot size standards may be required or permitted where the [Planning Commission](#) finds that smaller lot size is required to achieve the [density](#) permitted under sub-section (E.1), above.

- (3) **Distances between Buildings.** Any detached single family [structure](#) (or [accessory structure](#) thereto) shall be located at least fifteen (15) feet from any other detached single family [structure](#) or [accessory structure](#).

- (4) **Floor Area and Height Standards.** [Buildings](#) in an Open Space Preservation [development](#) shall comply with the floor area and height standards for the district in which the [development](#) is located.

- (G) **Open Space Requirements.** Open Space Preservation [developments](#) shall provide and maintain [open space](#) in an undeveloped state, which shall comply with the following requirements:

- (1) Open Space Preservation [developments](#) shall reserve at least fifty percent (50%) of the [parcel](#) in an undeveloped state.
- (2) [open space](#) shall be located on the [parcel](#) to meet the following objectives:

- (a) To preserve distinctive natural features, scenic or wooded conditions, and rural characteristics.
  - (b) To minimize impact from [development](#) on [wetlands](#), streams, and other sensitive environmental areas.
  - (c) To maintain open character along [roads](#).
  - (d) In addition, no more than twenty-five percent (25%) of the [open space](#) may be developed with children's play facilities, picnic facilities, trails, and similar passive recreational facilities to satisfy the needs of future residents of the [development](#), provided that all such facilities shall be compatible in design with other [open space](#) requirements and objectives.
- (3) Required [open space](#) shall not include the area of any public or private [road](#), the area of any [easement](#) providing access to the site, the area of any commercial recreation [use](#) (such as a golf course), or the area of any stormwater retention or [detention pond](#).
- (4) The required [open space](#) shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation [easement](#), plat dedication, restrictive covenant, or other means that runs with the land, whereby all rights to develop the land are conveyed to a land conservation organization or other body, assuring that the [open space](#) will remain undeveloped. Such conveyance shall:
- (a) Indicate the proposed [use\(s\)](#) of the required [open space](#).
  - (b) Provide for the privately-owned [open space](#) to be maintained by private property owners having an interest in the [open space](#).
  - (c) Provide maintenance standards and a maintenance schedule.
  - (d) Provide notice of possible assessment to the private property owners by Chikaming Township for the maintenance of the [open space](#) in the event that it is inadequately maintained and becomes a public [nuisance](#).
  - (e) After approval from the Township, the developer shall record with the Berrien County Register of Deeds to provide record notice of the restrictions to all persons having or seeking an interest in the property contained in the Open Space Preservation [development](#). Evidence that the document has been recorded shall be provided to the Township prior to issuance of any permits to commence construction.
- (H) **Building Location.** Where feasible, Open Space Preservation [developments](#) shall comply with the following [building](#) location requirements. Modification to these locational requirements may be approved by the Township as part of the review process, upon making the determination that other [building](#) locations would be more appropriate because of topography, existing trees or vegetation, proposed grading or [landscaping](#), or other existing or proposed site features or conditions.
- (1) [Buildings](#) shall be located on the edges of fields and in wooded areas to minimize the visual impact of [development](#). [Buildings](#) should not be located in open fields.
  - (2) [Buildings](#) shall not be located on the tops of ridge lines or in areas with slopes that exceed 35 percent.
  - (3) [Buildings](#) shall not be located in [wetlands](#) or [floodplains](#).

- (4) [Buildings](#) shall be set back as far back from public [roads](#) as possible so as to maintain the rural appearance of the Township from the [road](#). This goal can also be achieved by placing [buildings](#) behind or within a woodlands or tree line that screens the [buildings](#) from the [road](#).
- (I) **Roads and Driveways.** The amount of site disruption caused by [road](#) and [driveway](#) construction and associated grading required for construction shall be minimized in Open Space Preservation [developments](#). Accordingly, Open Space Preservation [developments](#) shall comply with the following standards:
- (1) Roads shall follow existing contours to minimize the amount of cut and fill.
  - (2) Where sites include linear features, such as existing access [roads](#), tree lines, and stone rows, [roads](#) shall follow these features to minimize the visual impact of the [roads](#).
- (J) **Stormwater Management.**
- (1) Rain gardens and bio swales must be used throughout the [development](#) in order to reduce the need for retention and [detention ponds](#). Native plantings shall be used in the [rain gardens](#) and bio swales.
- (K) **Landscaping and Lawns.**
- (1) Existing trees and other plant growth shall be preserved in areas where disturbance is not necessary outside of the [building envelope](#).
  - (2) Conversion of woods, meadows, and other natural features into lawns shall be avoided, except where lawn areas are a part of the [open space](#) design or serve as residential yard space.
- (L) **Existing Structures.**
- (1) When a [parcel](#) contains existing [structures](#) deemed to be of historic, cultural or architectural significance (such as farm [structures](#)), and where these [structures](#) are suitable for rehabilitation, the [structures](#) shall be retained.
  - (2) Adaptive reuse of existing [structures](#) for residential [use](#) or permitted accessory residential uses shall be permitted.

# Article 17 General Procedures and Related Standards

## Section 17.01 Purpose

The purpose of this Article is to provide procedures and related standards for the processing of all requests for Township action or review under the provisions of this Ordinance.

## Section 17.02 Site Plan Review / Process

- (A) **Intent.** The site plan review procedures, standards, and required information in this Section are intended to provide a consistent and uniform method of review of proposed [development](#) plans, to ensure full compliance with the regulations and standards contained in this Ordinance and other applicable ordinances and laws, including the Michigan Building Code, as amended, to achieve efficient [use](#) of the land, to protect [natural resources](#), and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the Township and applicant so as to facilitate [development](#) in accordance with the Township's land [use](#) objectives.
- (B) **Site Plan Required.**
- (1) **Site Plan Required.** Except as provided in the following sub-section (B.2), the [development](#) of any new [use](#), the construction of any new [structures](#), any change of an existing [use](#) of land or [structure](#), and all other [building](#) or [development](#) activities shall require site plan approval pursuant to this Section. For example, site plan review shall be required for any of the following activities:
- (a) Erection, moving, relocation, conversion or [structural alterations](#) to a [building](#) or [structure](#) to create additional floor space, other than a single-family dwelling (see Section 17.02.B.2.a).
  - (b) Any [development](#) which would, if approved, provide for the establishment of more than one principal [use](#) on a [parcel](#), such as, for example, a single family site [condominium](#) or similar project where a [parcel](#) is developed to include two (2) or more sites for detached single family dwellings.
  - (c) [Development](#) of all non-single family residential uses permitted in single family districts.
  - (d) Any change in [use](#) that could affect compliance with the standards set forth in this Ordinance, other than for single-family residential uses.
  - (e) Expansion or paving of [off-street parking](#) involving twenty (20) or more spaces and/or a change in circulation or access for other than a single-family dwelling.
  - (f) Any [excavation](#), [filling](#), soil removal, mining or landfill, or creation of ponds, except as otherwise specified in sub-section (B.2.c)
  - (g) The [development](#) or construction of any [Accessory Uses](#) or [structures](#), except for uses or [structures](#) that are accessory to a single-family dwelling.
  - (h) Any new [special land use](#) or physical expansion of an existing [special land use](#).

- (i) The approval of any Subdivision, Site [Condominium](#), PUD, or [Open Space Preservation Subdivision](#).
- (j) Any cutting, [filling](#), grading, balancing, contouring, or drainage alteration.
- (k) Any other [use](#) or [development](#) for which submission of a site plan is required by the provisions of this Ordinance.

**(2) Site Plan Not Required.** Notwithstanding the preceding sub-section (1), site plan approval is not required for the following activities:

- (a) Erecting, moving, relocating, expanding, or structurally altering a single family home, including any customarily incidental [accessory structure](#). The Zoning Administrator may require a scaled drawing of the site be submitted to ensure compliance with the requirements of this Ordinance. However, the scaled drawing need only be an accurate depiction of the aspects of the site relevant to the requirements being reviewed by the Zoning Administrator, and need not include all elements of a site plan listed in Subsection E.
- (b) Any [excavation](#), [filling](#), soil removal, mining, or creation of ponds that is less than one-half acre in area and less than fifty (50) cubic yards, provided that such activity is normally and customarily incidental to single-family uses described in this sub-section for which site plan approval is not required.
- (c) Construction involving only interior improvements where there is no change in [use](#), as defined by the Michigan Building Code.

**(C) Site Plan Review Applications and Procedures.**

**(1) Optional Pre-Application Conference.** In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application site plan conference with the Zoning Administrator. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference.

- (a) At any time during the course of preparation of a site plan prior to submission of a formal application, the Township will provide electronic copies of this Ordinance or subsections of this Ordinance to the applicant upon request.

**(2) Optional Conceptual Review by Planning Commission or Township Board.** An applicant may file a written request of conceptual review of a preliminary site plan by the [Planning Commission](#) or Township Board to evaluate the following:

- (a) Relationship of the site to nearby properties;
- (b) [Density](#);
- (c) Adequacy of [landscaping](#), [open space](#), vehicular drives, parking areas, drainage, and proposed utilities; and,
- (d) Conformance with Township [development](#) policies and standards.
- (e) Conceptual review fees shall be paid according to the fee schedule established by the Township Board.



(f) No formal action shall be taken on a site plan submitted for conceptual review, and neither the applicant nor the [Planning Commission](#) or Township Board shall be bound by any comments or suggestions made during the course of the conceptual review.

**(3) Submission of Site Plan for Formal Review.** In order to initiate formal review by the [Planning Commission](#) and Township Board, the applicant is required to submit the following materials to the Chikaming Township Hall:

(a) One (1) completed and signed copy of the Application for Site Plan Review,

(b) Nine (9) individually folded copies (minimum size 24 inches by 36 inches) and one (1) digital copy in PDF format of the site plan.

(c) Proof that the plan has been submitted for review to all appropriate affected governmental agencies, including but not limited to the Berrien County Road Department, Berrien County Drain Commission, Berrien County Health Department, Michigan Department of Transportation (where applicable), Michigan Department of Energy, Great Lakes, and Environment (where applicable) and any other agencies deemed appropriate by the [Planning Commission](#) or Township Board.

(d) The required review fee.

(e) These materials shall be submitted to the Township no later than noon thirty (30) calendar days prior to the [Planning Commission](#) or Township Board meeting at which the review is requested.

**(4) Distribution of Plans.** Upon submission of all required application materials, the site plan proposal shall be placed on the next open [Planning Commission](#) agenda for Preliminary Review. The site plans and application shall be distributed to appropriate Township officials for review.

**(D) Review and Final Action.**

**(1) Initial Review.** At the first regular meeting at which a site plan proposal is considered, the [Planning Commission](#) shall identify major issues and other revisions necessary to obtain site plan approval.

**(2) Public Hearing.** Site plans involving uses that are subject to Special Land Use approval require a public hearing. After payment of appropriate fees, the Township will set the date of the public hearing.

**(3) Request for Revisions.** Upon Initial Review of the site plan proposal, the [Planning Commission](#) may require the applicant to complete revisions and submit the plans for engineering review prior to formal action being taken. The applicant shall be given the opportunity to revise the plans and submit revised plans for further review. All required revisions must be completed or the site plan will not be put on the agenda for Final Review.

**(4) Submission of Plans for Final Review.** Nine (9) individually folded copies (minimum size 24 inches by 36 inches) and one (1) digital copy of the revised plan in PDF format shall be submitted for final review at least twenty-one (21) calendar days prior to the [Planning Commission](#) meeting at which the review is scheduled. The revised plan shall be distributed to appropriate Township officials for review.

- (5) Planning Commission Final Review.** The [Planning Commission](#) shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the Zoning Administrator and/or reviewing agencies. The [Planning Commission](#) shall then make a final decision, based on the requirements and standards of this Ordinance. The [Planning Commission](#) may approve, approve with conditions, deny, or they may table the proposal, as noted below.
- (a) Approval.** Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the [Planning Commission](#) shall approve the site plan.
- (b) Approval Subject to Conditions.** Upon determination that a site plan is in compliance except for minor modifications, the [Planning Commission](#) may impose reasonable conditions upon approval of the site plan. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include, but need not be limited to, the need to obtain [variances](#), obtain approvals from other agencies, or obtain [special land use](#) approval.
- (i)** The applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant must re-submit the site plan to the [Planning Commission](#) for final approval after conditions have been met, unless the [Planning Commission](#) waives its right to review the revised plan, and instead authorizes the Zoning Administrator to review and approve the site plan after all required conditions have been addressed.
- (c) Denial.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in this Ordinance, or requires extensive revision in order to comply with said standards and regulations, the [Planning Commission](#) shall deny the site plan.
- (d) Tabling.** Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the [Planning Commission](#) may table consideration of a site plan until a later meeting.
- (6) Time Period for Obtaining Approval.** An applicant shall have a maximum of two (2) years from the date of submittal of a site plan for formal review to achieve final approval of the site plan, including compliance with all conditions. If approval is not achieved within this period, the application becomes null and void and a new application is required to pursue site plan review further.
- (7) Recording of Site Plan Review Action.** Each action taken with reference to a site plan review shall be duly recorded in the minutes of the [Planning Commission](#). The grounds for action taken upon each site plan shall also be recorded in the minutes.
- (a)** After final action has been taken on a site plan and all steps have been completed, three copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file in the Township Hall. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the [Planning Commission](#) secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final [Planning Commission](#) approval.
- (8) Procedure after Site Plan Approval.**
- (a) Application for Building Permit.** Following final approval of the site plan and the engineering plans, the applicant may apply for a [building](#) permit. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State, or Federal permits prior to issuance of a [building](#) permit.

- (i) No permits for construction in a proposed [condominium](#) project shall be issued until evidence of a recorded Master Deed has been provided to the Township.
- (b) Expiration of Site Plan Approval.** If construction has not commenced, or if the project has commenced but has not made reasonable progress, within twelve (12) months after final approval of the site plan, the site plan approval expires and a new application for site plan review shall be required. However, the applicant may apply in writing to the [Planning Commission](#) for an extension of site plan approval. The [Planning Commission](#) may grant one or more extensions of up to a total of twelve (12) months upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to current Zoning Ordinance standards.
- (c) Application for Certificate of Occupancy.** Following completion of site work and [building](#) construction, the applicant may apply for a Certificate of Occupancy from the [Building Official](#). It shall be the applicant's responsibility to possess this required certificate prior to any occupancy of the property.
- (d) Property Maintenance after Approval.** It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the [use](#) provisions of this Ordinance and shall be subject to the same penalties appropriate for a [use](#) violation.
  - (i) With respect to [condominium](#) projects, the Master Deed shall contain provisions describing the responsibilities of the [condominium](#) association, [condominium](#) owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the [condominium](#) association. Failure to maintain an approved site plan shall be deemed in violation of the [use](#) provisions of this Ordinance and shall be subject to the same penalties appropriate for a [use](#) violation.
- (e) Recorded and As-Built Condominium Documents.** Upon approval of the site plan for a [condominium](#) project involving new construction, the [condominium](#) project developer or proprietor shall furnish the Township with the following:
  - (i) One (1) copy of the recorded Master Deed, and
  - (ii) One (1) copy of any [Condominium](#) Bylaws and restrictive covenants.
  - (iii) One (1) copy of the recorded [Condominium](#) Subdivision Plan (Exhibit B).
  - (iv) Upon completion of the project, the [condominium](#) project developer or proprietor shall furnish the Township with two (2) copies of an "as built survey".
  - (v) The as-built survey shall be reviewed by the [Township Engineer](#) for compliance with Township Ordinances. Fees for this review shall be established by the Township Board.
- (9) Site Plan Violation.** In the event that construction is not in compliance with the approved plans, the Zoning Administrator or his/her designee shall take corrective action, unless a revised site plan is submitted for Township review. If the builder or developer fails to take corrective action or pursue approval of an amended site plan, the Zoning Administrator or his/her designee may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.

**(10) Modification to Approved Plan.** Minor modifications to an approved site plan shall be reviewed by the Zoning Administrator.

**(a) Minor Modification Defined.** Minor modifications are changes that do not substantially affect the character or intensity of the [use](#), vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the danger from hazards. Examples of minor modifications include:

**(i)** An addition to an existing commercial or industrial [building](#) that does not increase or decrease the floor space by more than twenty-five percent (25%) or two thousand (2,000) square feet, whichever is less.

**(ii)** Re-occupancy of a vacant [building](#) that has been [unoccupied](#) for less than twelve (12) months.

**(iii)** Changes to [building height](#) that do not add an additional floor.

**(iv)** [Alterations](#) or modifications involving less than twenty (20) [parking spaces](#).

**(v)** The construction of a new [building](#) or [structure](#) or the addition of [curb cuts](#) onto a public [road](#) are examples of modifications which are not considered minor.

**(b) Determination of Minor Modification.** The Zoning Administrator shall determine if the proposed modifications are minor in accordance with the guidelines in this section.

**(c) Modifications Not Deemed "Minor".** If the modifications are not deemed minor by the Zoning Administrator, or if the Zoning Administrator finds that there are characteristics of the site plan that warrant [Planning Commission](#) review, the full review and approval by the [Planning Commission](#) shall be required. [Planning Commission](#) review and approval shall be required for all site plans that involve a request for a [variance](#) (in addition to the [ZBA](#) approval of the [variance](#) in question), a Special Land Use, a proposal that involves a discretionary decision, or a proposal that involves a [nonconforming use](#) or [structure](#).

**(d) Recording of Action.** Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file at Township Hall. The [Planning Commission](#) shall be advised of all minor site plan modifications approved by the Zoning Administrator and such modifications shall be noted on the site plan and in the minutes of the [Planning Commission](#).

**(E) Required Information on Site Plans.** The following information shall be included on all site plans, where applicable. The [Planning Commission](#) or Zoning Administrator shall have the jurisdiction to waive any of these requirements upon determining that it does not apply to the site or that there are practical difficulties of a non-monetary nature in obtaining the information.

**(1) Application Form.** The application form shall contain the following information:

**(a)** Applicant's name and address.

**(b)** Name, address and signature of property owner, if different from applicant.

**(c)** Common description of property and complete legal description including the Tax Identification number.

**(d)** Dimensions of land and total acreage.

**(e)** Existing zoning of applicant's [parcel](#) and surrounding land.

- (f) Existing [use](#) of the applicant's [parcel](#).
  - (g) Proposed [use](#) of land and name of proposed [development](#), if applicable.
  - (h) Proposed [buildings](#) to be constructed, including square feet of gross and usable floor area.
  - (i) Proof of property ownership.
  - (j) Number of permanent employees, if applicable.
  - (k) Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
  - (l) Review comments and/or approvals from County, State, and Federal agencies. Copies of letters or approval forms should be submitted with the site plan application.
- (2) Descriptive and Identification Data.** Site plans shall consist of an overall plan for the entire [development](#), drawn to a scale of not less than 1 inch = 20 feet for property less than 1 acre, 1 inch = 30 feet for property larger than 1 acre but less than 3 acres, and 1 inch = 50 feet for property larger than 3 acres, unless another scale is approved by the Zoning Administrator. Sheet size shall be at least 24 inches by 36 inches. The following descriptive and identification information shall be included on any site plans.
- (a) Applicant's name and address, and telephone number.
  - (b) Title block indicating the name of the [development](#).
  - (c) Scale.
  - (d) Northpoint.
  - (e) Dates of submission and revisions (month, day, and year).
  - (f) Location map drawn to scale with north point.
  - (g) Legal and common description of property, including acreage.
  - (h) The dimensions of all lots and [property lines](#), showing the relationship of the site to abutting properties. If the site is a part of a larger [parcel](#) the plan should indicate the boundaries of total land holding.
  - (i) A schedule for completing the project, including the phasing or timing of all proposed [developments](#).
  - (j) Identification and seal of the architect, engineer, land surveyor, or landscape architect who prepared or supervised and approved the plan.
  - (k) Written description of proposed land [use](#).
  - (l) Zoning classification of applicant's [parcel](#) and all abutting [parcels](#).
  - (m) Proximity to [driveways](#) serving adjacent [parcels](#).
  - (n) Proximity to section corner and major [thoroughfares](#).
  - (o) Notation of any [variances](#) that have or must be secured.

(p) Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.

**(3) Site Data.**

- (a) Existing lot lines, [building lines](#), [structures](#), parking areas, and other improvements on the site and within 100 feet of the site.
- (b) Front, side, and rear [setback](#) dimensions.
- (c) Topography on the site and within 100 feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
- (d) Existing and proposed site features, including [buildings](#), [roadway](#) widths and names, and parking areas.
- (e) Existing [structures](#) within fifty (50) feet of the subject property.
- (f) Dimensions and centerlines of existing and proposed [roads](#) and [road](#) rights-of-way, and acreage of proposed [roads](#) and [road](#) rights-of-way.
- (g) Acceleration, deceleration, and passing lanes, where required.
- (h) Proposed vehicular circulation system, including location of [driveway](#) entrances, [roads](#), and on-site [driveways](#).
- (i) Typical cross-section of proposed [roads](#) and [driveways](#).
- (j) Location of existing drainage courses, [floodplains](#), lakes and streams, with elevations, and acreage of bodies of water.
- (k) Boundaries of all [wetland](#) areas, with sufficient dimensions between various points on the [wetland](#) boundary and [buildings](#), [property lines](#), or other features to allow accurate portrayal of the [wetlands](#). The acreage shall be provided separately for all [wetlands](#), and [wetlands](#) regulated by the State shall be identified. [Wetlands](#) staking and identification shall be done by a qualified [wetlands](#) expert (who must be approved by the Township). If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
- (l) Location of existing and proposed interior sidewalks and sidewalks in the [road right-of-way](#).
- (m) Exterior lighting locations and method of shielding lights from shining off the site.
- (n) Trash and recycling receptacle locations and method of screening.
- (o) Transformer pad location and method of screening, if applicable.
- (p) [parking spaces](#), typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
- (q) Information needed to calculate required parking in accordance with Zoning Ordinance standards.
- (r) The location of lawns and landscaped areas, including required landscaped [greenbelts](#).
- (s) Landscape plan, including location, size, type and quantity of proposed [shrubs](#) , trees and other live plant material.

- (t) Location, sizes, and types of existing trees five (5) inches or greater in diameter, measured at one (1) foot off the ground, before and after proposed [development](#).
- (u) Cross-section of proposed [berms](#).
- (v) Location and description of all [easements](#) for public rights-of-way, utilities, access, shared access, and drainage.
- (w) Designation of fire lanes.
- (x) Loading/unloading area.
- (y) The location of any outdoor storage of materials and the manner by which it will be screened.
- (z) Indicate locations of [steep slopes](#).

**(4) Building and Structure Details.**

- (a) Location, height, and outside dimensions of all proposed [buildings](#) or [structures](#).
- (b) Indication of the number of stores and number of commercial or office units contained in the [building](#), if applicable. If the site plan involves an existing non-residential [building](#), then a list of all tenants shall be provided. No new tenants shall be allowed to occupy the [building](#) until the site plan is fully implemented.
- (c) [Building](#) floor plans.
- (d) Total floor area.
- (e) Location, size, height, and lighting of all proposed [signs](#).
- (f) Proposed [fences](#) and walls, including typical cross-section and height above the ground on both sides.
- (g) [Building](#) facade elevations, drawn to a scale of one (1) inch equals four (4) feet, or another scale approved by the Zoning Administrator and adequate to determine compliance with the requirements of this Ordinance. Elevations of proposed [buildings](#) shall indicate type and color of exterior [building](#) materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory [buildings](#), and any outdoor or roof-located mechanical equipment, such as air conditioning units, heating units, and transformers.

**(5) Information Concerning Utilities, Drainage, and Related Issues.**

- (a) Schematic layout and description of existing and proposed sanitary sewers, sewage treatment systems, and/or septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and, the location of gas, electric, and telephone lines.
- (b) Layout and description of telecommunications infrastructure.
- (c) Indication of site grading and drainage patterns.
- (d) Types of soils and location of [floodplains](#) and [wetlands](#), if applicable.
- (e) Soil erosion and sedimentation control measures.

- (f) Proposed finish [grades](#) on the site, including the finish [grades](#) of all [buildings](#), [driveways](#), walkways, and parking lots.
- (g) Assessment of potential impacts from the [use](#), processing, or movement of hazardous materials or chemicals, if applicable.
- (h) Assessment of potential impact on groundwater, including but not limited to quality, quantity, and recharge.
- (i) All utilities shall be located underground within the boundaries of a proposed [development](#), including but not limited to gas, electric, telephone and cable television service leads.

**(6) Information Concerning Residential Development.**

- (a) The number, type and location of each type of residential unit (one [bedroom](#) units, two [bedroom](#) units, etc.).
- (b) [Density](#) calculations by type of residential unit ([dwelling units](#) per acre).
- (c) [Lot coverage](#) calculations.
- (d) Floor plans of typical [buildings](#) with square feet of floor area.
- (e) Garage and **Carpport** locations and details, if proposed.
- (f) Pedestrian circulation system.
- (g) Location and names of [roads](#) and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent [roads](#).
- (h) Community [building](#) locations, dimensions, floor plans, and facade elevations, if applicable.
- (i) [Swimming pool](#) fencing detail, including height and type of [fence](#), if applicable.
- (j) Location and size of recreation open areas.
- (k) Indication of type of recreation facilities proposed for recreation area.
- (l) If common area or community [buildings](#) are proposed, then the site plan should indicate the responsibilities of the subdivision or [condominium](#) association, property owners, or other public entity, with regard to maintenance of the common areas or community property on a continuing basis.

**(7) Information Applicable to Mobile Home Parks.**

- (a) Location and number of pads for mobile homes.
- (b) Distance between mobile homes.
- (c) Proposed placement of mobile home on each lot.
- (d) Average and range of size of mobile home lots.
- (e) [Density](#) calculations ([dwelling units](#) per acre).
- (f) [Lot coverage](#) calculations.



- (g) Garage and **Carport** locations and details, if proposed.
- (h) Pedestrian circulation system.
- (i) Location and names of [roads](#) and internal drives.
- (j) Community [building](#) location, dimensions, floor plans, and facade elevations, if applicable.
- (k) [Swimming pool](#) fencing detail, including height and type of [fence](#), if applicable.
- (l) Location and size of recreation open areas.
- (m) Indication of type of recreation facilities proposed for recreation area.

**(8) Additional Information.**

- (a) **Information Related to Condominium Development.** The following information shall be provided with all site plans involving [condominium development](#):
  - (i) **Condominium** documents, including the proposed Master Deed, [condominium](#) Bylaws, and [Condominium](#) Subdivision Plan (Exhibit B).
  - (ii) **Condominium** subdivision plan requirements, as specified in the [Condominium](#) Rules promulgated by the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services and Corporations, or successor agency.
- (b) **Items Not Applicable.** If any of the items listed are not applicable to a particular site, the following information should be provided on the site plan, or accompanying the site plan:
  - (i) A list of each item considered not applicable.
  - (ii) The reason(s) why each listed item is not considered applicable.
- (c) **Other Data That May Be Required.** Other data may be required if deemed necessary by the Township administrative officials or [Planning Commission](#) to determine compliance with the provisions in this Ordinance. Such information may include, but need not be limited to, traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

(F) **Standards for Site Plan Approval.** The following criteria shall be used as a basis upon which site plans will be reviewed and approved. The [Planning Commission](#) shall approve a site plan ONLY if it conforms to all of the following standards.

- (1) **Consistency with Master Plan.** The request satisfies the Goals, Objectives, narrative, and intent of the Township [Master Plan](#).
- (2) **Adequacy of Information.** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and [structures](#).
- (3) **Site Design Characteristics.** All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of [parcel](#), the character of adjoining property, and the type and size of [buildings](#). The site shall be developed so as not to impede the normal and orderly [development](#) or improvement of surrounding property for uses permitted by this Ordinance.

- (4) Compliance with District Requirements.** The site plan shall comply with the district requirements for minimum floor space, height of [building](#), lot size, [open space](#), [density](#) and all other requirements set forth in the Schedule of Regulations unless otherwise provided in this Ordinance.
- (a) Site Condominiums.** In the case of site [condominiums](#), these regulations shall be applied by requiring the site [condominium](#) unit to be equal in size to the minimum lot size and lot width requirements for the district in which the project is located. The site [condominium](#) unit shall be at least equivalent to the minimum lot area requirements.
- (i)** In addition, [site condominium projects](#) shall comply with all applicable design standards which have been developed for similar types of [development](#) in the Township, as described in the Zoning Ordinance and other applicable local, county, and state ordinances, laws and regulations, including but not necessarily limited to requirements for streets, [blocks](#), lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this Ordinance by reference.
- (b) Detached Condominiums.** In the case of detached [condominiums](#), these regulations shall be applied by requiring that the detached [condominium](#) units comply with the requirements governing minimum distance between [buildings](#), attachment of [buildings](#), and other applicable requirements for the district in which the project is located. Proposed detached [condominium](#) projects shall not exceed the maximum permitted [density](#) for the district in which the project is located, as determined on the basis of minimum lot size standards in this Ordinance.
- (i)** Detached [condominium](#) projects shall comply with all applicable design standards which have been developed for similar types of [development](#) in the Township, as described in the Zoning Ordinance and other applicable local, county, and state ordinances, laws and regulations, including but not necessarily limited to requirements for streets, [blocks](#), lots, utilities, and storm drainage. These requirements and specifications are hereby incorporated and are made a part of this Ordinance by reference.
- (5) Preservation of Natural Areas.** The landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal, alteration to the natural drainage course and the amount of cutting, [filling](#), and grading.
- (6) Privacy.** The site design shall provide reasonable visual and sound privacy. [Fences](#), walls, barriers, and [landscaping](#) shall be used, as appropriate if permitted, for the protection and enhancement of property and the safety and privacy of occupants and uses.
- (7) Emergency Vehicle Access.** All [buildings](#) or groups of [buildings](#) shall be so arranged as to permit convenient and direct emergency [vehicle](#) access.
- (8) Ingress and Egress.** Every [structure](#) or [dwelling unit](#) shall be provided with adequate means of [Ingress and egress](#) via public streets and walkways.
- (9) Pedestrian Circulation.** Each site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.
- (10) Vehicular and Pedestrian Circulation Layout.** The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets shall be appropriate for the volume of traffic they will carry, based on Berrien County Road Department standards. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points, construct a secondary access [road](#), install traffic controls or [signage](#), or otherwise modify the circulation plan.

- (11) **Drainage.** Appropriate measures shall be taken to insure that the removal or drainage of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create [nuisance](#) ponding in paved areas. Final [grades](#) may be required to conform to existing and future [grades](#) of adjacent properties. Grading and drainage plans shall be subject to review by the [Township Engineer](#).
- (12) **Soil Erosion and Sedimentation.** The proposed [development](#) shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current County and Township standards.
- (13) **Exterior Lighting.** Exterior lighting shall be designed so that it is focused downward and deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
- (14) **Public Services.** Adequate services and utilities, including water, sewage disposal, sanitary sewer, and stormwater control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the [development](#). All streets and [roads](#), water, sewer, and drainage systems, and similar facilities shall conform to the design and construction standards of the Township or County, as appropriate.
- (15) **Screening.** [Off-street parking](#), loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public [roads](#), shall be screened by walls or [landscaping](#) of adequate height and shall comply with Articles 10.00 and 11.00 of this Ordinance.
- (16) **Danger from Hazards.** The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and [use](#) of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township.
- (a) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharge of polluting materials to the surface of the ground, groundwater, or nearby water bodies.
- (17) **Health and Safety Concerns.** Any [use](#) in any [zoning district](#) shall comply with applicable Federal state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and, toxic and hazardous materials.
- (18) **Sequence of Development.** All [development](#) phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.
- (19) **Coordination with Adjacent Sites.** All site features, including circulation, parking, [building](#) orientation, [landscaping](#), lighting, utilities, common facilities, and [open space](#) shall be coordinated with adjacent properties.
- (20) **Characteristics of the Soils.** Soils shall have the physical, chemical, and engineering properties necessary to support the [development](#) being proposed. By way of example, consideration shall be given to the capability of soils to support the type of proposed [structure](#) and the potential impact that anticipated modifications to soils would have on ground or surface water quality.

## Section 17.03 Special Land Uses

- (A) **Intent.** The procedures and standards in this Section are intended to provide a consistent and uniform method for review of proposed plans for [special land uses](#) (sometimes also referred to as Special Uses). Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted [use](#) in a particular [zoning district](#). This Section contains standards for review of each [special land use](#) proposal individually on its own merits to determine if it is an appropriate [use](#) for the district and specific location where it is proposed.
- (B) **Procedures and Requirements.** [Special land use](#) proposals shall be reviewed in accordance with the procedures for site plan review, as follows:
- (1) **Public Hearing Required.** A public hearing shall be scheduled by the Township Administration and held by the [Planning Commission](#) before a decision is made on a [special land use](#) request.
  - (2) **Planning Commission Recommendation.** The [Planning Commission](#) shall review the application for [special land use](#) together with the public hearing findings and reports and recommendations from the Zoning Administrator, Township [Public Safety officials](#), and other reviewers. The [Planning Commission](#) shall then make a recommendation to the Township Board regarding the proposed [special land use](#), based on the requirements and standards of this Ordinance. The [Planning Commission](#) may recommend approval, approval with conditions, or denial of the [special land use](#) application as follows:
    - (a) **Approval.** Upon determination by the [Planning Commission](#) that the final plan for [special land use](#) is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the [Planning Commission](#) shall approve the [special land use](#).
    - (b) **Approval with Conditions.** The [Planning Commission](#) may impose reasonable conditions upon the approval of a [special land use](#), to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed [development](#) will be capable of accommodating increased public service loads caused by the [development](#), protecting the natural environment and conserving [natural resources](#) and energy, insuring compatibility with adjacent uses of land, and promoting the [use](#) of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect [natural resources](#) and the public health, safety and welfare of individuals in the [development](#) and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
    - (c) **Denial.** Upon determination by the [Planning Commission](#) that a [special land use](#) proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly [development](#) of the Township, the [Planning Commission](#) shall deny the [special land use](#).
  - (3) **Township Board Final Action.** The Township Board shall review the recommendation of the [Planning Commission](#), together with the public hearing findings and reports and recommendations from the Zoning Administrator, Township [Public Safety officials](#), [Township Engineer](#), and other reviewers. The Board shall then make a decision regarding the proposed [special land use](#), based on the requirements and standards of this Ordinance. The Board may approve, approve with conditions, or deny the [special land use](#) application as follows:

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

- (9) Modification to Approved Special Land Use.** [Special land use](#) approval in accordance with provisions of this Section may subsequently be modified, subject to a revised application being submitted, including payment of a fee, which shall be equal to half the fee for the original approval, notice provided to the public as required for all Special Use applications, and subject to the following requirements:
- (a)** Modifications that do not change the nature of the [use](#) or that do not affect the intensity of [use](#) may be reviewed and approved following normal site plan review procedures. In evaluating change in intensity of [use](#), the [Planning Commission](#) shall consider the extent of increase of vehicular or pedestrian traffic, the change in demand for public services, extent to which the total floor area [occupied](#) by the proposed [use](#) will increase, increased demand for parking, off-site impacts from noise, fumes, drainage, etc., and similar considerations.
  - (b)** Modifications that change the nature of the [use](#) or that result in an increase in the intensity of the [use](#) shall be reviewed in the same manner as a new [special land use](#) proposal, following the procedures in this Section.
- (10) Special Land Use Violation.** In the event that construction or subsequent [use](#) is not in compliance with the approved [special land use](#) application, the Zoning Administrator or his/her designee shall take corrective action, unless a revised [special land use](#) application is submitted for Township review, following the normal [special land use](#) review procedures. If the builder, developer, or current user fails to take corrective action or pursue approval of an amended plan, the Zoning Administrator or his/her designee may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.
- (11) Performance Guarantee.** The [Planning Commission](#) or Township Board may require that a [performance guarantee](#) be deposited with the Township to ensure faithful completion of the improvements.
- (C) Standards for Granting Special Land Use Approval.** Approval of a [special land use](#) proposal shall be based on the determination that the proposed [use](#) will be consistent with the intent and purposes of this Ordinance, will comply with all applicable requirements of this Ordinance, and the following standards:
- (1) Compatibility with Adjacent Uses.** The proposed [special land use](#) shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed [special land use](#) shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
    - (a)** The location and screening of vehicular circulation and parking areas in relation to surrounding [development](#).
    - (b)** The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding [development](#).
    - (c)** The hours of operation of the proposed [use](#). Approval of a [special land use](#) may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
    - (d)** The [bulk](#), placement, and materials of construction of the proposed [use](#) in relation to surrounding uses.
    - (e)** Proposed [landscaping](#) and other site amenities. Additional [landscaping](#) over and above the requirements of this Ordinance may be required as a condition of approval of a [special land use](#).

- (2) **Compatibility with the Master Plan.** The request satisfies the Goals, Objectives, narrative, and intent of the Township [Master Plan](#).
- (3) **Public Services.** The proposed [special land use](#) shall be located so as to be adequately served by essential public facilities and services, such as highways, [roads](#), police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the [special land use](#) is established.
- (4) **Impact of Traffic.** The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets shall be appropriate for the volume of traffic they will carry, based on Berrien County Road Department standards. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points, construct a secondary access [road](#), install traffic controls or [signage](#), or otherwise modify the circulation plan.
- (5) **Detrimental Effects.** The proposed [special land use](#) shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
- (6) **Compatibility with Natural Environment.** The proposed [special land use](#) shall be compatible with the natural environment and conserve [natural resources](#) and energy.

(D) **Impact Assessment**

- (1) **Intent.** The purpose of an Impact Assessment is to assess the developmental, ecological, social, economic, and physical impact from a proposed [development](#) on and surrounding the [development](#) site, and to determine if a proposed [use](#) will be in compliance with the site [development](#) and performance standards set forth in this Ordinance. The [Planning Commission](#) may require an Impact Assessment as part of any Special Land Use approval process. Where required, preparation of the Impact Assessment shall be the responsibility of the applicant. The applicant shall use a qualified registered professional to complete the Impact Assessment, which shall address the following issues, at minimum:
  - (a) Water, noise, and air pollution associated with the proposed [use](#).
  - (b) Effect of the proposed [use](#) on public utilities, transportation networks, and public services.
  - (c) Historic and archeological significance of the site and adjacent properties.
  - (d) Displacement of people and other land uses by the proposed [use](#).
  - (e) Alteration of the character of the area by the proposed [use](#).
  - (f) Effect of the proposed [use](#) on the Township's tax base and adjacent property values.
  - (g) Compatibility of the proposed [use](#) with existing topography, and topographic [alterations](#) required.

- (h) Impact of the proposed [use](#) on surface and groundwater.
  - (i) Operating characteristics and standards of the proposed [use](#).
  - (j) Proposed screening and other visual controls.
  - (k) Impact of the proposed [use](#) on traffic, including, but not limited to, traffic volume, traffic congestion, parking, necessary infrastructure upgrades, [curb cuts](#), traffic signals, pedestrian safety, turning movements, and impact on non-motorized transportation.
  - (l) Impact of the proposed [use](#) on flora and fauna.
  - (m) Negative short-term and long-term impacts, including duration and frequency of such impacts, and measures proposed to mitigate such impacts.
- (2) **Information Required.** Where required, an Impact Assessment shall contain all applicable information that is required for Conceptual Review of Planned [Development](#), as set forth in Articles 13 and 15.
- (3) **Evaluation of the Impact Assessment.** The [Planning Commission](#) and Township Board shall consider the criteria listed below in their evaluation of an Impact Assessment. Failure to comply with any of the criteria shall be sufficient justification to deny approval of the application. The Township Board and [Planning Commission](#) shall determine that the proposed [use](#):
- (a) Will be harmonious with and in accordance with the general objectives of the [Master Plan](#).
  - (b) Will be designed, constructed, operated, and maintained in harmony with the existing or future neighboring uses.
  - (c) Will not be hazardous or disturbing to existing or future neighboring uses.
  - (d) Will represent a substantial improvement to property in the immediate vicinity and to the community as a whole.
  - (e) Will be served adequately by essential public services and facilities, such as highways, streets, drainage [structures](#), police and fire protection, and refuse disposal, or persons or agencies responsible for the establishment of the proposed [use](#) shall be able to provide adequately for such services.
  - (f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.
  - (g) Will not involve uses, activities, processes, materials, equipment, and conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.
- (4) **Applicability of Other Standards and Ordinances.** Approval of the Impact Assessment shall not relieve the applicant from complying with other requirements of the Zoning Ordinance, or with any other Township ordinance, or with any other applicable local, State or Federal law or regulation.



## Section 17.04 Variances and Appeals

- (A) **Intent.** The purpose of this Section is to provide guidelines and standards to be followed by the [Zoning Board of Appeals](#) (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the [ZBA](#).
- (B) **Authority of the Zoning Board of Appeals.**
- (1) **General Authority.** The [Zoning Board of Appeals](#) (ZBA) shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a [variance](#) as defined in this Ordinance and the laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The [ZBA](#) shall not have the authority to alter or change [zoning district](#) classifications of any property, nor to make any change in the text of this Ordinance. The [ZBA](#) has no authority to grant [variances](#) to overturn decisions involving [special land uses](#) or planned unit [developments](#). The Township Board may require fees to cover the reasonable costs of [ZBA](#) processes.
- (2) **Administrative Review.** The [ZBA](#) shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board or commission in carrying out or enforcing any provisions of this Ordinance. Such appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed.
- (a) In hearing and deciding appeals under this sub-section, [ZBA](#) review shall be based upon the record of the administrative decision being appealed, and the [ZBA](#) shall not consider new information which had not been presented to the administrative official, board or commission from whom the appeal is taken. The [ZBA](#) shall not substitute its judgment for that of the administrative official, board or commission being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official, board or commission breached a duty or discretion in carrying out this Ordinance.
- (3) **Interpretation.** The [ZBA](#) shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map. The [ZBA](#) shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the [ZBA](#) shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the [ZBA](#) may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.
- (4) **Variances.** The [ZBA](#) shall have authority in specific cases to authorize one or more dimensional or "non-use" [variances](#) from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or [non-use variance](#) allows a deviation from the dimensional (i.e., height, [bulk](#), [setback](#)) requirements of the Ordinance. A [use variance](#) authorizes the establishment of a [use](#) of land that is otherwise prohibited in a [zoning district](#). The [ZBA](#) is not authorized to grant [use variances](#) by this Ordinance. Such authority shall be exercised in accordance with the following standards.

- (a) The [ZBA](#) may grant a requested "non-use" [variance](#) only upon a finding that practical difficulties exist *and* that the need for the [variance](#) is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same [zoning district](#). In determining whether practical difficulties exist, the [ZBA](#) shall consider the following factors:
- (i) Unique circumstances or conditions exist which apply to the land, [structure](#) or [building](#) involved and which are not applicable to other lands, [structures](#), or [buildings](#) in the same [zoning district](#).
  - (ii) As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the [use](#) of the property for a permitted purpose, or would be unnecessarily burdensome.
  - (iii) The unique circumstances do not result from the actions of the applicant, including the knowing purchase of a property limited by existing non-conformities.
  - (iv) The [variance](#) requested is the minimum [variance](#) which will make possible the reasonable [use](#) of the land, [building](#) or [structure](#).
  - (v) The granting of the [variance](#) will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety and welfare.
- (b) In all [variance](#) proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the [ZBA](#) may make the required findings. Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a [variance](#) request.
- (5) **Conditions.** The [ZBA](#) may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or [variance](#) request. Conditions imposed shall meet the following requirements:
- (a) Be designed to protect [natural resources](#), the health, safety and welfare and the social and economic well-being of those who will [use](#) the land [use](#) or activity under consideration, residents and landowners immediately adjacent to the proposed land [use](#) or activity, and the community as a whole.
  - (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed [use](#) or activity.
  - (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land [use](#) or activity under consideration, and be necessary to insure compliance with those standards.
- (6) Conditions imposed with respect to the approval of a [variance](#) shall be recorded as part of the [ZBA](#) minutes, and shall remain unchanged except upon the mutual consent of the [ZBA](#) and the landowner following notice and hearing as required in a new case.

**(C) Applications and Notices.**

- (1) **Application.** All applications to the [ZBA](#) shall be filed with the Township, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. Applications shall include seven (7) individually folded copies and one (1) digital copy of all plans, studies and other information and data to be relied upon by the applicant. These materials shall be submitted to the Township no later than thirty (30) days prior to the [Zoning Board of Appeals](#) meeting at which the review is requested.

- (2) **Plot Plan.** A [plot plan](#) (seven (7) copies, minimum size 11 inches by 14 inches) shall be required with all [variance](#) requests. The plan, which shall accompany all [variance](#) requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all [property lines](#) and dimensions, [setbacks](#) and all existing and proposed [structures](#).
- (a) The [Zoning Board of Appeals](#) has the authority to require a land survey prepared by a licensed land surveyor when the [ZBA](#) determines it to be necessary to insure accuracy of the plan.
- (b) The [ZBA](#) shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.
- (3) **Applications Involving an Appeal of Administrative Order.** In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, upon notice from the Zoning Department, shall transmit to the [ZBA](#) copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- (4) **Consent of Property Owner Required.** Applications to the [ZBA](#) shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.
- (5) **Notice.** Notice of a public hearing concerning a request for a dimensional variance, interpretation of the zoning ordinance, or an appeal of an administrative decision shall be given as follows:
- (a) A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Township and sent to the person requesting the interpretation not less than 15 days before the public hearing.
- (b) If the request for a dimensional variance, interpretation, or appeal involves a specific [parcel](#), written notice stating the nature of the request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to all persons to whom [real property](#) is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all [structures](#) within three hundred (300) feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- (6) **Stay of Proceedings.** An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the [ZBA](#) that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the [ZBA](#), or by a court of competent jurisdiction.
- (7) **Decision by the Zoning Board of Appeals.** The concurring vote of a majority of the membership of the [ZBA](#) shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board, or commission made in the administration of this ordinance, to decide in favor of an applicant on any matter upon which the [ZBA](#) is required to pass under this ordinance, or to grant a "non-use" [variance](#) from the terms of this ordinance.

**(D) Disposition and Duration of Approval.**

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

  - (a)** The official records of the [ZBA](#) proceedings shall be filed in the Township Hall and shall be public records.
- (5) Appeal of a ZBA Decision.** Appeals of a [ZBA](#) decision shall be taken in the manner provided by law.
- (6) New Application for Variance.** If the [ZBA](#) denies a request for a [variance](#), the decision of the [ZBA](#) shall not be subject to re-consideration for a period of one year, whereupon the applicant may submit a new application for the [variance](#). However, the [ZBA](#) may waive the one year period if conditions upon which their original decision was made change, or if information relating to the original decision are found to be incorrect or inaccurate.

## Section 17.05 Amendments

- (A) Initiation of Amendment.** The Township Board may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

(B) **Application for Amendment.** A petition for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property, shall be commenced by filing a petition on the forms provided by the Township and accompanied by the fees specified. The petition shall describe the proposed amendment and shall be signed by the applicant. Petitions for rezoning of a specific site shall be accompanied by a [plot plan](#) or survey, which shall contain the following information. These materials shall be submitted to the Township no later than noon thirty (30) calendar days prior to the [Planning Commission](#) or Township Board meeting at which the review is requested.

- (1) Applicant's name, address, and telephone number.
- (2) Scale, north point, and dates of submittal and revisions.
- (3) Zoning classification of petitioner's [parcel](#) and all abutting [parcels](#).
- (4) Existing lot lines, [building lines](#), [structures](#), parking areas, [driveways](#), and other improvements on the site and within fifty (50) feet of the site.
- (5) Proposed lot lines and lot dimensions, and general layout of proposed [structures](#), parking areas, [driveways](#), and other improvements on the site.
- (6) Dimensions, centerlines, and [right-of-way](#) widths of all abutting streets and [alleys](#), both public and private.
- (7) General location of existing drainage courses, [floodplains](#), lakes and streams, and woodlots.
- (8) All existing and proposed [easements](#).
- (9) Location of sanitary sewer or septic systems, existing and proposed.
- (10) Location and size of water main, well sites, and [building](#) services, existing and proposed.

(C) **Review Procedures.** After the completed petition and all required supporting materials have been received and fees paid, the petition shall be reviewed in accordance with the following procedures:

- (1) **Planning Commission Review.** The petition shall be placed on the agenda of the next regularly scheduled meeting of the [Planning Commission](#). The [Planning Commission](#) shall review the petition for amendment in accordance with the procedures and public hearing and notice requirements set forth in Michigan Public Act 110 of 2006, as amended, and schedule a public hearing for the request on the next available [Planning Commission](#) agenda.
- (2) **Action by the Planning Commission.** Following the hearing on the proposed amendment, the [Planning Commission](#) shall make written findings of fact which it shall transmit to the Township Board, together with the comments made at the public hearing and its recommendations.
- (3) **Action by the Township Board.** The Township Board may hold additional hearings if the Board considers it necessary, following the hearing and notice requirements of Michigan Public Act 110 of 2006, as amended. The Township Board may by majority vote of its membership adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the [Planning Commission](#) for further review and recommendation within a specified time period. Thereafter, the Township Board may either adopt the amendment with or without the recommended revisions, or reject it.

- (4) Review Considerations.** The [Planning Commission](#) and Township Board shall at minimum, consider the following before taking action on any proposed amendment.
- (a) Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
  - (b) Will the proposed amendment further the comprehensive planning goals of the Township as reflected in the [Master Plan](#)?
  - (c) Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment?
  - (d) Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
  - (e) Will the amendment result in unlawful exclusionary zoning?
  - (f) Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
  - (g) If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
  - (h) If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject [parcel](#)?
  - (i) If a rezoning is requested, is the proposed zoning consistent with the trends in land [development](#) in the general vicinity of the property in question?
  - (j) Will the proposed amendment be consistent with the purposes of this Ordinance and, in particular, will the proposed amendment promote the public health, safety and welfare?
- (5) Notice of Record of Amendment Adoption.** Following adoption of an amendment by the Township Board, one notice of adoption shall be filed with the Township Clerk and one notice shall be published in newspaper of general circulation in the Township within fifteen (15) days after adoption, in accordance with Michigan Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the Township Clerk. A master Zoning Map shall be maintained by the Township, which shall identify all map amendments.
- (D) Referendum.** Within thirty (30) days following the passage of the amendment, a petition signed by a number of qualified and registered voters as specified in Section 402 of Public Act 110 of 2006, as amended, may be filed with the Township Clerk requesting submission of an ordinance or part of an ordinance to the electors for their approval, in accordance with Section 402(2) of Michigan Public Act 110 of 2006, as amended.

## **Section 17.06 Conditional Rezoning**

- (A) Intent.** The [Planning Commission](#) and Township Board recognize that, in certain instances, it would be an advantage to the Township and to property owners seeking rezoning if the application for rezoning was accompanied by a site plan and was subject to certain conditions. Accordingly, it is the intent of this Section of the Zoning Ordinance to provide a conditional rezoning option to property owners in connection with the submission of an application for rezoning.

**(B) Authorization and Eligibility.**

- (1) Application for Optional Conditional Rezoning.** A property owner shall have the option of seeking conditional rezoning in connection with submission of an application (including all required fees) seeking rezoning. The conditional rezoning option shall be selected by filing an Application for Conditional Rezoning Review. Conditional rezoning represents a legislative amendment to the Zoning Ordinance, pursuant to Section 405 of Michigan Public Act 110 of 2006, as amended.
- (2) Site-Specific Regulations.** In order to be eligible for review of an application for conditional rezoning, a property owner must propose a rezoning of property to a new [zoning district](#) classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a [CR Plan](#) and in a [CR Agreement](#)) which are equally or more strict or limiting than the regulations that would apply to the land under the proposed [zoning district](#).

**(C) Review and Approval Procedures.**

- (1) Pre-Application Meeting.** Prior to submitting an Application for Conditional Rezoning, the applicant may schedule a pre-application meeting with the Zoning Administrator to review the conditional rezoning guidelines and expectations. The applicant shall pay the expenses incurred by the Township for this meeting.
- (2) Application.** A property owner or his/her designated agent may submit an Application for Conditional Rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The application, which may be amended during the review process, shall include a [CR Plan](#) proposed by the applicant and a list of Rezoning Conditions proposed by the applicant, recognizing that the Rezoning Conditions shall not authorize uses or [development](#) not permitted in the proposed [zoning district](#).
- (3) Planning Commission Review.** After the completed application and all required supporting materials have been received and fees paid, the petition shall be reviewed by the [Planning Commission](#).
  - (a) Public Hearing.** The petition shall be placed on the agenda of the [Planning Commission](#). The [Planning Commission](#) shall review the petition for amendment in accordance with the procedures and public hearing and notice requirements set forth in Michigan Public Act 110 of 2006, as amended.
  - (b) Action by the Planning Commission.** Following the hearing on the proposed amendment, the Planning Commission shall make findings of fact which it shall transmit to the Township Board, together with the comments made at the public hearing and its recommendation.
- (4) County Planning Commission Review.** The petition shall be reviewed by the Berrien County [Planning Commission](#), which shall provide a recommendation to the Township Board.
- (5) Township Board Consideration.** Upon receipt of the recommendation of the Township and County [Planning Commissions](#), the Township Board shall deliberate on the proposed conditional rezoning. If the Township Board determines that it may approve the conditional rezoning, then the Township Board shall work with the landowner to clarify tentative conditions so that the applicant (or designee) can develop a draft [CR Agreement](#).
- (6) Township Board Action.** Upon completion of the [CR Agreement](#), the Township Board, by majority vote of its membership, shall make a final determination to approve or deny the conditional rezoning.

- (7) **Zoning District Designation.** If approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to “CR, Conditional Rezoning.” For example, in the Local Commercial District the Zoning Map designation would be “C-1/CR” The [use](#) of property so designated shall be restricted to the uses specified in the [CR Agreement](#), and no other [development](#) or [use](#) shall be permitted.
- (8) **Effects of Approval.** The [use](#) of property in question shall conform to all regulations governing [development](#) and [use](#) in the [zoning district](#) to which the property has been rezoned, subject to the following:
- (a) **Development Subject to Conditional Rezoning Requirements.** [Development](#) and [use](#) of the property shall be subject to the more restrictive requirements specified on the [CR Plan](#), in the Rezoning Conditions and in the [CR Agreement](#), required as part of the Conditional Rezoning approval. Such requirements shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
- (b) **Site Plan Review and Other Approvals Required.** Approval of the [CR Plan](#) and Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the [CR Plan](#). Site plan, [special land use](#), plat, and [condominium](#) approval, as appropriate, shall be required, pursuant to procedures in Article 17.00, prior to any improvements to the property.
- (i) Any [use](#) or [development](#) proposed as part of any offer of conditions that would require a [variance](#) under the terms of this Ordinance may only be commenced if a [variance](#) for such [use](#) or [development](#) is ultimately granted by the [Zoning Board of Appeals](#) in accordance with the provisions of this Ordinance.
- (c) **Recording and Publication of CR Agreement.** A conditional rezoning shall become effective following publication in the manner provided by law, and, after recordation of the [CR Agreement](#), whichever is later.
- (9) **Amendment of CR Agreement.** Amendment of a [CR Agreement](#) shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.
- (10) **Expiration of CR Agreement.** The conditional rezoning approval shall expire following a period of two (2) years from the [effective date](#) of the rezoning unless: 1) approved [development](#) of the property commences within such two (2) year period and proceeds without delay and in good faith as required by ordinance toward substantial completion, or 2) the rezoning is extended for good cause by the Township Board as provided herein.
- (a) **Extension of Approval.** In the event that a [development](#) has not commenced within two (2) years from the [effective date](#) of the rezoning, the Township Board shall initiate reversion of the zoning to its former classification. However, the land owner may apply to the Township Board for a one (1) year extension one (1) time. The request for extension must be submitted to the Township Clerk before the two (2) year time limit expires. The land owner must show good cause why the extension should be granted.
- (b) **Reversion of Zoning.** If approved [development](#) and/or [use](#) of the rezoned land does not occur within the time frame specified under Subsection (10)(a). above, then the land shall revert to its former zoning classification as set forth in MCL 125.286i. The reversion process shall be initiated by the Township Board requesting that the [Planning Commission](#) proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.



- (11) **Violations of the CR Agreement.** If [development](#) or actions are undertaken on or with respect to the property in violation of the [CR Agreement](#), such [development](#) or actions shall constitute a [nuisance](#) per se. In such case, the Township may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the [CR Agreement](#), the Township may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
- (12) **Fees.** The applicant shall pay as a fee the expenses incurred by the Township in the review of a conditional rezoning application. An escrow shall be established in an amount specified by Township Board resolution, and additional reasonable amounts shall be contributed as required in order to complete the review and approval process. Any unexpended amounts from such escrow shall be returned to the applicant.
- (D) **Elements of a Conditional Rezoning Application.** As an integral part of the conditional rezoning, the following elements shall be provided by the applicant for review by the Township.
- (1) **CR Plan.** A [CR Plan](#), with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section. The [CR Plan](#) shall not replace the requirements for site plan, subdivision or [condominium](#) approval, as the case may be.
- (2) **Rezoning Conditions.** Rezoning conditions, which shall not authorize uses or [development](#) not permitted in the proposed [zoning district](#) and which shall not permit uses or [development](#) expressly or implicitly prohibited in the [CR Agreement](#). Rezoning conditions may include some or all of the following:
- (a) The location, size, height, and [setbacks](#) of [buildings](#), [structures](#), and improvements.
  - (b) The maximum [density](#) or intensity of [development](#) (e.g., units per acre, maximum usable floor area, hours of operation, etc.).
  - (c) Measures to preserve [natural resources](#) or features.
  - (d) Facilities to address storm water drainage and water quality.
  - (e) Facilities to address traffic issues, for example, through [road](#) paving or other [road](#) improvements.
  - (f) Open space preservation provisions.
  - (g) Minimum [landscaping](#), buffering and screening provisions.
  - (h) Added [landscaping](#), above and beyond what is required by the Zoning Ordinance.
  - (i) [Building](#) design, materials, lighting and sign criteria.
  - (j) Permissible and prohibited uses of the property.
  - (k) Provisions to preserve historic farms, barns and other [buildings](#) to preserve the history of the Township.
  - (l) Reclamation and reuse of land, where previous [use](#) of land causes severe [development](#) difficulties, or has caused blight.
  - (m) Drainage improvements, beyond what is required by ordinance, using best management practices.
  - (n) Such other conditions as deemed important to the [development](#) by the applicant.

- (3) **CR Agreement.** A [CR Agreement](#), which is voluntarily offered by the applicant (or designee), shall incorporate the [CR Plan](#) and set forth the Rezoning Conditions, together with any other term mutually agreed upon by the parties, including the following terms:
- (a) Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the [CR Agreement](#).
  - (b) Agreement and acknowledgement that the conditions and [CR Agreement](#) are authorized by all applicable state and federal laws and constitution, and that the [CR Agreement](#) is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
  - (c) Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the [CR Plan](#) and [CR Agreement](#).
  - (d) Agreement and understanding that the approval and [CR Agreement](#) shall be binding upon and inure to the benefit of the property owner and the Township, and their respective heirs, successors, assigns, and transferees.
  - (e) Agreement and understanding that, if a conditional zoning expires in the manner provided in this Section, no [development](#) shall be undertaken or permits for [development](#) issued until a new [zoning district](#) classification of the property has been established.
  - (f) Agreement and understanding that each of the requirements and conditions in the [CR Agreement](#) represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the [use](#) represented in the approved conditional rezoning, taking into consideration the changed [zoning district](#) classification and the specific [use](#) authorization granted.
  - (g) Any other agreement voluntarily proposed by the applicant (or designee) that is consistent with all applicable state and federal laws and is agreed to by the Township.
- (E) **Approval Criteria.** The applicant shall have the burden of demonstrating that the following requirements and standards are met by the [CR Plan](#), Rezoning Conditions, and [CR Agreement](#):
- (1) **Enhancement of the Project Area.** The Township Board, upon recommendation from the [Planning Commission](#), shall determine that approval of the conditional rezoning shall accomplish the integration of the proposed land [development](#) project with the characteristics of the project area, and result in an enhancement of the project area, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the [use](#) of conditional rezoning.
  - (2) **In the Public Interest.** The Township Board, upon recommendation from the [Planning Commission](#), shall determine that, in considering the site specific land [use](#) proposed by the applicant, sufficient conditions have been included in the [CR Plan](#) and [CR Agreement](#) so that it would be in the public interest to grant the conditional rezoning. In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles.
  - (3) **Consistency with the Master Plan.** The request satisfies the Goals, Objectives, narrative, and intent of the Township [Master Plan](#).
  - (4) **Review Considerations.** The [Planning Commission](#) and Township Board shall consider the review considerations set forth for all amendments to the Zoning Ordinance and/or map.

## Section 17.07 Permits and Certificates

### (A) Permits.

- (1) **Permit Required.** A [building](#) permit or other appropriate permit shall be required as follows:
  - (a) Prior to the erection, alteration, repair, renovation, demolition (interior or exterior) or removal of any [building](#) or [structure](#).
  - (b) Prior to the installation, extension, or replacement of plumbing, electrical, mechanical, drainage, or similar utility systems.
  - (c) Prior to the establishment of a new [use](#), whether the land is currently vacant or if a change in land [use](#) is proposed.
  - (d) Prior to any change in [use](#), as defined by the Michigan Building Code, of an existing [building](#) or [structure](#) to a different class or type.
  - (e) In all other instances specified by the adopted Township Building Code (for the purpose of this Ordinance, "Building Code" includes related codes adopted by the Township, such as the Electrical and Mechanical Codes).
- (2) **Definition of Alteration and Repair.** For the purposes of this Section, the terms "alteration" and "repairs" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of [Ingress and egress](#), or other changes affecting or regulated by the Building Code, the Housing Law of Michigan (Public Act 167 of 1918, as amended), or this Ordinance or other applicable ordinances of the Township.
- (3) **Application Requirements.** No permit shall be issued for construction, alteration, demolition, or remodeling of any [building](#) or [structure](#) until an application has been submitted, showing that the proposed improvements are in conformance with the provisions of this Ordinance and with the Building Code.
  - (a) Applications for permits required by this Section shall be filed with the Building Department. Each application shall be accompanied by a written detailed explanation of the proposed improvements, and, if applicable, dimensioned plans drawn to scale. The plans shall be of sufficient detail to allow the [Building Official](#) to determine whether the proposed improvements are in conformance with this Ordinance, the Building Code, and other applicable laws and ordinances. At minimum, the plans shall illustrate information requested on the application form or by the [Building Official](#).
- (4) **Conformity with Applicable Ordinances and Approved Plans.** Permits shall be issued only if, after thorough inspection of the application materials and plans, the [Building Official](#) finds that the proposal is in conformance with this Ordinance, the adopted Building Code, and other applicable laws and ordinances, except where the [Building Official](#) receives written notice of a [variance](#) having been granted by the [Zoning Board of Appeals](#).
  - (a) [Building](#) permits issued on the basis of plans and application materials approved by the [Building Official](#) authorize only the [use](#), layout, and construction set forth in such plans and application materials. Use, layout, or construction at [variance](#) with approved plans and application materials shall be deemed in violation of this Ordinance, and subject to penalties in accordance with this Ordinance.
- (5) **Expiration of Permits.** A permit issued for construction, or remodeling of any [building](#) or [structure](#) shall be subject to terms of expiration specified in the adopted Building Code.
- (6) **Inspection of Completed Work.** The holder of any permit issued pursuant to the requirements in this Section shall notify the [Building Official](#) immediately upon completion of the work authorized by the permit for a final inspection and to request a Certificate of Occupancy.

(B) **Certificates of Occupancy.** A Certificate of Occupancy shall be required prior to occupancy or [use](#) of any land, [building](#) or [structure](#). The following guidelines shall apply to Certificates of Occupancy:

**(1) General Requirements.**

(a) **Purpose.** The purpose of a Certificate of Occupancy is to permit the occupancy or [use](#) of land, [buildings](#), or [structures](#), upon first making the determination that the provisions of this Ordinance have been complied with and that all outstanding fees have been paid.

(b) **Certificates for New and Existing Buildings.** Certificates of Occupancy shall be issued for new or existing [buildings](#) or [structures](#), or parts thereof, or existing or new uses of land if, after inspection, the [Building Official](#) finds that any [alterations](#), extensions, repairs, or new construction have been completed in conformity with the provisions of Building Code and other applicable codes and ordinances.

(c) **Certificates for Accessory Buildings to Dwellings.** [Buildings](#) and [structures](#) that are accessory to a dwelling shall not require a separate Certificate of Occupancy, but may be included in the Certificate of Occupancy for the principal [use](#) on the same [parcel](#), provided the [accessory buildings](#) or uses are shown on the [plot plan](#) and are completed at the same time as the principal [use](#).

(2) **Period of Validity.** A final Certificate of Occupancy shall remain in effect for the life of the [building](#) or [structure](#), or part thereof, or [use](#) of the land, until the [use](#) of the [building](#), [structure](#), or land changes. A change of [use](#), as defined by the Michigan Building Code, shall require a new Certificate of Occupancy.

(3) **Records of Certificates.** A record of all Certificates of Occupancy shall be kept at the Township Hall. Copies of such Certificates shall be furnished upon request to a person or persons having a propriety or tenancy interest in the property.

(4) **Procedure.** The [Building Official](#) shall issue a Certificate of Occupancy upon finding that the [building](#) or [structure](#), or part thereof, or the [use](#) of land is in conformance with the provisions of the Building Code and other applicable codes and ordinances. If the [Building Official](#) denies approval of a Certificate, the applicant shall be notified in writing of the denial and the reasons for denial.

## Section 17.08 Filing Fees

(A) All applications shall be accompanied by a filing fee which shall be established by resolution of the Township Board, in accordance with Section 406 of Public Act 110 of 2006, as amended. This filing fee may include a deposit toward the costs of any consultants retained by the Township for reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reporter services, or similar services. The filing fee and deposit shall be paid before the review process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application.

(B) Any deposit toward the cost of any consultants shall be credited against the expense to the Township of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within 30 days of final action on the application.

(C) A schedule of the current filing fees and deposit requirements shall be made available in the office of the Zoning Administrator.

(D) The assessment and payment of application fees does not affect the requirements for a [performance guarantee](#).

(E) There shall be no fee in the case of application filed in the public interest by a municipal department or Township Official.

## Section 17.09 Violations and Penalties

- (A) **Public Nuisance.** [Buildings Erected](#), altered, razed or converted (including tents, mobile homes, and [trailer](#) coaches), or uses carried on in violation of any provision of this Ordinance are hereby declared to be a [nuisance](#) per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.
- (B) **Violation Defined.** Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by the [Building Official](#) or other [Enforcement Official](#) shall be deemed in violation of this Ordinance.
- (C) **Penalties.** Any violation of this Ordinance shall constitute municipal civil infraction (as defined by Michigan Statute). The penalty for a municipal civil infraction shall be a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1 <sup>st</sup> Offense	\$75.00	\$500.00
2 <sup>nd</sup> Offense	150.00	500.00
3 <sup>rd</sup> Offense	325.00	500.00
4 <sup>th</sup> Offense	500.00	500.00

- (1) In addition, the violator shall pay costs which may include all expenses, direct and indirect, which Chikaming Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$25.00 be ordered.
- (2) Upon notice of a violation, the appropriate Township employee shall investigate any violation and then make a determination as to whether the penalty shall be imposed. This municipal civil infraction ticket shall serve as notice of the alleged violation. The imposition of a municipal civil infraction fine for any violation shall not excuse the violation or permit it to continue. Further violations subject the owner or occupant, or person or persons, agent, firm or corporation to subsequent municipal civil infraction violations.
- (3) Furthermore, the owner or tenant of any [building, structure](#), premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation, of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.
- (4) The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.
- (D) **Authority to Pursue Court Action.** The Township Board or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain or prevent any non-compliance with, or violation of, any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Township Board in such a suit to abate the violation.

- (E) **Other Remedies.** The rights and remedies set forth above shall not preclude the [use](#) of other remedies provided by law, including any additional rights of the Township to initiate proceedings in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this Ordinance, or to correct, remedy, or abate such non-compliance.
- (F) **Rights and Remedies Preserved.** Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver or nor prevent any further prosecution of violations of this Ordinance.

## **Section 17.10 Records**

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

## **Section 17.11 Public Notice**

The Township shall ensure that any application process requiring a public hearing shall comply with the requirements of PA 110 of 2006, as amended, and the procedures of this Section.

- (A) **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
- (B) **Personal and Mailed Notice.**
- (1) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
  - (2) Notice shall be sent to all persons to whom [real property](#) is assessed within three hundred (300) feet of the property and to the occupants of all [structures](#) within three hundred (300) feet of the property, including the owners or occupants of [structures](#) located in adjacent cities or townships. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - (3) All notice delivered by mail or personal delivery must be given not less than fifteen (15) days before the date of the public hearing. Notice shall be deemed mailed by its deposit in the United States mail.
  - (4) The Township shall prepare a list of property owners and occupants to whom notice was mailed or delivered.
  - (5) **Content.** Any notice published in a newspaper or delivered by mail or personal delivery shall:
    - (a) Describe the nature of the request.
    - (b) Indicate the property that is the subject of the request.
    - (c) Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
    - (d) When and where the public hearing will occur.
    - (e) When and where written comments may be submitted concerning the request.

# Article 18 Administrative Organization

## Section 18.01 Overview

(A) The Township Board of Trustees or its duly authorized representative as specified in this Article is hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following Township entities:

- (1) Township Board of Trustees
- (2) Township [Planning Commission](#)
- (3) [Zoning Board of Appeals](#)
- (4) Zoning [Enforcement Officials](#), Including the Zoning Administrator.

(B) The purpose of this article of the Zoning Ordinance is to set forth the responsibilities and scope of authority of these entities.

## Section 18.02 Township Board of Trustees

The Township Board of Trustees shall have the responsibilities granted to it by the Michigan Planning Enabling Act (Public Act 33 of 2008, as Amended) and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as Amended), as well as the powers explicitly granted to it in this Ordinance.

(A) **Setting of Fees.** By resolution, the Township Board shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance.

## Section 18.03 Township Planning Commission

The Township [Planning Commission](#) shall have the following responsibilities and authority pursuant to this Ordinance.

(A) **Creation.** The Township [Planning Commission](#) was created pursuant to Michigan Public Act 33 of 2008, as amended, the Michigan Planning Enabling Act, and Township Ordinance. The [Planning Commission](#) will continue to operate under the jurisdiction of those Acts.

(B) **Membership and Operation.** Members of the [Planning Commission](#) shall be appointed by the Township Supervisor with the approval of the Township Board of Trustees. The qualifications of members, the term of each member, [filling](#) of vacancies, removal of members, compensation of members, and operation of the [Planning Commission](#) shall be in accordance with Michigan Public Act 33 of 2008, as amended, and Township Ordinance.

- (1) The [Planning Commission](#) by resolution shall determine the time and place of meetings. A special meeting may be called by either two (2) members upon written request to the secretary, or by the chairperson. The [Planning Commission](#) shall adopt by-laws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

(C) **Jurisdiction.** The [Planning Commission](#) shall have the responsibilities granted to it by the Michigan Planning Enabling Act (Public Act 33 of 2008, as Amended) and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as Amended), as well as the powers explicitly granted to it in this Ordinance.

- (1) **Report on Operation of the Zoning Ordinance.** In accordance with Section 308(2) of Michigan Public Act 110 of 2006, as amended, the [Planning Commission](#) shall periodically prepare for the Township Board of Trustees a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance.
- (2) **Capital Improvements Plan.** In accordance with Section 65(1) of Michigan Public Act 33 of 2008, as amended, the [Planning Commission](#), after adoption of a [master plan](#), shall annually prepare a capital improvements program of public [structures](#) and improvements.

## Section 18.04 Zoning Board of Appeals

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

- (A) **Membership and Operation.** The [ZBA](#) shall consist of five (5) members who shall be appointed in accordance with Section 601(3) of Michigan Public Act 110 of 2006, as amended, as follows:
- (1) The first member shall be a member of the [Planning Commission](#), as appointed by the Township Board.
  - (2) The remaining members (including any alternate members) shall be electors of the Township residing outside of incorporated cities and villages, and shall be representative of the population distribution and of the various interests present in the Township.
  - (3) Of the remaining members, one shall be a member of the Township Board.
  - (4) No employee or contractor of the Township may be a member or employee of the Board of Appeals. No Township Board member may serve as chairman of the Board of Appeals.
  - (5) The qualifications of members, the term of each member, [filling](#) of vacancies, compensation of members, and operation of the [ZBA](#) shall be in accordance with Michigan Public Act 110 of 2006, as amended. The [ZBA](#) shall not conduct business unless a majority of the members of the Board are present.
  - (6) The Township Board may appoint up to 2 alternate members for the same term as regular members to the [ZBA](#). An alternate member may be called to serve as a member of the [ZBA](#) in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the [ZBA](#).
- (B) **Meetings.** Meetings of the [ZBA](#) shall be held in accordance with an adopted schedule, or at the call of the Chairperson, or at such other times as the [ZBA](#) may specify in its bylaws. The [ZBA](#) shall state the grounds of each determination, and shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk.

## Section 18.05 Zoning Administrator/Building Official

- (A) **Overview.** As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Zoning Administrator/[Building Official](#), or their duly authorized assistants, agents or representatives. In carrying out their designated duties, all such enforcement officers shall administer the Ordinance and shall not make changes or vary the terms of the Ordinance.
- (B) **Responsibilities of the Zoning Administrator and/or Building Official.** In addition to specific responsibilities outlined elsewhere in this Ordinance, the Zoning Administrator and/or [Building Official](#) or his/her duly authorized assistants or agents shall have the following responsibilities. The roles of Zoning Administrator and/or [Building Official](#) shall include:
- (1) Provide citizens and public officials with information relative to this Ordinance and related matters.
  - (2) Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.



- (3) Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance.
- (4) Issue appropriate permits upon compliance with provisions of this Ordinance and other applicable ordinances.
- (5) Perform inspections of [buildings](#), [structures](#), and premises to insure proposed land [use](#) changes or improvements are in compliance with this Ordinance.
- (6) Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, citations, issuance of orders to stop work, and revoking of permits.
- (7) Perform other related duties required to administer this Ordinance.
- (8) Maintain records as accurately as is feasible of all [nonconforming uses](#), [structures](#), and lots existing on the [effective date](#) of this Ordinance, and update this record as conditions affecting the nonconforming status of such uses changes.

## Section 18.06 Performance Guarantee

### (A) Intent and Scope of Requirements.

- (1) To ensure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the [Planning Commission](#), [Zoning Board of Appeals](#), or Township Board may require that a [performance guarantee](#) be deposited with the Township to insure faithful completion of improvements, in accordance with Section 505 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
- (2) Improvements for which the Township may require a [performance guarantee](#) include, but are not limited to, [landscaping](#), [berms](#), walls, lighting, [driveways](#) and parking, acceleration/deceleration lanes, traffic control devices, sidewalks, completion of construction in a timely fashion, [wetlands](#) disturbance, and land reclamation activities.

### (B) General Requirements. The [performance guarantee](#) shall meet the following requirements:

- (1) The [performance guarantee](#) shall be in the form of an insurance bond, an irrevocable bank letter of credit, or cash escrow. Any such [performance guarantee](#) shall not have an expiration date and shall include a provision that calls for notification of the Township if the bond is canceled. If the applicant posts a letter of credit, the credit shall require only that the Township present the credit with a sight draft and an affidavit signed by the Township Supervisor attesting to the Township's right to draw funds under the credit. The escrow funds shall be delivered directly to the Township for deposit.
- (2) The [performance guarantee](#) shall be submitted at the time of issuance of the permit authorizing the activity or project. If appropriate, based on the type of [performance guarantee](#) submitted, the Township shall deposit the funds in an interest-bearing account in a financial institution with which the Township regularly conducts business.
- (3) The amount of the [performance guarantee](#) shall be 125% of the estimated cost of the improvements for which the [performance guarantee](#) is required. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements. The exact amount of the [performance guarantee](#) shall be determined by the [Building Official](#).

- (4) The entire [performance guarantee](#) shall be returned to the applicant following inspection by the [Building Official](#) and a determination that the required improvements have been completed satisfactorily. The [performance guarantee](#) may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of ten percent (10%) shall be held back on each element until satisfactory completion of the entire project.
- (5) An amount not less than ten percent (10%) of the total [performance guarantee](#) may be retained for a period of at least one year after installation of landscape materials to insure proper maintenance and replacement, if necessary. This amount shall be released to the applicant upon certification by the Zoning Administrator, or his/her designee, that all landscape materials as defined in Article 10 are being maintained in good health and condition.
- (C) **Unsatisfactory Completion of Improvements.** Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this Ordinance, the Township may complete the necessary improvements itself or by contract to an independent developer, and assess all costs of completing said improvements against the [performance guarantee](#). Prior to completing said improvements, the Township shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements.

# Article 19 Rules of Construction

## Section 19.01 Rules of Construction

The following rules of construction apply to the text of this Ordinance:

- (A) The particular shall control the general.
- (B) Words used in the present tense shall include the future, unless the context clearly indicates the contrary.
- (C) Words used in the singular number shall include the plural; and words used in the plural shall include the singular, unless the context clearly indicates the contrary.
- (D) Terms referred to in the masculine gender include the feminine and neuter.
- (E) The word **shall** is always mandatory and not discretionary; the word **may** is permissive and discretionary.
- (F) The word build includes the words **erect** and **construct**.
- (G) The word [building](#) includes the word [structure](#). A [building](#) or [structure](#) includes any part thereof.
- (H) The words **include or including** shall mean including but not limited to.
- (I) The phrase **such as** shall mean such as but not limited to.
- (J) The phrase **used for** includes arranged for, designed for, intended for, [occupied](#) for, and maintained for.
- (K) The word **person** includes an individual, firm, association, organization, private or public corporation, partnership or co-partnership, a limited liability company, incorporated or unincorporated association, trust, or any other entity recognizable as a person under the laws of the State of Michigan.
- (L) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction **and**, **or**, or **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 that the connected items, conditions, provisions, or events may apply singularly or in any combination.
  - (3) **Either/or** indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- (M) All measurements shall be to the nearest integer, unless otherwise specified herein.

- (N) Unless otherwise stated, the word **day** shall mean a calendar day; **month** shall mean any consecutive period of 30 calendar days; and **year** shall mean any consecutive period of 365 calendar days.
- (O) Unless the context clearly indicates the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustration.
- (P) The term **residential districts** includes the AG, R-1, R-1-W, R-2, R-3, and R-4 districts, unless otherwise noted.
- (Q) In the event that a word or phrase is not defined in this Ordinance, the Township, including its board and commissions, shall use the definition as stated in the Township Clerk's copy of Webster's *New World Dictionary*.

# Article 20 Definitions

## Section 20.01 Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Words or terms not herein defined shall have the meaning customarily assigned to them. Definitions of uses in the Table of Permitted Uses in Article 3 are defined in Article 6.

**Accessory Use, Accessory Building, or Accessory Structure:** A [use](#), [building](#), or [structure](#) which is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot (unless otherwise specifically permitted) as the principal [use](#) to which it is related.

**Accessory Dwelling Unit:** A second [dwelling unit](#) associated with the principal dwelling which cannot be sold or leased separately from the principal [dwelling unit](#).

**Adult Day Care Home:** Daytime care of any part of the day, but less than 24 hour care, for functionally-impaired adults, provided through a structured program of social and rehabilitative and/or maintenance services, within a residential home.

**Agritourism:** The practice of visiting an agribusiness, horticultural, or farm, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion [animal](#) or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

**Examples.** In combination with a conventional farm, the following activities may constitute an agricultural tourism event: bakery, bonfires, carnival rides, cider mill, cooking demonstrations, corn mazes, fishing pond, food service; petting farms, seasonal you-pick fruits and vegetables, [animal](#) displays, pony rides, wagon/sleigh/hay-rides, nature trails, picnic facilities, educational classes, historical agriculture exhibits, and playscapes. This list is not intended to be all inclusive of activities that may be considered agricultural tourism.

**Art Studio:** A facility for the creation and sale of artwork.

**Alley:** A dedicated public vehicular way usually between or behind [buildings](#), which affords a secondary means of access to abutting property but is not intended for general traffic circulation.

**Alterations:** Any change, addition or modification to a [structure](#) or type of occupancy, or any change in the structural members of a [building](#), such as walls or partitions, columns, or beams or girders, or any change which may be referred to herein as **altered** or **reconstructed**.

**Anaerobic Composting:** The decomposition of organic matter in an environment with little or no oxygen present.

**Animal:** Any member of the kingdom Animalia, other than humans. All domesticated animals in the Township shall be considered one of the following for the purposes of this Ordinance:

**Pet:** An animal kept solely for companionship, recreation, and pleasure, regardless of the [use](#) of the property where the animal resides. All animals kept for companionship, recreation, and pleasure shall be considered domestic pets for the purposes of this ordinance, except for those defined as "Exotic or Wild Animals." Pets may include, but are not limited to, dogs, cats, birds, and small fish.

**Domestic Livestock:** An animal raised for slaughter or kept for the purposes of contributing to an agricultural [use](#) through labor or the production of milk, eggs, manure, wool, or other animal-based products, but for which the proceeds of the animal are used primarily for the [use](#) of the owner of the animal and not for commercial purposes. Any livestock animal kept on a premises where there are more than 10 total livestock animals shall be considered commercial livestock, regardless of the [use](#) of the animal's proceeds.

**Commercial Livestock:** An animal raised for slaughter or kept for the purposes of contributing to an agricultural [use](#) through labor or the production of milk, eggs, manure, wool, or other animal-based products, for which the proceeds of the animal are used primarily for commercial purposes. Any livestock animal kept on a premises where there are more than 10 total livestock animals shall be considered commercial livestock, regardless of the [use](#) of the animal's proceeds.

**Exotic or Wild Animal:** Any animal not commonly (in Michigan) domesticated, raised for slaughter, or used for agricultural purposes, especially animals that pose a clear and present danger to humans, including but not limited to big cats, venomous snakes, and large apes.

**Architectural Feature:** An integral element of a [building](#) that does not contain any discernable message.

**Artwork:** Any decorative element that is not integral to a [building](#) and does not contain an immediately discernable message.

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

**Bank:** A financial institution dedicated to accepting monetary deposits and providing loans. Credit unions shall be considered banks for the purposes of this Ordinance.

**Barber Shop or Beauty Shop:** Includes day spas and spas. A personal service establishment offering any of a variety of health and beauty services including hair, nails, make-up, massage, and other related services.

**Base Flood:** The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

**Basement:** That portion of a [building](#) which is partially or totally below [grade](#), but is so located that the vertical distance from the average [grade](#) to the floor below is greater than the vertical distance from the average [grade](#) to the ceiling. This definition shall not apply to earth-sheltered homes. A 'basement' shall not be counted as a [story](#) (see illustrations on pages 225 and 250).

**Bed-And-Breakfast:** A [dwelling unit](#) where the live-in owners and/or operators provide or offer overnight accommodations, in [rooms](#) connected by interior hallways, consisting of a minimum of one [bedroom](#) and a bath, for temporary guests for compensation, including provisions for a morning meal for overnight guests only. In order to be considered a Bed-and-Breakfast, a facility must have at least three separate guest [rooms](#), in addition to the [rooms occupied](#) by the live-in owners and/or operators

**Bed Room:** A [room](#) designed or used in whole or part for sleeping purposes.

**Berm:** A continuous, raised earthen mound, with flattened top and sloped sides, capable of supporting live plant materials. See [Landscaping](#).

**Bioswale:** Linear, vegetative stormwater runoff conveyance system that is designed to store and infiltrate water from small storm events back into the ground and direct water from heavy rain events to appropriate storm sewer inlets or other management facilities.

**Block:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of [development](#).

**Boarding House:** A [building](#), other than a [hotel](#), where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for five (5) or more persons.

**Brewpub:** An eating or drinking establishment that includes the brewing of beer or ale as an [Accessory Use](#) for sale on the same premises of not more than five thousand (5,000) barrels per year. (A barrel is equivalent to thirty-one (31) U. S. gallons.)

**Buildable Area:** The area of a lot which is defined by the minimum [setback](#) requirements within which [building](#) construction is permitted by the terms of this Ordinance.

**Buildable Area, Net:** The net [buildable area](#) is that portion of a site that is not encumbered by regulated [wetlands](#) (except as specifically noted), [steep slopes](#), [road](#) rights-of-way, [easements](#), [structures](#) or lots, or other existing or proposed features that would prevent construction of a [building](#) or [use](#) of the site for a [use](#) permitted in the district in which the site is located.

**Building:** Any [structure](#), either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, [animals](#), or property or materials of any kind. A [building](#) shall not include such [structures](#) as [signs](#), [fences](#), or smokestacks, but shall include [structures](#) such as storage tanks, grain elevators, coal bunkers, or similar [structures](#).

(a) **Building, Permanent:** A [building](#) which is permanently affixed to the ground with footings or a foundation and/or is permitted to exist for an indefinite period of time exceeding six (6) months.

(b) **Building, Temporary:** A [building](#) which is not permanently affixed to the ground and is permitted to exist for a specific reason for a specific period of time, such as during a construction project.

**Building, Accessory:** See [Accessory Use, Building, or Structure](#).

**Building, Principal:** A permanent [building](#) or, where the context so indicates, a group of permanent [buildings](#) (such as a school or office campus) which are built, used, designed or intended for the shelter or enclosure of the [principal use](#) of the [parcel](#).

**Building Envelope:** See [Buildable area](#).

**Building height:** The vertical distance measured from the established [grade](#) to the following. Ventilators, chimneys, and antennae shall not be considered part of the Building Height for purposes of this Ordinance.

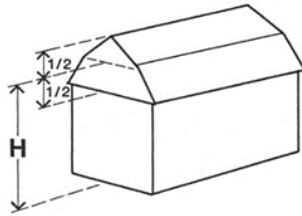
(a) The highest point of the coping or [parapet](#) of a flat roof;

(b) The [deck](#) line of a mansard roof; or,

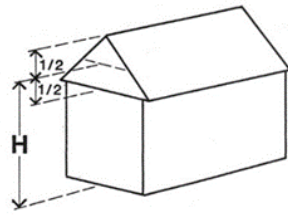
- (c) The average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof (if the eaves are not even, then the height shall be the average height between the highest eave and the peak of the roof); or
- (d) Seventy-five percent of the height of an A-frame.

### Building Height

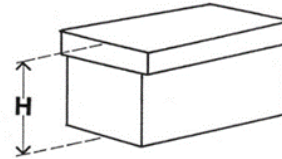
H = Height of building



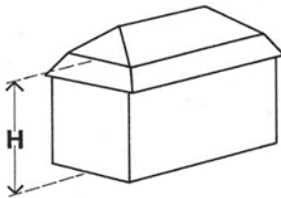
Gambrel Roof



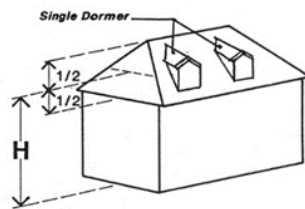
Gable Roof



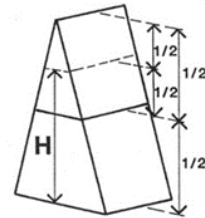
Flat Roof



Mansard Roof



Hip Roof

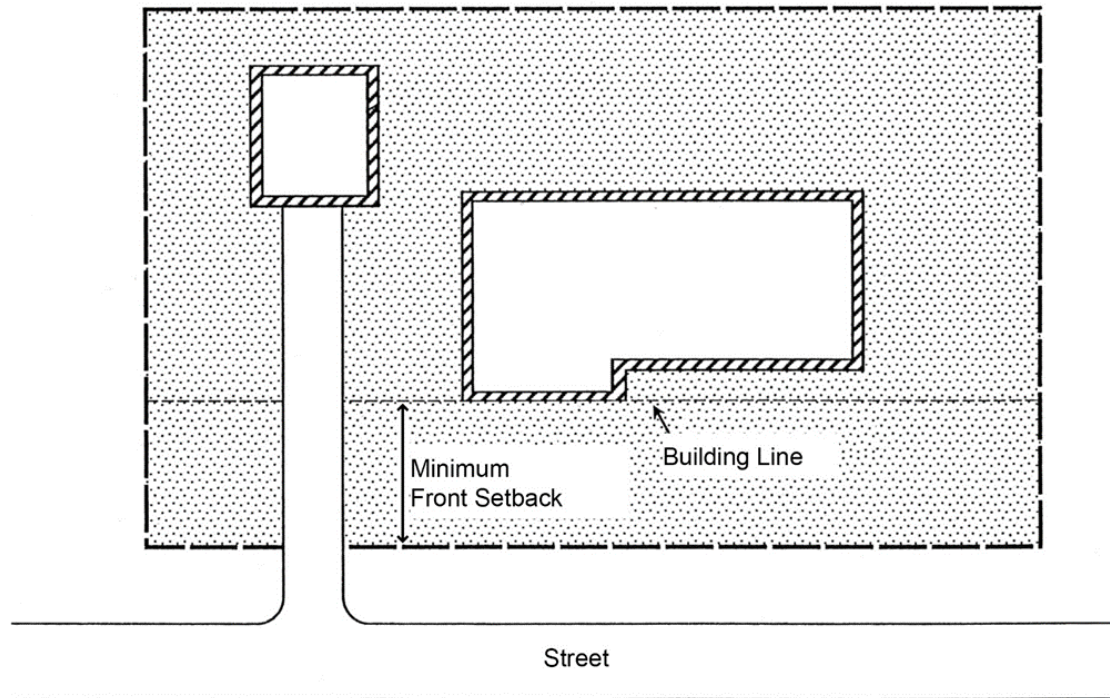


"A"-Frame

**Building Integrated Photovoltaics (BIPV):** A Small or [Large Solar Energy System](#) that is integrated into the [structure](#) of a [building](#), such as solar roof tiles and solar shingles.



## Building Line



**Building Line:** A line parallel to the [front lot line](#) at the minimum required front [setback](#) line.

**Building Official:** The officer or other authority designated by the Township Board to administer and enforce the Building Code and make decisions about compliance.

**Bulb (or Lamp):** The source of electric light (to be distinguished from the whole assembly, which is called the luminaire). “Lamp” is often used to denote the bulb and its housing.

**Bulk:** The term used to indicate the size and [setbacks](#) of [buildings](#) and [structures](#), including standards for the height and area of [buildings](#); the location of exterior walls in relation to the lot lines, streets, and other [buildings](#); [gross floor area](#) of [buildings](#) in relation to lot area; [open space](#); and, the amount of lot area required for each [dwelling unit](#).

**Bus Station:** A facility used for boarding and de-boarding of buses. Bus repair operations shall be considered [Vehicle Repair](#) under this ordinance.

**Cabin:** A freestanding [structure](#) meeting the definition of “[dwelling unit](#)” and meeting all [building](#) Code requirements for residential occupancy, but that is not designed or intended for permanent occupancy, but is instead purpose-built for lodging.

**Campground:** A facility for overnight stays in non-permanent [structures](#), [cabins](#), tents, or [recreational vehicles](#).

**Candela (cd):** A unit of luminous intensity. One candela is one [lumen](#) per steradian. Also known as one candlepower.

**Carport, Private:** A shelter which has a roof with or without open sides with capacity for not more than three motor [vehicles](#) for storage only. Unless otherwise specifically set forth herein, the same regulations as apply to garages shall apply to Carports.

**Cemetery:** Land used for the burial of the dead, including a columbarium, crematory, and mausoleum.

**Child Day Care Home:**

**Family Child Day Care Home:** a private home (where the licensee permanently resides as a member of the household) with the approved capacity of 1 to 6 minor children to be cared for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children at a Family Child Care Home does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.

**Group Child Day Care Home:** A private home with the approved capacity of 7 to 12 minor children for less than 24 hours a day unattended by a parent or legal guardian. The limit on the number of children does not include children who are related to an adult member of the family by blood, marriage or adoption. It includes care to an unrelated minor child for more than 4 weeks in a calendar year.

**Child Care Center (Non-Home-Based):** A facility, other than a private residence, receiving more than twelve (12) preschool or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility is generally described as a child care center. "Child Care Center" or "Day Care Center" does not include instruction solely for religious purposes conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

**Colocation.** The location by two or more wireless communication providers of wireless communication facilities on a common [structure](#), tower, or [building](#), with the intent to reduce the total number of [structures](#) required to support wireless communication antennas in the Township.

**Commercial use:** The [use](#) of property for retail sales or similar businesses where goods or services are sold or provided directly to the consumer. As used in this Ordinance, 'commercial [use](#)' shall not include industrial or manufacturing businesses.

**Composting:** The biological decomposition of organic material under specifically created conditions that are maintained and controlled by a person or entity for the purpose of generating usable by-products from the waste materials.

**Condominium:** A condominium is a system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and [building](#) parts used in common by all the unit owners. For the purposes of this Ordinance, condominium terms shall be defined as follows:

**Condominium Act:** Shall mean Public Act 59 of 1978, as amended.

**Condominium Lot:** That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard [setback](#) requirements and other requirements set forth in the Schedule of Regulations.

**Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, [building](#) locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

**Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and [use](#), as described in the master deed for the condominium project. A [condominium](#) unit is not a lot or condominium lot as those terms are used in this Ordinance.

**Common Elements:** Portions of the condominium project other than the condominium units.

**Detached Condominium:** A [condominium](#) project of detached units designed to be similar in appearance to a conventional single family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined [condominium](#) lots.

**General Common Elements:** Common elements other than the limited common elements, intended for the common [use](#) of all co-owners.

**Limited Common Elements:** Portions of the common elements reserved in the master deed for the exclusive [use](#) of less than all co-owners.

**Master Deed:** The [condominium](#) document recording the [condominium](#) project to which are attached as exhibits and incorporated by reference the bylaws for the project and the [condominium](#) subdivision plan.

**Site Condominium Project:** A [condominium](#) project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site [condominium](#) project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**Conditional Rezoning Agreement (CR Agreement).** A written agreement approved and executed by the Township and property owner, incorporating a CR Plan, and setting forth Rezoning Conditions and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a conditional rezoning.

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

**Critical Dune:** All dunes designated as "Critical dunes" by the State of Michigan. Critical dune Areas may include barrier dunes, dunes exhibiting specific geomorphologic features, dunes areas supporting exemplary dune association plant communities (as designated by the Michigan Natural Features Inventory), and all areas designated with Michigan's Critical Dune Atlas, but in this Ordinance the term "critical dune" shall only refer to those dunes which have been specifically designated by the State of Michigan.

**Crop Cultivation:** The growing of plants for commercial sale.

**Curb Cut:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private [road](#) or highway.

**Deck:** A raised platform, commonly constructed of wood, which does not have a roof and is typically attached to or abuts a house and used for outdoor leisure activities.

**Density (Residential):** The number of [dwelling units](#) per acre of land.

**Gross Density:** The number of units per acre of total land being developed.

**Net Density:** The number of units per acre of land not encumbered by regulated [wetlands](#) (except as specifically noted), [steep slopes](#), [road](#) rights-of-way, [easements](#), [structures](#), lots, or other existing or proposed features that would prevent construction of a [building](#) or [use](#) of the site for a residential dwelling.

**Detention Basin:** A [structure](#) or facility, natural or artificial, which stores stormwater on a temporary basis and releases it at a controlled rate. A detention basin may drain completely after a storm event, or it may be a body of water with a fixed minimum and maximum water elevation between runoff events. See also [Retention Basin](#).

**Development:** The construction of a new [building](#), reconstruction of an existing [building](#), or improvement of a [structure](#) on a [parcel](#) or lot, the relocation of an existing [building](#) to another lot, or the improvement of open land for a new [use](#).

**Disability Glare:** An intense and blinding light that results in reduced visual performance and visibility, and is often accompanied by discomfort.

**Distillery:** An establishment licensed by the State of Michigan to manufacture [spirits](#).

**District, Zoning:** A portion of the Township within which, on a uniform basis, certain uses of land and [buildings](#) are permitted and within which certain yards, [open spaces](#), lot areas, and other requirements are established.

**Donation Bin:** A donation bin is a closed container, typically constructed of metal, in which clothing, shoes, books, and/or other goods are placed by the public to be donated to charitable organizations or for recycling in other ways.

**Drive-Thru:** A facility designed to serve customers in their cars from a window in the [building](#), so that the cars are idled while being served, rather than parked.

**Driveway:** A private lane, designed primarily for [use](#) by [vehicles](#), which connects a house, garage, or other [buildings](#) with the [road](#).

**Dwelling Units:** Any [building](#), or part thereof, containing sleeping, [kitchen](#), and bathroom facilities designed for and [occupied](#) by a single family. In no case shall a detached or attached [accessory structure](#), travel [trailer](#), motor home, [vehicle](#), tent, or other [temporary structure](#) or [vehicle](#) be considered a 'dwelling'.

**Dwelling Unit Above First Floor in Mixed Use Building:** Individual dwelling units that may or may not be connected by a common hallway. Independent access, without having to traverse through the first floor business area, shall be provided.

**Easement:** A right, created by an express or implied agreement, of one owner of land to make lawful and beneficial [use](#) of the land of another. A public easement is any easement enjoyed by the public in general, e.g., the right of the passage of the public over the surface of streets, [alleys](#), highways, etc.

**Engineer, Township:** The Township Engineer is the person or firm designated by the Township Board to advise the Township administration, Township Board, and [Planning Commission](#) on drainage, grading, paving, storm water management and control utilities, and other related site engineering and engineering issues. The Township Engineer may be a consultant or an employee of the Township.

**Enforcement Official:** The Enforcement Official is the person or persons designated by the Township as being responsible for enforcing and administering requirements of this Zoning Ordinance. Throughout this Ordinance the Enforcement Official may be referred to as the [Building Official](#), Zoning Administrator, [Public Safety official](#), or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

**Erected:** Any physical change on a site, including construction, reconstruction, or alteration of [buildings](#) or [structures](#) thereon. [Excavation](#), fill, drainage, and the like shall be considered part of 'erection.'

**Essential Services:** The term "[Essential Services](#)" means the erection, construction, alteration or maintenance by public utilities or Chikaming Township departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater [buildings](#), electric substations and substation [buildings](#), gas regulator stations and regulator [buildings](#) and other similar equipment and accessories in connection therewith (but not including any [buildings](#) *except those expressly referred to herein*), reasonably necessary for the furnishing of adequate service by such public utilities or Chikaming Township departments or commissions or for the public health or safety or general welfare. This definition does not include towers or other [buildings](#) or [structures](#) intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobilized radio, enhanced specialized mobile radio, paging and similar services. This definition also does not include sales or business offices and commercial [buildings](#) or activities.

**Excavation:** The removal or movement of soil, sand, stone, gravel, or fill dirt, except for common household gardening, farming, and general ground care.

**Exception:** An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or [structures](#) which are considered essential or appropriate in certain locations or under certain conditions. A [variance](#) is not required for uses or [structures](#) which are permitted because of an exception.

**Family:** This term shall mean "traditional family" or "functional family" as defined below:

- (A) Traditional family—an individual or group of two or more persons related by blood, marriage or adoption, together with foster children and domestic household employees of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single domestic housekeeping unit in a dwelling.

- (B) Functional family—a collective number of individuals domiciled together in one dwelling whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond characteristic of a cohesive unit, and who are in fact cooking and living as a single nonprofit housekeeping unit.

A "functional family" shall not include any of the following:

Any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization, which is not a recognized religious order.

Any group of individuals whose domestic relationship is transitory, temporary, or [resort](#)/seasonal in nature or character.

Any group of individuals whose association is essentially for the limited duration of their education, training or a similar determinate period of time.

Any person or group of persons seeking the rights and privileges of a "family" as defined in subparagraph (A) or (B) above in any administrative, judicial, or quasi-judicial proceeding, whether as the proponent or by way of defense, shall have the burden of proving that their domestic relationship satisfies the criteria of either a traditional family or a functional family.

**Family Daycare Home:** A [private home](#) in which one but not more than six children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

**Farm:** The term "farm" shall have definition given to it in the Michigan Right to Farm Act. At the time of the adoption of this Ordinance, that definition was as follows: The land, plants, [animals](#), [buildings](#), [structures](#), including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

**Farmer's Market:** A farmer's market, as distinguished from a [roadside](#) farm stand or a farm market as defined in the Michigan Right-to-Farm Act, is a location established in accordance with Township ordinances and operated in compliance with Public Act 92 of 2000, where farmers may transport and sell to the public fruits, vegetables and other agricultural products. Farmer's market vendors may operate intermittently but for state licensing purposes are considered permanent operations. Vendors selling crafts are commonly found at farmers markets.

**Filtered fixture:** Light fixtures having glass, acrylic, or translucent enclosures to filter the light.

**Fixture:** The assembly that holds the lamp in a lighting system. The Fixture includes the elements designed to give light output control, such as a reflector (mirror), refractor (lens), the ballast, housing, and the attachment parts.

**Floodlight:** A fixture or lamp designed to "flood" an area with light.

**Foot-candle:** [Illuminance](#) produced on a surface one foot from a uniform point source of one [candela](#) or when one lumen is distributed into an area of one square foot.

**Fully shielded fixture:** An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected onto the site and away from adjoining properties. Light from a fully shielded fixture is not visible from adjoining properties, and does not cause glare or interfere with the vision of motorists.

**Funeral Home or Mortuary:** An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

**Fence:** An artificially constructed barrier of wood, wire, metal or any other manufactured material or combination of materials, used to prevent or control entrance, confine within, or mark a boundary. Plant material shall always be considered [landscaping](#), not a [fence](#).

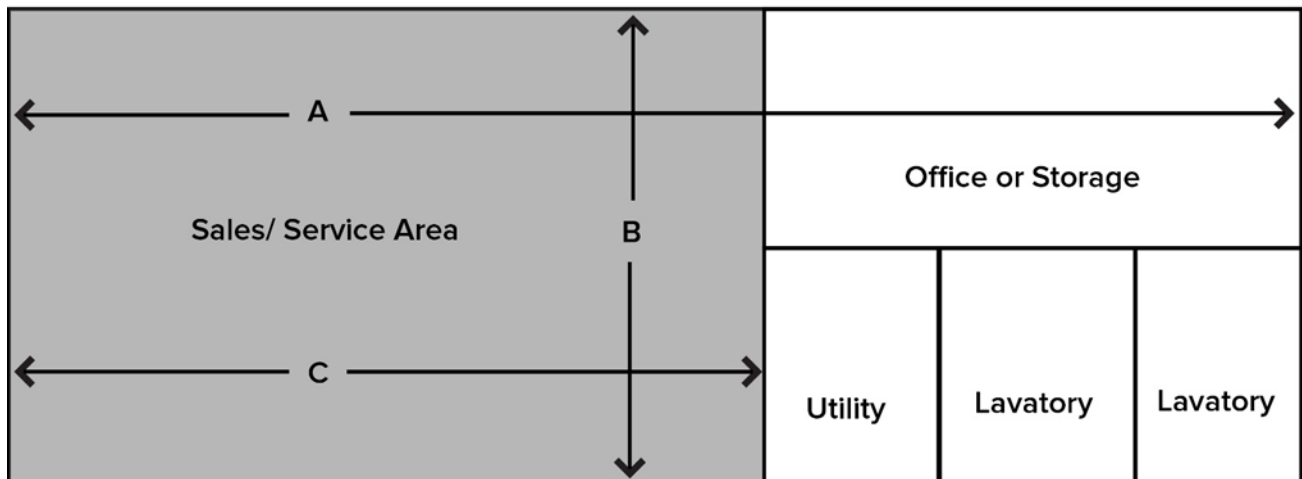
**Fill, Filling:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**Flag Lot:** See [Lot, Flag](#).

**Floodplain:** Any land area susceptible to being inundated by floodwaters when high amounts of precipitation are experienced or natural cyclic conditions raise the water levels.

**Floor Area, Gross:** The total area of a [building](#) measured by taking the outside dimensions of the [building](#) at each floor level intended for occupancy or storage, measured from the exterior faces of the exterior walls.

## Floor Area Terminology



Gross Floor Area = A x B

Useable Floor Area = B x C

**Note on Graphic:** All Dimensions measured to exterior faces of exterior walls.

**Floor Area, Net:** See *Floor Area, Usable Residential*, and *Floor Area, Usable Nonresidential*.

**Floor Area, Usable Residential:** The [gross floor area](#) minus areas in [basements](#), unfinished attics, attached garages, and enclosed or unenclosed [Porches](#).

**Floor Area, Usable Nonresidential:** The [gross floor area](#), minus the area used for or intended to be used for storage, hallways, vestibules, elevators, stairs, mechanical equipment, sanitary facilities or for utilities (see illustration).

**Garage, Private:** An [accessory building](#) for parking or storage of motor [vehicles](#) owned and used by the occupants of the [building](#) to which it is accessory. Private garages shall not have public repair facilities. A private garage may be either attached to or detached from the principal [structure](#).

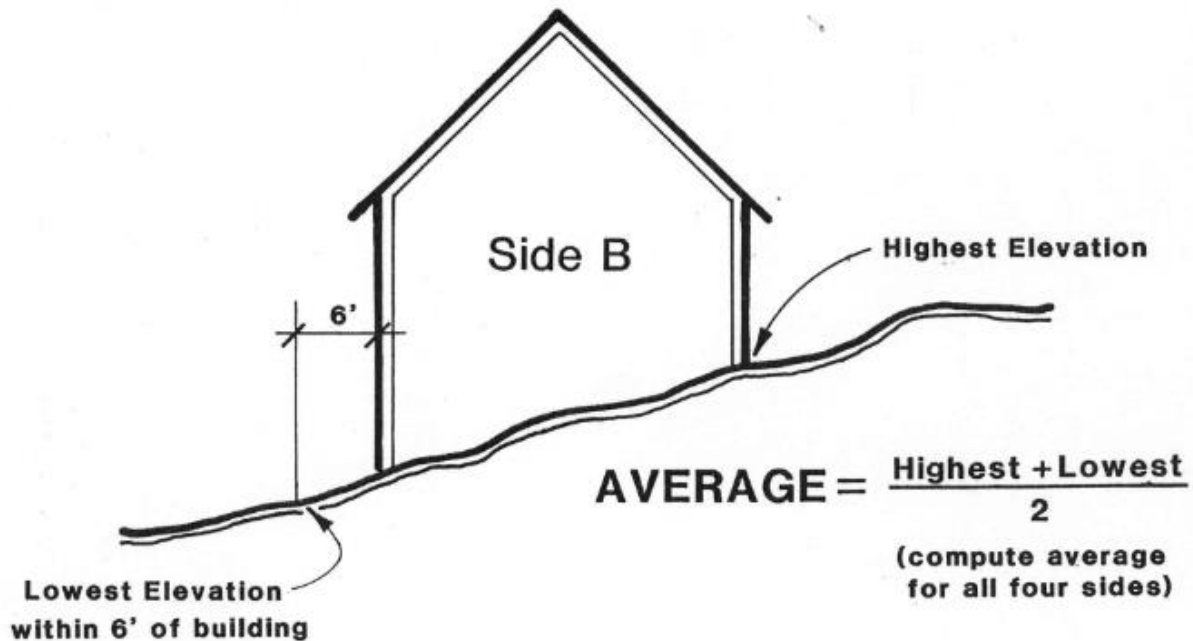
**Garage or Yard Sale:** A temporary retail [use](#) located on a lot otherwise used for residential purposes.

**Garbage:** Discarded items, including but not limited to organic refuse and rejected food waste; ashes, i.e. the residue left from burning of paper, leaves, weeds, wood and coal; [kitchen](#) rubbish, i.e. all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper, plastic, wood and metal objects; household rubbish, i.e. all types of household materials commonly discarded such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings.

**Government or Public Building:** Principal [structures](#) dedicated to the [use](#) by the public or government operations. For the purposes of this Ordinance, Government or Public [buildings](#) shall include libraries, museums, municipal offices, County, State, or Federal Offices, police and fire stations, and other [buildings](#) used by the public or government. Exceptions: Primary/Secondary Schools, Institutions of Higher Education, public recreational facility [buildings](#) shall be defined as described in this section, and shall not be considered Government or Public [buildings](#).

**Grade:** The term 'grade' shall mean the ground elevation established for the purpose of regulating the number of stories or height of a [building](#). The [building](#) grade shall be the level of the ground adjacent to the walls of the [building](#) if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the highest point adjacent to the [building](#) and the lowest point within six feet of the [building](#). The [Building Official](#) shall be the entity responsible for determining the grade and determining compliance with this Ordinance.





**Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of [shrubs](#), trees, and [ground cover](#) to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance. See [Landscaping](#).

**Group Daycare Home:** A [private home](#) in which more than six but not more than 12 minor children are received for child day care, including a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

**Ground Mounted Solar Energy System:** A Small or [Large Solar Energy System](#) that is not attached to or mounted to any roof or exterior wall of any principal or [accessory building](#).

**Hazardous Uses:** Any activity which is or may become injurious to public health, safety, or welfare or the environment. Hazardous uses include but are not limited to all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous or combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed the State Building Code, as amended.

**Health or Exercise Club or Spa:** A [building](#) or portion of a [building](#) designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities that occur in an entirely enclosed [building](#). Such uses are operated for profit or not-for-profit, and can be open only to bona fide members and guests of the organization or open to the public for a fee. Such uses may also include massage services, saunas, locker rooms, showers, or personal services.

**High Pressure Sodium (HPS) lamp:** High-intensity discharge lamp where radiation is produced from sodium vapor at relatively high partial pressures (100 Torr).

**High Risk Erosion Area:** As defined by the Michigan Department of Environment, Great Lakes, and Energy.

**Home Based Business:** An occupation or profession undertaken entirely within a [dwelling unit](#) by one or more resident occupants of that [dwelling unit](#). A “home based business” must be clearly secondary to the [use](#) of the [dwelling unit](#) for residential purposes.

**Hospital:** An institution that is licensed by the Michigan Department of 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, central service facilities, and staff offices.

**Hotel:** A [building occupied](#) as a more or less temporary abiding place for individuals who are lodged, with or without meals, in [rooms](#) connected by interior hallways, consisting of a minimum of one [bedroom](#) and a bath, [occupied](#) for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and desk service, the [use](#) of furniture, a dining [room](#) and meeting [rooms](#).

**Hotel, Boutique:** A hotel with no more than 20 guest [rooms](#), and which is constructed of high-quality architectural materials that complement the character of the surrounding neighborhood as determined by [Planning Commission](#).

**Illuminance:** The amount of light that is incident to the surface of an object. This is the method for describing ambient light levels or the amount of light that is projected onto a front-lit [sign](#). This parameter is typically measured in lux ([foot-candles](#) x meters). For the purposes of dimming, illuminance is the amount of ambient light that hits a photocell.

**Impervious Surface:** A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including but not limited to asphalt, concrete, and all [building](#) roofs. [Pervious pavement](#), [structures](#) that permit water to run between the slats, and gravel surfaces shall not be considered impervious surface.

**Incandescent Lamp:** A lamp that produces light by a filament heated to a high temperature by electric current.

**Ingress and Egress:** As used in this Ordinance, ‘ingress and egress’ generally is used in reference to a [driveway](#) which allows [vehicles](#) to enter or leave a [parcel](#) of property, or to a sidewalk which allows pedestrians to enter or leave a [parcel](#) of property, a [building](#), or another location.

**Institutions of Higher Education:** A facility dedicated to providing education and training primarily to persons that have already earned a high school diploma or equivalent.

**Junk:** Any motor [vehicles](#), machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their [use](#) for the purpose for which the product was manufactured.

**Kennel, Boarding:** Any lot or premises where three or more dogs or cats over six months of age are boarded and/or trained for compensation.

**Kennel, Breeding:** Any lot or premises where three or more dogs or cats are owned, kept, or harbored for the purpose of breeding for commercial gain.

**Kennel, Rescue/Foster/Personal:** Any lot or premises, where more than three dogs are owned or kept, and for which commercial gain is not the primary objective.

**Kitchen:** Any [room](#) principally used, intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or gas utility connections suitable for servicing a range or oven, shall be considered as establishing a [kitchen](#) – any [room](#) with these shall be considered a [kitchen](#), and any [room](#) without shall not be considered a [kitchen](#).

**Landscaping:** The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include decorative non-living materials, such as wood chips, crushed stone, boulders, or [mulch](#). Structural features such as fountains, pools, statues, and benches shall also be considered a part of 'landscaping,' but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

**Berm:** A continuous, raised earthen mound, with flattened top and sloped sides, capable of supporting live plant materials.

**Caliper:** The trunk diameter of a nursery tree in inches, measured twelve (12) inches above grade.

**Diameter at breast height (D.B.H.):** The trunk diameter of a mature tree in inches measured four and one-half (4 ½) feet above grade. Where a mature tree is on a slope, the 4 ½ foot measurement shall be made on the uphill side of the tree. On multi-stem trees, the largest diameter stem shall be measured.

**Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Berrien County, Michigan.

**Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of [shrubs](#), trees, and [ground cover](#) to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this Ordinance.

**Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season and which tend to prevent weeds and soil erosion.

**Hedge:** A row of closely planted [shrubs](#) or low-growing trees which commonly form a continuous visual screen, boundary, or [fence](#).

**Hydro-seeding:** A method of planting grass where a mixture of seed, water, and [mulch](#) is mechanically sprayed over the surface of the ground.

**Interior Parking Lot Landscaping:** A landscaped area located in the interior of a parking lot and with the objectives of improving pedestrian and vehicular traffic safety, reducing heat island effect, guiding traffic movement, and enhancing the appearance of the parking lot.

**Mulch:** A layer of wood chips, dry leaves, straw, hay, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, and/or aid plant growth.

**Nurse Grass:** Any of a variety of rapidly-growing annual or perennial rye grasses used to quickly establish [ground cover](#) to prevent dust or soil erosion.

**Screen or Screening:** A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of non-living material, such material shall be compatible with materials used in construction of the main [building](#).

**Shrub:** A self-supporting, deciduous or evergreen, woody plant normally branched near the base, bushy, and less than 15 feet in height.

**Sod:** An area of grass-covered surface soil held together by matted roots.

**Tree:** A self-supporting, deciduous or evergreen woody plant with a well-defined central trunk or stem which normally grows to a mature height of 15 feet or more in Berrien County, Michigan.

*Deciduous Tree:* A variety of tree that has foliage that is shed at the end of the growing season.

*Evergreen Tree:* A variety of tree that has foliage that persists and remains green throughout the year.

*Ornamental Tree:* A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of 25 feet or less.

*Shade Tree:* For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of 25 feet or greater in Berrien County, Michigan, and has a trunk with at least five feet of clear stem at maturity.

**Vine:** A plant with a flexible stem supported by climbing, twining, or creeping along a surface, and which may require physical support to reach maturity.

**Large Solar Energy System:** A Solar Energy System where the principal design, purpose or [use](#) of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

**Laser Source Light:** An intense beam of light, in which all photons share the same wavelength.

**LED Light:** A light fixture that uses a light-emitting diode, which is a semi-conductor diode that emits light when conducting electrical current.

**Light trespass:** Light falling where it is not wanted or needed (also called spill light).

**Loading Space, Off-Street:** An off-street space which is safely and conveniently located on the same lot as the [building](#) or [buildings](#) being served, for the temporary parking of delivery [vehicles](#) while loading and unloading merchandise and 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.

**Lot Area, Net:** The portion of the gross lot area excluding private and public [road right-of-ways](#) and area of any ponds, lakes or permanently submerged lands in excess of one (1) acre in size. The '[net lot area](#)' shall be used in determining compliance with Minimum Lot Area standards.

**Lot Area, Gross:** The total area of land contained within the boundaries of a lot.

**Lot, Contiguous:** Lots adjoining each other.

**Lot, Corner:** A lot abutting on and at the intersection of two or more streets, provided that the streets intersect at an angle of not more than 135 degrees. For the purposes of this definition, the '[street lot line](#)' shall be the line separating the lot from the street or [road right-of-way](#).

Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than 135 degrees, it shall be considered a [corner lot](#). In the case of a [corner lot](#) with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above (see illustration in definition of [Lot Width](#)). A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.

**Lot Coverage:** The part or percent of a lot that is [occupied](#) by [impervious surface](#), as defined in this Ordinance. [Pervious pavement](#) and gravel surfaces shall not be considered impervious surface.

**Lot Depth:** The horizontal distance between the [front lot line](#) and [rear lot line](#), measured along the median between the [side lot lines](#).

**Lot, Double Frontage (or Through Lot):** A lot, other than a [corner lot](#), having frontage on two streets. In the case of a row of double frontage lots, one street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing [building](#) in the same **block** fronting on one or both of the streets, the required minimum [front yard setback](#) shall be observed on those streets where [buildings](#) presently front.

**Lot, Flag:** A **Lot** located behind other [parcels](#) or lots fronting on a public [road](#), but which has a narrow extension providing access to the public [road](#). For the purposes of this Ordinance, the extension, which provides access to the buildable portion of the lot, shall comply with the lot width standards for the district in which the lot is located.

**Lot, Interior:** Any lot, other than a [corner lot](#), with only one lot line fronting on a street.

**Lot Lines:** The lines bounding a lot as follows:

**Front Lot Line:** The line separating said lot from the public or private [road right-of-way](#). In the case of a [corner lot](#) or double frontage 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 which is designated as the front on the site plan review application or request for a [building](#) permit. On a flag lot, the '[front lot line](#)' shall be the interior lot line most parallel to and nearest the street from which access is obtained.

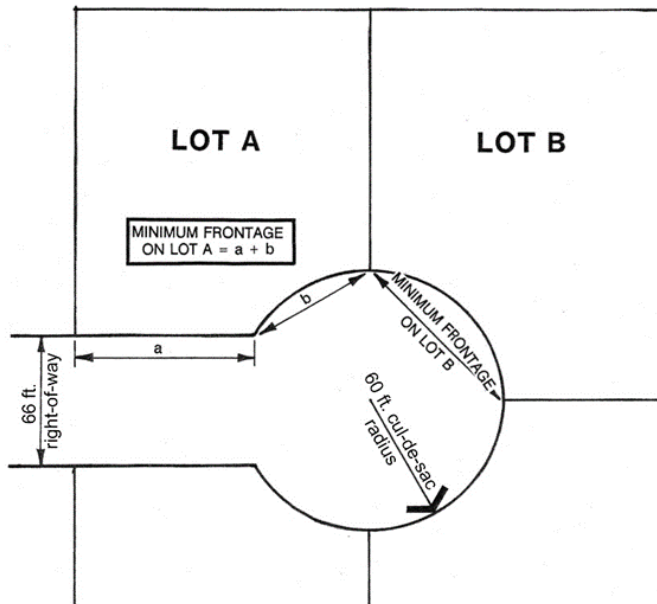
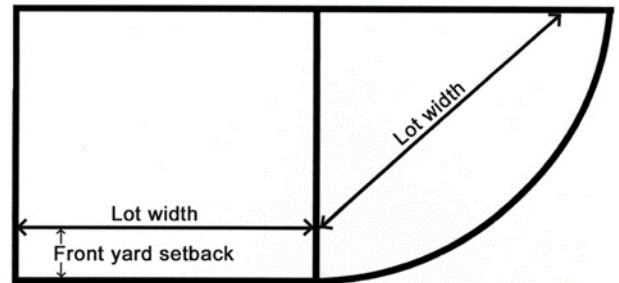
**Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the [front lot line](#). In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the [rear lot line](#) shall be an imaginary line parallel to the [front lot line](#), 10 feet in length, lying farthest from the [front lot line](#) and wholly within the lot.

**Side Lot Line:** Any lot line other than the front or [rear lot lines](#). A side lot line separating a lot from a [road right-of-way](#) is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Waterfront Lot Line:** Any lot line that abuts Lake Michigan or an inland body of water, regardless of whether the lot line meets the definition of Front, Rear, or Side Lot Line.

**Lot of Record:** A [parcel](#) of land, the dimensions and configuration of which are shown on a [subdivision plat](#) recorded in the offices of the Berrien County Register of Deeds and Township Treasurer, or a [Lot](#) or [parcel](#) described by metes and bounds, and accuracy of which is attested to by a land surveyor registered and licensed in the State of Michigan and is recorded with the Berrien County Register of Deeds and Township Treasurer.

**Lot Width:** The straight line distance between the [side lot lines](#), measured at the two points where the minimum [front yard setback](#) line intersects the [side lot lines](#).



**Lot Split or Lot Consolidation:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Berrien County Register of Deeds and the Township Treasurer.

**Low pressure sodium (LPS) lamp:** A discharge lamp where the light is produced by radiation from sodium vapor at a relatively low partial pressure (about 0.001 Torr). A LPS lamp produces monochromatic light.

**Lumen:** Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one [candela](#). One [foot-candle](#) is one lumen per square foot. One lux is one lumen per square meter.

**Luminaire:** The complete lighting unit, including the lamp, fixture, and other parts.

**Luminance:** The amount of light that emanates from an internally illuminated [sign](#). This parameter is measured in nits ([candelas](#)/square meter). The nit levels necessary for a [sign](#) to be legible varies with the ambient light conditions.

**Manufactured Housing Mobile Structure:** A [building](#) or portion of a [building](#) designed for long-term residential [use](#) and characterized by all of the following:

- (a) The [structure](#) is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- (b) The [structure](#) is designed to be transported to the site in a nearly complete form, where it is placed and attached to a foundation consisting of an approved concrete pad or approved concrete runners with the running gear still attached to the chassis and connected to utilities; and
- (c) The [structure](#) is designed to be used as either an independent [building](#) or as a module to be combined with other elements to form a complete [building](#) on the site

**Manufactured Housing Permanent Structure:** A [building](#) or portion of a [building](#) designed for long-term residential [use](#) and characterized by all of the following:

- (a) The [structure](#) is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- (b) The [structure](#) is designed to be transported to the site in a nearly complete form, where it is placed and attached to a foundation consisting of an approved crawl space or [basement](#) and connected to utilities; and
- (c) The [structure](#) is designed to be used as either an independent [building](#) or as a module to be combined with other elements to form a complete [building](#) that complies with Michigan Building and Energy codes.; and

**Manufacturing:** A [use](#) engaged in the creation of products, predominantly from previously prepared material of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Master Plan:** The most recent [master plan](#) document adopted by the Township Board, consisting of graphic and written materials which indicate the general location for streets, parks, schools, public [buildings](#) and all physical [development](#) of the Township.

**Medical or Dental Clinic:** An establishment where human patients who are 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.

**Mercury vapor lamp:** A high-intensity discharge lamp where the light is produced by radiation from mercury vapor.

**Metal halide lamp:** A high-intensity discharge mercury lamp where the light is produced by radiation from metal-halide vapors.

**Microbrewery:** A brewery that produces less than thirty thousand (30,000) barrels of beer or ale per year, as allowed by state law. (A barrel is equivalent to thirty-one (31) U. S. gallons.)

**Mini-Warehouse or Portable Storage Unit:** A [building](#) or group of [buildings](#), each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Mini-warehouses are typically contained within a [fenced](#), controlled-access compound. Also known as self-storage facilities.

**Mixed Use:** In the context of this Ordinance, mixed use refers to [zoning districts](#) in which a mixture of different types of land uses are permitted. For example, the C-S district is considered a mixed use district because it permits a combination of residential and commercial land uses.

**Model Home:** A [dwelling unit](#) built for the express purpose of acting as an example for sales staff to show prospective buyers or renters who are interested in a residential complex.

**Motel:** A [building](#) or group of [buildings occupied](#) as a more or less temporary abiding place for individuals who are lodged with or without meals in [rooms](#) consisting of a minimum of a [bedroom](#) and bath, [occupied](#) for hire, in which provision is not usually made for cooking within the rooms, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. Motels typically provide exterior entrances and on-site parking for each unit. A motel may also include conference [room](#) or banquet facilities, an attached dining [room](#), and/or an unattached standard restaurant.

**Multiple Family Housing (or Multi-Family Housing):** A [building](#) or complex of multiple [buildings](#) where each [building](#) contains at least two [dwelling units](#). [Buildings](#) or complexes designed for senior housing, but not including assisted living, shall be considered "multi-family housing" for purposes of this Ordinance.

**Municipality:** Chikaming Township, Berrien County, Michigan.

**Nameplate:** A non-electric on premise identification [sign](#) giving only the name, address, and/or occupation of an occupant or group of occupants.

**Natural Area:** A land area or water body which is generally not [occupied](#) by [structures](#), [roads](#), or other artificial elements and which contains floral, faunal, geologic or other similar features having scenic, educational, or scientific value to residents. An area may be considered 'natural' even though excavation, [filling](#), or other similar activity may have previously occurred.



**Natural Resources:** Natural resources shall include land, soils, [wetlands](#), [floodplains](#), surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, [animal](#) life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources). Natural resources may also be referred to as 'natural features' in this Ordinance.

**Nonconformity:** Any [structure](#), lot, or [use](#) of any lot, land or [structure](#), which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located. Additionally, for the purposes of non-conformities, the following terms shall have the following definitions:

**Effective Date.** Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.

**Nonconforming Building or Nonconforming Structure.** A [building](#), [structure](#), or portion thereof that does not meet the limitations on [building](#) size, location on a lot, or other regulations for the district in which such [building](#) or [structure](#) is located.

**Nonconforming Lot.** A lot existing at the effective date of this Ordinance, or amendments thereto, that does not meet the minimum area or dimensional requirements of the district in which the lot is located.

**Nonconforming Sign.** A [sign](#) that on the effective date of this Ordinance does not conform to one or more regulations set forth in the Ordinance.

**Nonconforming Use.** A [use](#) which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the [use](#) regulations of this Ordinance for the [zoning district](#) in which it is now located.

**Structural Nonconformity.** A [nonconformity](#) that exists when the height, size, or minimum floor space of a [structure](#), or the relationship between an existing [building](#) and other [buildings](#) or lot lines, does not conform to the standards of the district in which the property is located. Also sometimes referred to as a *Dimensional Nonconformity*.

**Non-Motorized Pathway:** A designated path that may be paved or unpaved and is designed for travel on foot or by bicycle, rather than by motorized [vehicle](#).

**Non-Essential Lighting:** Outdoor lighting which is not required for safety or security purposes.

**Nuisance:** Any offensive, annoying, or disturbing practice or object, 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.

**Occupancy, Change of:** A discontinuance of an existing [use](#), as defined by the Michigan Building Code, and the substitution of a [use](#) of a different kind or class, or, the expansion of a [use](#).

**Occupied:** Used in any way at the time in question.

**Office:** A [room](#), suite of [rooms](#), or [building](#) in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current [use](#) in the office business and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties.

**Open Air Business:** Any [commercial use](#) that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.

Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.

Outdoor display and sale of garages, [swimming pools](#), playground equipment, and uses.

**Open Space:** Any [parcel](#) or area of land or water that is generally free of [structures](#) and that is set aside, dedicated, designated or reserved for public or private [use](#) or enjoyment or for the [use](#) and enjoyment of owners and occupants of land adjoining or neighboring such open space. 'Open space' may be required for recreation, resource protection, aesthetics, or other purposes.

**Open Space, Usable:** **Open Space** that is accessible to a majority of residents in a [development](#) for recreation or leisure activities. Examples of 'usable open space' include, but are not limited to, open fields and woodlands. Swamps or marshes are not generally considered usable open space, except as specifically exempted elsewhere in this Ordinance.

**Open Space Preservation Subdivision:** A [development](#) meeting the requirements of Article 16 of this Ordinance.

**Ordinary High Water Mark (OHWM):** "Ordinary High Water Mark", as used in this Ordinance, shall have the definition given to it by the State of Michigan for the body of water in question.

**Outdoor Event:** A musical concert, festival, fair, carnival, show, or similar gathering at which music or entertainment is provided by performers or prerecorded means, at which members of the public are invited or admitted for a charge or for free, and at which the anticipated attendance is 500 people or greater.

**Outdoor Wood-Fired Boiler:** A wood-fired boiler, stove, water-heater, or furnace that is not located within a [building](#) intended for habitation by humans or domestic [animals](#).

**Parapet:** The extension of a false front or wall above a [roof line](#). Signs mounted on the face of a parapet shall be considered wall [signs](#).

**Parcel:** A continuous area, tract, or acreage of land that has not been subdivided according to the provisions of the Subdivision Control Act and that has frontage on a public or private street.

**Parking Lot, Off-Street:** An area on private property that provides vehicular [parking spaces](#) along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three [vehicles](#).

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking a [vehicle](#) and which is fully accessible for such purposes.

**Pet Grooming:** A personal service business that provides cleaning, fur trimming, and related services for pets.

**Pet Shop:** A retail business that sells live [animals](#) to be kept as pets.

**Perc Test or Percolation Test:** A test designed to determine the ability of ground to absorb water, and used to determine the suitability of a soil for drainage or for the [use](#) of a septic system.

**Performance Guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the [development](#).

**Pervious Surface:** A surface that permits full or partial absorption of storm water, including but not limited to grass, dirt, [mulch](#), gravel, [decks](#) with space between the slats, and pervious pavers.

**Pervious Pavement:** Pavement (including concrete or asphalt) with a base and/or sub-base that allows the movement of stormwater through the pavement to reduce water runoff.

**Planned Unit Development:** A planning or construction project involving the [use](#) of special zoning requirements and review procedures which are intended to provide design and regulatory flexibility, so as to encourage innovation in land [use](#) planning and design and thereby achieve a higher quality of [development](#) than might otherwise be possible.

**Planning Commission:** The Planning Commission of Chikaming Township.

**Plat, Subdivision:** The division of a tract of land for the purpose of sale, lease or [building development](#), in accordance with Subdivision Control Act, Michigan Public Act 288 of 1967, as amended, or any successor thereto, and subdivision control regulations as may be adopted by the Township.

**Plot Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and all salient features required to adequately evaluate whether the approvals sought by an applicant are in compliance with this Ordinance.

**Pond, Detention:** A low lying area that is designed to temporarily hold a set amount of water while slowly draining to another location.

**Pond, Retention:** A low lying area that is designed to hold a set amount of water indefinitely.

**Porch:** A raised platform with or without railings and covered by a roof, which is attached to a [building](#) but is outside of its enclosing walls .. A [Porch](#) without a roof is considered a "[Deck](#)" for the purposes of this Ordinance.

**Primary/Secondary School:** An educational institution serving students in any combination of grades between Kindergarten and high school graduation. The institution may be public, private, charter, or any other type of school and shall still fall under the definition of "Primary/Secondary School" for the purposes of this Ordinance.

**Preserve/Conservation Area:** A [use](#) of land solely dedicated to preserving or returning to a natural state of site, with few or no [buildings](#) or [structures](#).

**Property Line:** The line separating a piece of property from the street [right-of-way](#) and the lines separating a [parcel](#) of property from adjacent [parcels](#). See also [Lot line](#).

**Public Safety Official:** Public Safety Official refers generally to the departments or persons who perform police, fire fighting, and other public safety functions for the Township.

**Public Utility:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that: (1) because of the nature of its business, it has characteristics of a natural monopoly, and (2) it provides a service to an indefinite public (or portion of the public) which has a legal right to demand and receive its services.

**Rain Garden:** Shallow, depressed garden that is designed and positioned on a site to capture stormwater runoff and allow for the infiltration of water back into the ground.

**Real Property:** Includes the surface, whatever is attached to the surface (such as [buildings](#) or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

**Reception Antenna:** An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite [reception antennas](#), but excluding such facilities that have been preempted from Township regulation by applicable state or federal laws or regulations.

**Recessed Canopy Fixture:** An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

**Recreation-Indoor:** Indoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

**Recreation-Outdoor:** Outdoor uses that are designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

**Recognizable and Substantial Benefit:** A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed [development](#) and uses. Such benefits may include: long-term protection or preservation of [Natural Resources](#) and natural features, historical features, or architectural features; or, elimination of or reduction in the degree of [nonconformity](#) in a nonconforming [use](#) or [structure](#).

**Recreational Vehicle:** A class of vehicle which shall include the following:

Travel Trailer: A portable [vehicle](#) on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

Pickup Camper: A [structure](#) designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for [use](#) as a temporary dwelling during the process of travel, recreational, and vacation uses.

Motor Home: A recreational [vehicle](#) intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

Folding Tent Trailer: A folding [structure](#), mounted on wheels and designed for travel and vacation [use](#).

Boats, Boat Trailers: Boats, floats, rafts, canoes, etc., plus the normal equipment used to transport them on the highway.

Other Recreational Equipment: Snowmobiles, all terrain or special terrain [vehicles](#), [utility trailers](#), etc., plus the normal equipment to transport them on the highway.

Park Model: Vehicles designed to look like a permanent [dwelling unit](#).

**Recycling Collection Station:** A facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing.

**Regulatory Ordinary High Water Mark (ROHWM):** The Elevations set by the Michigan Department of Energy, Great Lakes, and the Environment (EGLE) or its successor agency or department of the State of Michigan, and used to determine regulations and applicability of permits required by the State. At the time of the adoption of this Ordinance, the Ordinary High Water Mark of Lake Michigan as set from EGLE was 580.5 feet above sea level. For the purposes of this Ordinance, the ROHWM shall be rounded to 581 feet. The Township shall keep a drone survey of the position of the ROHWM along the Township shoreline on file. Enforcement of setbacks and other regulations shall be based on said aerial drone survey. At the time of adoption, the aerial drone survey was completed on December 1, 2017, with an overlay of Property Identification Parcels added and on file with the Township's Zoning Administrator as of April 24, 2019.

**Religious Institution:** Any [structure](#) primarily and regularly used for religious assembly and/or activity. [Accessory Uses](#) and [structures](#) commonly associated with religious institutions include, but are not necessarily limited to parsonages, convents, and similar living arrangements; assembly halls; [kitchens](#), food pantries, and similar food preparation facilities; classrooms; gyms; and, playgrounds.

**Restaurant/Bar:** Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state.

**Resort:** A self-contained commercial vacation establishment that tries to provide many of a vacationer's wants, such as food, drink, lodging, and activities on the premises.

**Resort, Detached Unit:** A facility consisting of a number of detached [dwelling units](#), as well as [Accessory Uses](#) such as an office or recreational facilities, where the [dwelling units](#) are offered for temporary accommodations and are not available for permanent residency, other than the owner's and/or operator's primary residence, or separate ownership from the overall facility.

**Retail Store:** A business that sells products or provides services on the premises directly to consumers. Uses that fit this definition but are defined elsewhere in this Ordinance shall be considered to fall under the more specific definition.

**Rezoning Conditions.** Conditions proposed by the applicant and approved by the Township as part of an approval under this Section, which shall constitute regulations in connection with the [development](#) and [use](#) of property for which conditional approval has been granted.

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

**Roadside Farm Stand:** A [temporary structure](#) or [use](#) operated for the purpose of seasonally selling agricultural products.

**Right-of-Way:** The strip of land over which an [easement](#) exists to allow facilities such as streets, [roads](#), highways, and power lines to be built.

**Road or Street:** Any public or private thoroughfare or [Right-of-Way](#), other than a public or private [alley](#), dedicated to or designed for travel and access to any land, lot or [parcel](#) whether designated as a thoroughfare, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of roads are defined as follows:

**Private Road or Street:** Any Road or Street that is privately maintained and has not been accepted for maintenance by the Berrien County Road Department, the State of Michigan or the federal government, but is subject to approval by the Township.

**Public Road or Street:** Any Road or Street or portion thereof which has been dedicated to and accepted for maintenance by the Berrien County Road Department, State of Michigan or the federal government. For the purposes of funding, public [roads](#) are classified as either County Primary Roads or County Local Roads, pursuant to Michigan Public Act 51 of 1951, as amended. The County Primary Roads are those selected by the board of county [road](#) commissioners and certified to the Michigan Department of Transportation as being of greatest general importance to the county. All [roads](#) not included in the County Primary system shall constitute and be the County Local Road system.

**Roof or Building Mounted Solar Energy System:** A Small or [Large Solar Energy System](#) attached to or mounted on any roof or exterior wall of any principal or [accessory building](#), but excluding BIVPs.

**Roof Line:** The top edge of a roof or [Building parapet](#), whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

**Room:** For the purpose of determining lot area requirements and [density](#) in a multiple-family district, a [room](#) is a living [room](#), dining [room](#) or [bed room](#), equal to at least 80 square feet in area. A room shall not include the area in [kitchen](#), sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 [bed room](#) units and including a den, library, or other extra room shall count such extra room as a [bed room](#) for the purpose of computing density.

**Semi-Trailer:** a [trailer](#), which may or may not be enclosed, having wheels generally only at the rear and supported in front by a truck tractor or towing [vehicle](#).

**Service Drive:** A [road](#) that is generally parallel to and adjacent to an arterial [road](#) or street and that is designed to provide access to abutting properties so that these properties are separated from the through traffic on the arterial [road](#) or street and so that the flow of traffic on the arterial [road](#) is not impeded by direct [driveway](#) access from a large number of abutting properties.

**Service Truck:** A pick-up truck or van that is used in conjunction with a repair or maintenance business, such as a plumbing, electrical, or carpentry business.

**Setback:** The horizontal distance between any lot line and the nearest part of a [structure](#) on a lot. The 'minimum required [setback](#)' is the minimum distance between a front, side or [rear lot line](#) and the nearest part of a [structure](#) in order to conform to the required yard [setback](#) provisions of this Ordinance (see [Yard](#)).

### Sexually Oriented Businesses

A. **Businesses** are defined as follows:

Adult arcade means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show 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."

Adult Bookstore, Adult Novelty Store or Adult Video Store means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact disks, digital video disks, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"
2. Instruments, devices, or paraphernalia which are designed for [use](#) or marketed primarily for stimulation of human genital organs or for sadomasochistic [use](#) or abuse of themselves or others.
3. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

**Adult cabaret** means a nightclub, bar, restaurant "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude or in a state of nudity or semi-nude; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or (c) 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."

**Adult motel** means a [motel](#), hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which 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 which advertises the availability of this sexually oriented type of material by means of a [sign](#) visible from the public [right-of-way](#), or by means of any off-premises advertising including but not limited to, newspapers, magazine, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenants or occupant to sub-rent the sleeping [room](#) for a time period of less than ten (10) hours.

**Adult theatre** means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."

**Massage parlor** means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of Sexually Oriented Businesses shall not include the practice of massage by any licensed massage therapist licensed in the State of Michigan, nor in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

**Nude Model Studio** means any place where a person, who regularly appears in a state of nudity or displays, "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

**Sexual encounter establishment** means a business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas" or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of Sexually Oriented Businesses shall not include an establishment where a medical practitioner, psychologists, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

- B. **Employee** means a person who works or performs in and/or for a Sexually Oriented Business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.
- C. **Establishment** means and includes any of the following:
  - 1. The opening or commencement of any such Sexually Oriented Business as a new business;



2. The conversion of an existing business, whether or not a Sexually Oriented Business, to any of the Sexually Oriented Businesses defined in this chapter;
  3. The addition of any of the Sexually Oriented Businesses defined in this chapter to any other existing Sexually Oriented Business; or
  4. The relocation of any such Sexually Oriented Business.
- D. **Nudity** or **State of Nudity** means: (a) the appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.
- E. **Operator** means and includes the owner, custodian, manager, employee, or person in charge of the premises of the Sexually Oriented Business, provided that a person may be deemed an "operator" only the person actually exercise substantial control over the activities occurring on the premises of the Sexually Oriented Business.
- F. **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- G. **Public building** means any building owned, leased or held by the United States, the State of Michigan, the County of Berrien, the Township, any school district, or any other agency or political subdivision of the State or the United States, which [building](#) is used for governmental purposes.
- H. **Public park** or **recreation area** means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, [swimming pool](#), reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, [open space](#), wilderness area, or similar public land within the Township which is under the control, operation, or management of the Township.
- I. **Religious institution** means any church, synagogue, mosque, temple or [building](#) which is used primarily for religious worship and related activities.
- J. **Residential District or Use** means a single family, duplex, townhouse, multiple family, or mobile park or subdivision and [campground](#) as defined in the Chikaming Township Zoning Ordinance.
- K. **School** means any public or private educational facility including but not limited to child day care facilities, nursery school, preschools, kindergartens, elementary schools; primary school, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and universities. School includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- L. **Semi-Nude** means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.
- M. **Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult [motel](#), adult motion picture

theatre, adult theatre, massage parlor, sexual encounter establishment or nude model studio.

- N. **Specified Anatomical Areas** as used in this division means and includes any of the following:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- O. **Specified Sexual Activities** as used in this Division means and includes any of the following:
1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
  2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
  3. Masturbation, actual or simulated; or
  4. Human genitals in a state of sexual stimulation, arousal or tumescence;
  5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.
- P. **Substantial Enlargement of a Sexually Oriented Business** means increase in the floor areas [occupied](#) by the business by more than 15%, as the floor areas exist on December 19, 2002.
- Q. **Transfer of Ownership or Control of a Sexually Oriented Business** means and includes any of the following:
1. The sale, lease or sublease of the business;
  2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;
  3. The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

**Sign:** Any device, [structure](#), fixture, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk [alley](#), park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

**Accessory Sign:** An on premise sign which pertains to the [use](#) of the premises on which it is located.

**Animated Sign:** A sign that uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.

**Awning or Canopy Sign:** A sign which is made of non-rigid material such as heavy canvas that is supported by a framework, which is attached to a [building](#)'s substrate. An awning sign extends outward from the [building](#) and so provides shaded cover and protection from weather for customers and pedestrians.

**Balloon Sign:** A balloon sign is an inflatable device, regardless of size, that is designed for [use](#) as an on premise advertising device for a commercial promotional event.

**Banner Sign:** A sign made of fabric, cloth, paper, or other non-rigid material.



Banner Sign

**Billboard:** A sign over 72 square feet in area and separate from a premises, erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located.

**Changeable Copy Sign (Manual):** A sign, which has a reader board for the display of information (e.g., text, alphanumeric characters, graphics or symbols) which is changed manually.

**Directional Sign:** An on premise sign which is located and sized in a manner to safely and efficiently direct the flow of vehicular and pedestrian traffic to, from, and within a [development](#) site.

**Electronic Display Signs:** A sign that uses changing lights to form a sign message or messages in text or graphic or video display form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process.

**Feather Sign:** A feather banner is a type of banner sign comprised of a metal or plastic frame, pole, and/or base to which a vinyl, nylon, canvas or polyester fabric sign face is attached (see illustration).



**Festoon:** A string of ribbons, tinsel, small flags, pennants, pinwheels or lights, typically strung overhead in loops.

**Flag:** A sign made of cloth, fabric, or other durable, flexible material and attached to a permanent or temporary conforming pole.

**Flashing Sign:** A sign that contains an intermittent or sequential flashing light source. Electronic Display Signs, as defined herein, shall not constitute a flashing sign for the purpose of this ordinance.

**Freestanding Sign:** Any on-site sign supported by [structures](#) or supports that are placed on, or anchored in, the ground and that are independent from any [building](#) or other [structure](#), including the following:

- (a) **Pole Sign:** A type of freestanding sign that is elevated above the ground on poles or braces.
- (a) **Monument Sign:** A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message is painted or posted. A monument sign may also consist of a base-mounted cylindrical [structure](#) upon which a message is painted or posted.

**Illegal Sign:** A sign that does not meet the requirements of this ordinance and which has not received legal nonconforming status.

**Illuminated Sign:** Any sign which contains a mechanism that emits artificial light, including the following:

- (a) **Externally Illuminated Sign:** Any sign with lights designed for illumination and not located within the sign itself.
- (b) **Internally Illuminated Sign:** Any sign with lights designed for illumination from within the sign itself.

**Incidental Sign:** A small sign, emblem, or decal designed and located to be read only by people within the site and generally not visible or legible from the [road right-of-way](#) or adjacent properties. Examples of incidental signs include, but are not limited to, credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and barrier-free signs

**Inflatable Sign:** A sign consisting of flexible material or fabric that takes on a three-dimensional shape when filled with a sufficient volume of air or other gas. Inflatable signs are commonly used as temporary signs to draw attention to a site.



**Interior Sign:** A sign placed within a [building](#), but not including a window sign as defined herein, that is not visible from any public street, sidewalk, **alley**, park, or public property.

**Mansard:** A sloped roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

**Marquee:** A permanent roof-like [structure](#) or canopy, supported by and extending from the face of the [building](#).

**Marquee Sign:** A sign attached to or supported by a marquee [structure](#).

**Moving Sign:** Any sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" and a "revolving sign" are types of moving signs. Such motion does not refer to the method of changing the message on the sign.

**Neon Sign:** See "Outline Tubing Sign."

**Noncommercial Message Sign:** A sign that is not related to or connected with trade or commerce in general, including, but not limited to, signs pertaining to politics, sports, educational institutions, and general messaging.

**Nonconforming Sign:**

- (a) A sign which is prohibited under the terms of this Ordinance but was Erected lawfully, with a permit and was in use on the date of enactment of this Ordinance, or amendment thereto.
- (b) A sign which does not conform to the requirements of this Ordinance, but for which a variance has been granted.

**Off-Premise Commercial Advertising Sign:** A sign containing a message regarding services or products, activities, persons or events that are not made, produced, assembled, stored, distributed, leased, sold or conducted on the premises upon which the sign is located.

**On-Premise Commercial Advertising Sign:** A sign containing a message regarding services, products, activities, persons or events made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the sign is located.

**Outline Tubing Sign:** A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

**Parapet:** The extension of a false front or wall above a [roof line](#). Signs mounted on the face of a parapet shall be considered wall signs.

**Permanent Sign:** Any sign constructed and intended to be displayed for an indefinite, long-term period of time. Any sign, regardless of construction and intention, that is in place for more than six months shall be considered a permanent sign.

**Portable Sign:** A sign designed to be moved easily and not permanently affixed to the ground or to a [structure](#). This also includes signs worn or carried by a person.

**Portable Message Center Sign:** A sign designed to be transported easily and not permanently affixed to the ground or to a [structure](#). A portable message center sign includes a manual and electronic changeable copy sign, an electronic graphic display sign, a video display sign or multi-vision/tri-vision sign that may be displayed or affixed to a movable object such as but not limited to a car, truck, [trailer](#) or similar transportation device. The following are examples of portable message center signs:



**Projected-Image Sign:** A sign that is displayed on a wall or roof through light by a projector.

**Projecting Sign:** A sign, other than a flat wall sign, that projects from the face of the [building](#) or [structure](#) upon which it is located and is designed to attract the attention of drivers. A projecting roof sign is one that projects beyond the face or exterior wall surface of the [building](#) upon which the roof sign is mounted. A projecting sign is not a projecting sign, as defined herein.

**Public Sign:** A noncommercial message sign [Erected](#) in the public interest by or upon orders from a local, state, county, or federal public official. Examples of public signs include, but are not limited to, legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, and similar signs.

**Residential Entranceway Sign:** A sign that is located at the entrance to a residential [development](#) (e.g., subdivision, apartment complex, [condominium development](#), or other residential [development](#)) in a residential [zoning district](#).

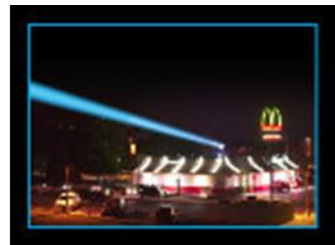
**Roof Sign:** Any sign that extends above the roofline or is [Erected](#) over the surface of the roof.

**Rotating or Revolving Sign:** A moving sign that rotates or revolves around an axis driven by wind or electromechanical devices. See "Moving Sign."

**Sandwich Board Sign:** An "A-frame" shaped sign that consists of two sign boards that are hinged together at the top and on which the message has been factory-imprinted, handwritten, or displayed using manual changeable copy display. The following are examples of sandwich board signs.



**Search lights (portable) :** A search light, sometime referred to as a spotlight, is a sign that is intended to visually communicate or attract the public's attention to a specific location.



**Setback, Sign:** The distance from the lot line to the nearest part of a sign [structure](#).

**Street Furniture Sign:** A [sign](#) applied to or affixed to a bench, trash receptacle, or any other street furniture.

**Support Pole Sign:** A temporary sign that is attached as an appendage to a sign, sign support, light pole, utility pole, or any part of a pole or support.

**Temporary Sign:** A sign not constructed or intended for long-term [use](#).

**Three-Dimensional Sign :** A sign that has depth or relief on its surface of greater than six inches.

**Vehicle Signs:** Signs painted or mounted on the side of a [vehicle](#), including signs on the face of a truck [trailer](#). Vehicle signs do not include Portable Message Center Signs.

**Wall Sign:** A sign painted on, incorporated in or attached directly to the exterior wall of a [building](#), with the exposed face of the sign in a plane parallel to the [building](#) wall, and projecting no more than twelve (12) inches from the wall face. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall also be considered wall signs.



**Window Sign:** A temporary sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside shall be considered wall signs. Temporary signs affixed to a window for more than thirty (30) days shall be considered wall signs.

**Yard Signs:** Temporary portable signs that are freestanding and temporarily anchored or secured to the ground.

**Sign Height:** The distance from the grade at the bottom of a sign to the upper-most point of the sign. If the sign is located on a [Berm](#), the height of the [Berm](#) shall be included in the height of the sign.

**Single Family Dwelling Unit:** A room, or rooms, within one independent structure, connecting together constituting a separate, independent dwelling unit for one family.

**Shooting Range:** A commercial facility for the safe and secure [use](#) of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting. The Zoning Administrator shall have the authority to determine that a gun range on residential or agricultural property is of such a large scale and scope so as to be commercial in nature. Appeals of the decisions of the Zoning Administrator in this regard shall be to the [Zoning Board of Appeals](#).

**Small Solar Energy System:** A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

**Solar Energy System:** Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including but not limited to the collection and transfer of heat created by solar energy to any other medium by any means.

**Special Event:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit Chikaming Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located.



**Special Land Use/Special Use:** Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted [use](#) in a particular [zoning district](#) or districts. After due consideration of the impact of each such proposed [use](#) upon the neighboring land and of the public need for the particular [use](#) at the proposed location, such [special land use](#)s may be permitted following review and approval subject to the terms of this Ordinance.

**Spirits:** Any beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, including wine containing an alcoholic content of more than 21% by volume, except for sacramental wine and mixed spirit drink.

**Stable (for Horses):** An enclosed [building](#) intended for the keeping of more than two (2) horses.

**State-Licensed Residential Facility (Non-Daycare):** Any [structure](#) constructed for residential purposes and licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act), including [adult foster care facilities](#), [foster family homes](#), [foster family group homes](#), family day care homes, and group day care homes.

- (a) **Adult foster care:** The provision of supervision, personal care, and protection, in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (i) *Adult foster care facility:* A residential [structure](#) that is licensed to provide adult foster care, but not continuous nursing care, for unrelated adults over the age of 17. An 'adult foster care facility' does not include any of the following: a licensed child caring institution, children's camp, [foster family home](#), or [foster family group home](#); an alcohol or substance abuse rehabilitation center; a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; a [hotel](#) or rooming house that does not provide or offer to provide foster care; or a veterans' facility.
  - (ii) *Adult foster care family home:* A [private home](#) with the approved capacity to receive not more than six adults to be provided with adult foster care.
  - (iii) *Adult foster care small group home:* An adult foster care facility with the approved capacity to receive not more than 12 adults.
  - (iv) *Adult foster care large group home:* An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults.
  - (v) *Adult foster care congregate facility:* An adult foster care facility with the approved capacity to receive more than 20 adults.
- (c) **Child foster care:** The care and supervision for 24 hours a day, for four or more days a week, and for two or more consecutive weeks, of minor children who are not related to an adult member of the household by blood or marriage, are not placed in the household under the Michigan adoption code, and are unattended by a parent or legal guardian.
- (i) *Foster family home:* A [private home](#) in which one but not more than four children are provided with child foster care.
  - (ii) *Foster family group home:* A [private home](#) in which more than four but not more than six children are provided with child foster care.

(d) **Private home:** For the limited purpose of defining a state-licensed residential facility, a 'private home' means a private residence in which the facility licensee or registrant permanently resides as a member of the household.

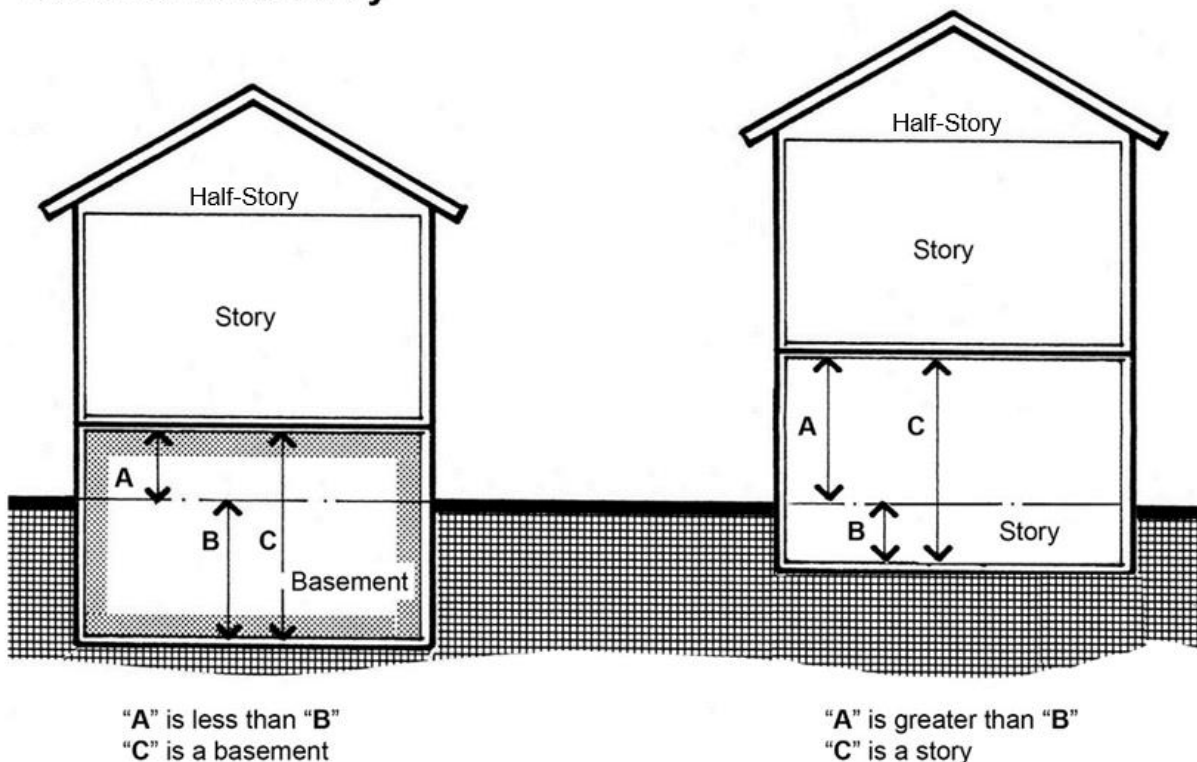
**Steep Slope:** A slope with a moderate or high High Risk Erosion (often 7% or greater) as defined in the Michigan Soil Erosion and Sedimentation Control Guidebook. Percent slope shall be computed by dividing the change in elevation by the horizontal distance, times 100.

**Story:** That portion of a [building](#), other than a [basement](#) as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it.

A mezzanine shall be deemed a full story when it covers more than one-third of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.

A [basement](#) shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

### Basement and Story



**Story, Half:** The uppermost [story](#) lying under roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full [story](#). The usable floor area of a half [story](#) shall be at least 160 square feet with a minimum clear height of seven feet, six inches.

**Street:** See [Road](#).

**Street Lot Line:** A dividing line between the [street](#) and a lot, also known as the [right-of-way](#) line.

**Structural Alteration:** Any change in the supporting members of a [building](#), such as bearing walls, columns, beams or girders.

**Structure:** Anything constructed or [Erected](#), the [use](#) of which requires location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory [buildings](#), towers, [decks](#), [fences](#), privacy screens, walls, antennae, [swimming pools](#), and [signs](#). Not all [structures](#) shall be considered [impervious surface](#) – see definition of “surface, permeable.” A simple concrete pad, including, but not limited to, a sidewalk or driveway, shall not be considered a structure.

**Subdivision Plat:** See [Plat, Subdivision](#).

**Swimming Pool:** Any permanent, non-portable [structure](#) or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing.

**Temporary Use or Building:** A [use](#) or [building](#) permitted to exist for a limited period of time under conditions and procedures as provided for in this Ordinance.

**Theater:** A facility designed to accommodate groups of people viewing an artistic performance or motion picture. Theaters may be drive-in or indoor.

**Township:** Chikaming Township, Berrien County, Michigan.

**Township Board:** The Supervisor, Clerk, Treasurer, and Trustees of Chikaming Township, Berrien County, Michigan.

**Toxic or Hazardous Waste:** Waste or a combination of waste and other deposited, stored or disposed material (including but not limited to solid, liquid, semisolid, or contained gaseous material) which because of its quantity, concentration, or physical chemical or infectious characteristics may (if improperly treated, deposited, stored, transported, disposed or otherwise managed) cause or significantly contribute to the following conditions:

- An increase in mortality, or
- An increase in serious irreversible illness, or
- Serious incapacitating, but reversible illness, or
- Substantial present or potential hazard to human health or the environment.

**Trailer:** A [vehicle](#) without motive power that is designed to be drawn by a motor [vehicle](#) and used for carrying property or persons.

**Truck Stop:** A [use](#) consisting of a gas station with accessory retail and/or restaurants that also allows overnight parking of [vehicles](#) with more than two axles.

**Tube Lights:** Any light fixture that has the appearance of a “tube” of light, including neon, LED, fluorescent, or other lighting types. This definition shall not include words or images made up of tubes of light.

**Underlying Zoning:** The zoning classification and regulations applicable to the property immediately preceding the approval of an application to designate a [parcel](#) as a [Planned Unit Development](#).

**Use:** The purpose for which land, lots, or [buildings](#) thereon is designed, arranged or intended, or for which it is [occupied](#), maintained, let or leased.

**Use, Accessory:** See [Accessory Use, Building, or Structure](#).

**Use, Permitted:** A use which may be lawfully established in a particular district or districts provided it conforms to all requirements, regulations, and standards of such district.

**Use, Principal:** The main use of land and [buildings](#) and the main purpose for which land and [buildings](#) exist.

**Use, Special Land:** See [Special Land Use](#).

**Utility Structures and Substations:** A facility for a service provider, which may be a company or a governmental agency, which provides such services as electric power, natural gas, sanitary sewers, water, telephone, etc.

**Utility Trailer:** A small trailer that is designed to be pulled by an [vehicle](#), van, or pick-up truck.

**Variance:** A modification of the literal provisions of the Zoning Ordinance granted by the [Zoning Board of Appeals](#) when strict enforcement of the Zoning Ordinance would cause practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

**Vehicle:** Unless specifically indicated otherwise, 'vehicle' shall mean any vehicle including by way of example, cars, trucks, vans, motorcycles, boats, and the like.

**Vehicle Dealership:** A [building](#) or premises used primarily for the sale of new and used vehicles and other motor vehicles.

**Vehicle Filling Station:** A place used 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. 'Vehicle [filling](#) stations' may also incorporate a convenience store operation as an [Accessory Use](#), provided it is clearly incidental to the [filling](#) station use, but no [vehicle repairs](#) shall be permitted.

**Vehicle Repair:** Major or minor repair of vehicles, defined as follows:

- (a) **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning 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 vehicles on the premises overnight.
- (b) **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the vehicles on the premises overnight.

**Vehicle Wash:** A commercial establishment contained within a [building](#) or premises or portion thereof where vehicles are washed.

**Vendor:** Any person or persons engaging temporarily in the retail sale of goods, wares, or merchandise involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services.

**Vendor Truck and/or Trailer (sometimes abbreviated as Vendor Truck):** A vehicle used to engage in the retail sale of goods, wares or merchandise involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise, or services.

**Veterinary Clinic:** An institution that is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured [animal](#) s, including those in need of medical or surgical attention. A 'veterinary clinic' may include customary pens or cages for the overnight boarding of [animal](#) s and such related facilities as laboratories, testing services, and offices.

**Wall, Obscuring:** A [structure](#) of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**Warehousing:** A [building](#) used primarily for storage of goods and materials.

**Wetland:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and which is commonly referred to as a bog, swamp, or marsh. A wetland is further characterized by the presence of hydric soils and prevalence of aquatic vegetation (hydrophytes) typically adapted for life in saturated soil conditions. A wetland that exhibits these characteristics may be dry on the surface during part or all of the year.

**Wholesale:** On-premise sale of goods primarily to customers engaged in the business of reselling the goods.

**Wind Energy Conversion System:** A system for the conversion of wind energy into electricity, mechanical power, or stored energy. A common type of wind energy system includes a turbine, projectings, tower, as well as related electrical and/or mechanical equipment, although other technology may be used to convert wind energy into electricity. The following definitions shall apply to wind energy systems:

**Adverse Sound Character:** Sound that causes [building](#) rattle, is impulsive, tonal, includes amplitude modulation, or has a low-frequency bass rumble.

**Ambient:** Ambient is defined as the sound pressure level exceeded 90% of the time over a 96-hour measurement period with daytime/nighttime division.

**ANSI:** the American National Standards Institute.

**Audible:** The varying degrees of sound perception as reported by affidavit, including, but not limited to, just perceptible, audible, clearly audible, and objectionable.

**dBA:** The A-weighted sound level.

**dBC:** The C-weighted sound level.

**Decibel (dB):** The practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 microPascals); abbreviated "dB."

**Emergency work:** Any work or action necessary to deliver [essential services](#) in an emergency situation, including, but not limited to, repairing water, gas, electricity, telephone

and sewer facilities and public transportation, removing fallen trees on public rights-of-way, and abating life-threatening conditions.

**Equivalent Sound Level (or Leq):** The sound level measured in decibels with an integrating sound level meter and averaged on an energy basis over a specific duration.

**Excessive noise:** Sound that is determined by ordinance to be too loud or unnecessary or creates a noise disturbance.

**FAA:** The Federal Aviation Administration

**GIS:** Geographic Information System and is comparable to GPS (global positioning system) coordinates.

**IEC:** The International Electrotechnical Commission

**ISO:** The International Organization for Standardization

**LMax (LAMax or LCMax):** The maximum db(A) or db(C) sound level measured using the “fast response” setting of the sound meter (equivalent to 0.125 second exponential averaging time)

**Lease Unit Boundary:** The boundary around a property or properties leased or purchased for purposes of operating a wind energy facility, including leased or purchased adjacent [parcels](#) to the [parcel](#) on which the wind energy facility tower or equipment is located. For purposes of [setback](#), the Lease Unit Boundary shall not cross [road](#) rights of way.

**L10:** Is the noise level exceeded for 10% of the time of the measurement duration. This is often used to give an indication of the upper limit of fluctuating noise, such as that from [road](#) traffic.

**L90:** Is the noise level exceeded for 90% of the time of the measurement duration and is commonly used to determine ambient or background noise level.

**Noise:** A sound that causes disturbance that exceeds 45 db(A) (Lmax) or 55 db(C) (Lmax).

**On Site Wind Energy Conversion System (also called Small Scale):** A wind energy conversion system less than 60 feet in total height with the blade fully extended (tip height) intended to generate electric power from wind solely for the [use](#) of the site on which the system is located. Small-scale [WECS](#) that are primarily intended to provide on-site power, but contribute surplus energy to the grid, may also be considered On-Site Small-Scale [WECS](#). Small scale wind energy systems that consistently sell power back to the public grid will require a Special Use permit.

**Participating Landowner:** A landowner who has leased land to the [WECS](#) Applicant, received financial remuneration from the [WECS](#) Applicant, recorded with the Berrien County Register of Deeds said agreement, and has a contract with the [WECS](#) Applicant. A Participating Landowner may also be called a [WECS](#) contract leaseholder. A Participating Landowner may or may not have turbines or infrastructure located on their property.

**Non-Participating Landowner:** A landowner who has not signed a contract or any legal document with the [WECS](#) Applicant and has not given up rights to their owned land to the [WECS](#) Applicant.

**Pasquill Stability Class:** Reference, wikipedia.org “Outline of air pollution dispersion”.

**Quiet Rural or Residential property:** Any property where there is an inherent expectation of quiet, including, but not limited to, all residential, business, or agricultural-zoned properties, single family homes, and retirement homes.

**SCADA (supervisory control and data acquisition):** A computer system that monitors and controls [WECS](#) units.

**Sound level meter:** An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).

**Sound Pressure:** An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

**Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

**Strobe Effect:** The effect resulting from the flashing of reflected light, which can be visible from some distance, from the surface finish of turbine blades.

**Survival Wind Speed:** The maximum wind speed, as designated by the [WECS](#) manufacturer, at which a [WECS](#) in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

**Tip Height:** The height of the turbine with a blade at the highest vertical point.

**Utility Scale (also known as Commercial and/or Large-Scale) Wind Energy Conversion System:** A wind energy conversion system greater than sixty (60) feet in total height (tip height) intended to generate power from wind primarily to supplement the greater electric utility grid. Utility-scale [WECS](#) include [accessory uses](#) such as, but not limited to, SCADA towers, anemometers, or electric substations.

**WECS Applicant:** The person, firm, corporation, company, limited liability corporation or other entity, as well as the Applicant’s successors, assigns and/or transferees, which applies for Township approval (permit) to construct a [WECS](#) and [WECS](#) Testing Facility. An Applicant must have the legal authority to represent and bind the Participating Landowner, or lessee, who will construct, own, and operate the [WECS](#) or Testing Facility. The duties and obligations regarding a zoning approval for any approved [WECS](#) or Testing Facility shall be with the [WECS](#) or Testing Facility owner, and jointly and severally with the owner, operator, and lessee of the [WECS](#) or Testing Facility if different than the [WECS](#) owner.

**Wind Energy Conversion System (WECS):** Any combination of the following:

- (a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- (b) A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- (c) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device;

- (d) The generator, alternator, or another device to convert the mechanical energy of the surface area into electrical energy;
- (e) The tower, pylon, or other [structure](#) upon which any, all, or some combination of the above are mounted.
- (f) Any other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

**Wind Energy Conversion System (WECS) Testing Facility:** A [structure](#) and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

**Wind Energy Facility:** Clusters of two or more Utility Grid Wind Energy Conversion Systems, placed upon a lot or [parcel](#) with the intent to sell or provide electricity to a site or location other than the premises upon which the Wind Energy Conversion Systems are located. Said Wind Energy Conversion Systems may or may not be owned by the owner of the property upon which they are placed.

**Wireless Telecommunications:** All [structures](#) and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment [building](#) and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Yard:** An [open space](#) on the same lot with a [building](#). The 'minimum required [setback](#)' is the minimum depth of a front, rear or [side yard](#) necessary to conform to the required yard [setback](#) provisions of this ordinance (see illustrations).

**Yard, Front:** 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](#). Unless otherwise specified, on [corner lots](#) and through lots, the [front yard](#) shall be defined as the yard adjacent to the [front lot line](#).

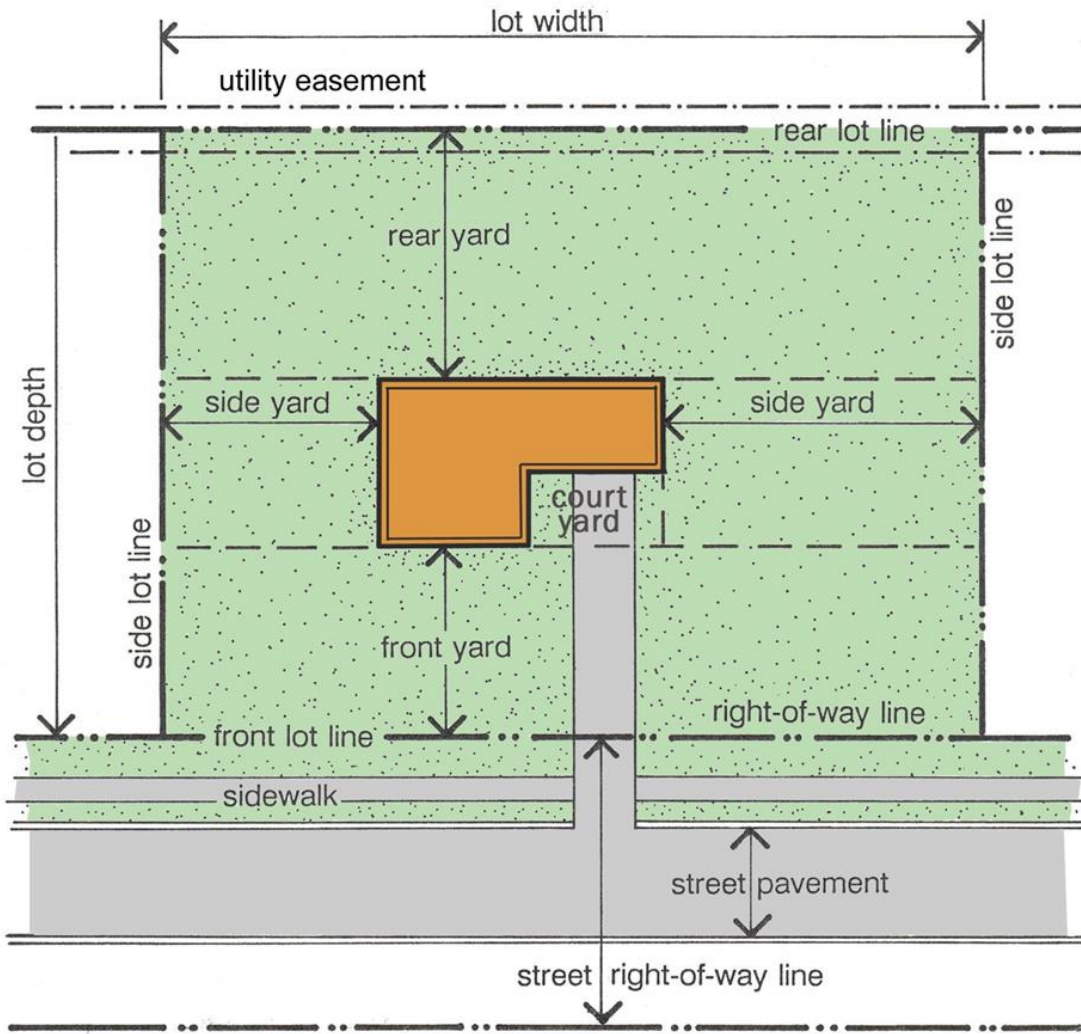
**Yard, Rear:** An [open space](#) extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the [rear lot line](#) and the nearest line of the [principal building](#). On [corner lots](#), the [rear yard](#) shall be opposite the [front yard](#).

**Yard, Side:** An [open space](#) between a principal [building](#) and the side lot line, extending from the [front yard](#) to the [rear yard](#), the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal [building](#).

**Yard, Interior Side/Street Side:** A [side yard](#) that abuts an adjacent lot (in contrast to a '[street side yard](#)', which abuts a [street or road right-of-way](#)).

**Waterfront Yard:** An [open space](#) extending the full width of the lot, the depth of which is the minimum horizontal distance between a body of water (including Lake Michigan) and the nearest line of the principal [building](#). A Waterfront Yard may also be a Front, Rear, or Side Yard, except in the R-1-W district, where waterfront yards are rear yards.





**Zoning Board of Appeals:** The Zoning Board of Appeals for Chikaming Township, as authorized by Michigan Public Act 110 of 2006, as amended.

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# Article 21 Severability, Repeal, Effective Date, Adoption

## Section 21.1 Severability

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

## Section 21.2 Repeal

The previously adopted Chikaming Township Zoning Ordinance text and map (effective February 23, 1998), and all amendments thereto, shall be repealed on the effective date of this Ordinance. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or any liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted, or inflicted.

## Section 21.3 Effective Date

Made and passed by the Township Board of Chikaming, Berrien County, Michigan, on October 24, 2019 and effective on May 29, 2020. This Ordinance shall be in full force and effect from and after January 1, 2020, with all amendments effective from the dates listed in the "Summary of Amendments" table at the beginning of the Ordinance.

## Section 21.4 Adoption

We hereby certify that the foregoing ordinance is a true copy of an ordinance as enacted by the Township Board of Trustees on October 24, 2019.

- (A) Public hearing by [Planning Commission](#): October 3, 2018
- (B) Recommendation of [Planning Commission](#) to approve the Zoning Ordinance text to the Township Board: October 2, 2019
- (C) Township Board adoption of the Zoning Ordinance text and map: October 24, 2019
- (D) Date the Ordinance text and map originally took effect, prior to any amendments: January 1, 2020

\_\_\_\_\_  
David Bunte, Supervisor

\_\_\_\_\_  
Date

I, Paula Dudiak, Clerk of Chikaming Township, Berrien County, Michigan, hereby certify that notice of adoption of the foregoing ordinance was published pursuant to the provisions of Michigan Public Act 110 of 2006, as amended, in a newspaper of general circulation in Chikaming Township on \_\_\_\_\_.

Paula Dudiak, Township Clerk

Date

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