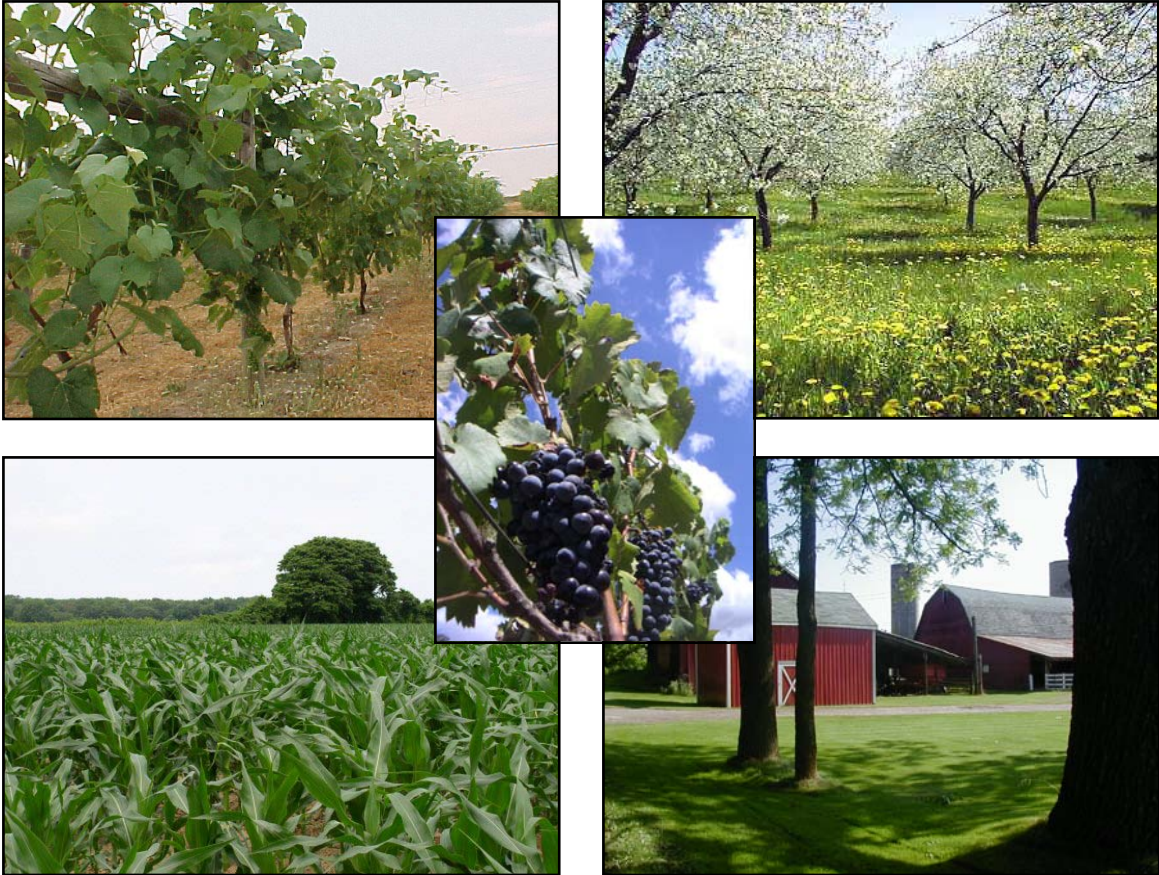


# Berrien Township Zoning Ordinance



Adopted November 9, 2010  
Amendments effective November 23, 2011



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## ARTICLE ONE PURPOSE AND LIMITATIONS

### 300.100 TITLE:

This Ordinance shall be known as the “Berrien Township Zoning Ordinance” and will be referred to herein as this Ordinance, or the Township Zoning Ordinance.

### 300.101 PURPOSE:

The fundamental purpose of this Ordinance is to promote the public health, safety, peace, values, convenience, and general welfare of the inhabitants of Berrien Township.

The provisions of the Ordinance are intended to encourage the use of the lands and resources of the Township in accordance with their character and adaptability; to promote the economic progress of the Township, and establish guidelines for its orderly development; preservation of farmland; to reduce hazards to life and property, and provide protection from fire, safety in traffic, to stabilize and enhance property values, to provide in the interests of health and safety minimum standards under which buildings and structure may hereafter be erected, altered and used; to facilitate the development of economic systems of fire protection, sewage disposal, safe and adequate water supplies, education, transportation, and other public requirements; to manage the use of funds for public improvements and services; to conform with the most advantageous use of the lands, properties, and resources of the Township in accordance with the Township Master Plan, or any other purposes contained in the Michigan Zoning Enabling Act, being Act 110 of 2006, as amended; and to conform with the highest and best use of land, resources and properties within the unincorporated portion of Berrien Township, Berrien County, Michigan.





## ARTICLE TWO - DEFINITIONS

### 300.200 RULES APPLYING TO TEXT:

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

- A. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.
- C. The word "building" includes the word "structure."
- D. The word "lot" includes the words "plot," "tract" or "parcel."
- E. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- G. Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization

### DEFINITIONS

#### 300.201 A DEFINITIONS:

ACCESS: A way or means of approach to provide year-round automobile and pedestrian ingress and egress to a property or lake.

ACCESSORY BUILDING: Subordinate building or portion of the principal building, the use of which is incidental to that of the principal building; also farm out-houses, stables, barns or other buildings located on lands being used for farming or truck gardening and for the purpose of carrying on such business upon the premises.

ACCESSORY USE OR ACCESSORY: A use which is clearly incidental to, customarily found in connection with, and located on the same lot as, the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. *(amended eff. 11/23/11)*

ADMINISTRATOR: See Zoning Administrator.

ADULT FOSTER CARE, FAMILY HOME: Pursuant to Act 218 of the Public Acts of 1979 as amended, a governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes residential facilities and foster care family homes for six or fewer adults as defined in Act 218 of 1979, who require supervision on an ongoing basis but who do not require continuous nursing care in a residential home. Adult Foster Care Home shall not include nursing homes.

ADULT FOSTER CARE, GROUP HOME: Pursuant to Act 218 of the Public Acts of 1979 as amended, a governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for seven or more adults as defined in Act 218 of 1979, who require supervision on an ongoing basis but who do not require continuous nursing care. Adult Foster Care Homes shall not include nursing homes.

ADULT USES: Adult uses shall mean:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas (as those terms are defined elsewhere herein).

ADULT BOOKSTORE OR ADULT VIDEO STORE: A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: 1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or, 2. Instruments, devices, or paraphernalia which are designed for use in connection with Specified Sexual Activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and may still be categorized as Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

ADULT BUSINESS: Means and includes any of the following (all as defined elsewhere in this Section of the Ordinance): Adult Arcade, Adult Bookstore, Adult Video Store, Adult Cabarets, Adult Motels, Adult Motion Picture Theaters, Adult Panoramas, Adult Theaters, Escort Agency, Nude Model Studios; and Sexual Encounter Centers.

ADULT CABARET: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of semi-nudity characterized by the exposure of Specified Anatomical Areas;
- B. Live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- 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; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT ESCORT: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ADULT ESCORT AGENCY: A person or business association who furnishes, offers to furnish, or advertises to furnish Escorts as one of its primary business purposes for a fee, tip, or other consideration.

ADULT MOTEL: A hotel, motel, or similar commercial establishment which:

- A. Circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions,
- B. Offers a sleeping room for rent for a pre-designated period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

ADULT PANORAMA: An establishment having a substantial or significant portion of its business devoted to an entertainment use where patrons view in individual viewing booths, films, tapes or live entertainment showing specified sexual activities or specified anatomical areas.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of semi-nudity characterized by the exposure of Specified Anatomical Areas or live performances which are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

ANTIQUE, GIFT, ART, AND HANDICRAFT SHOPS: A retail establishment dedicated to the sale of antiques, gifts, art, or hand made handicraft items.

ASSEMBLY OPERATION: Buildings, structures and premises used for the combining of parts into finished products and/or sub-assembly components for subsequent finishing on or off site and for the packaging, shipping and receiving of such products.

ATTACHED ACCESSORY BUILDING: An accessory building that is structurally attached to and is an integrated part of (by location, materials, and architectural design) a principal building.

AUTOMOBILE (MOTOR VEHICLE): A vehicle including automobiles, pickup trucks, vans, motorhomes, campers, motorcycles and similar motor driven vehicles, but shall not include tractor trailers, semi-trucks, construction equipment and similar types of heavy construction vehicles.

AUTOMOBILE (MOTOR VEHICLE), COMMERCIAL: A vehicle used in a business operation including trucks and automobiles having informational signage on the exterior body and/or windows noting business or service information.

AUTOMOBILE SALES: An establishment for the sale or transfer of ownership of new or used automobiles.

**300.202 B DEFINITIONS:**

**BANNER:** A sign which is temporary in nature and is constructed out of fabric or other flexible material.

**BASEMENT:** That portion of a building that is more than half or completely below grade.

**BROADCAST TOWERS:** Antenna towers and masts for broadcast radio service, telephone relay, or other communication.

**BUILDING:** See Structure.

**BILLBOARD:** An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

**BILLBOARD STRUCTURE:** Means the assembled components, or any portion thereof, which make up an outdoor advertising display, including but not limited to uprights, supports, cross members, facings and trim.

**BUILDING HEIGHT:** The vertical distance measured from the grade, as defined herein, to: (1) if the roof is flat, the highest point of the roof; (2) if a gable, hip, gambrel or mansard roof, the average height measured between the eave and the highest point of the roof; (3) where no roof beams exist, or there are structures partly or wholly above the roof, the highest point of the building structure.

**BUILDING, PRINCIPAL:** The building that contains the principal use of the parcel on which it is situated.

**300.203 C DEFINITIONS:**

**CAMP, RECREATIONAL:** An establishment to accommodate an organized, supervised recreational program of activities for boys, girls or families, normally housed in tents or cabins.

**CARWASH:** A building and equipment used for the commercial washing, waxing, detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and hand-wash facilities, as well as any combination thereof.

**CATERING SERVICE:** A commercial establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

**CEMETERY:** Publicly or privately owned property which guarantees perpetual care of grounds used solely for the interment of deceased human beings or customary household pets.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the Township Building Official or Inspector pursuant to the Township Building Code authorizing an occupancy and/or use of land and/or a building or structure pursuant to the Township Building Code and the terms of this Ordinance.

**CERTIFICATE OF ZONING COMPLIANCE:** A certificate of approval given to a property owner or contractor by the Zoning Administrator indicating compliance with this Ordinance.

**CLINIC (MEDICAL):** An establishment where patients who are not lodged overnight are admitted for examination and treatment by a physician or a group of physicians practicing medicine, osteopathy, dentistry, or chiropractic.

**COMMON OPEN SPACE:** A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended) or an area of water, or a combination of land and water and designed and intended for the use and enjoyment of residents or occupants of a development or general public. Common open space may contain such structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the development but shall not include area reserved for the exclusive use or benefit of any individual tenant or owner, nor any dedicated street or other public right-of-way; driveway, parking area, loading and storage area, and area reserved for non residential related use.

**CONDOMINIUM PROJECT:** A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978), as amended.

**CONDOMINIUM SUBDIVISION:** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967 (P.A. 288 of 1967, as amended) but is subject to the requirements of the Condominium Act, Act 59 of 1978, as amended.

**CONDOMINIUM UNIT:** That portion of a condominium project or site condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

**CONTRACTORS YARDS:** A lot used for storage of equipment and material used by contractors to do work on/off premises job sites.

**CONVENIENCE STORE:** A retail establishment offering for sale goods such as but not limited to prepackaged food products, household items, newspapers and magazines, consignment goods, and freshly prepared foods, such as salads and sandwiches, and beverages for on-site or off-site consumption. (*amended eff. 11/23/11*)

### **300.204 D DEFINITIONS:**

**DAY CARE CENTER or CHILD CARE CENTER:** A facility, other than a private residence, receiving one (1) or more preschool or school age children for 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. Child care center or day care center 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, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

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

**DAY CARE, FAMILY:** A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or

adoption. Family day care home includes a home that gives care to a nonrelated minor child for more than four (4) weeks during a calendar year.

DAY CARE, GROUP: A private home in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to a nonrelated minor child for more than four (4) weeks during a calendar year.

DENSITY: The total number of dwelling units within a given area of land. Density shall be expressed as the number of dwelling units per gross acre.

DRIVEWAY: Private means of ingress or egress from a public or private right of way.

DUMPSTER: A container used for the temporary storage of rubbish or materials to be recycled pending collection, having capacity of at least one cubic yard.

DWELLING UNIT: Any building, or part thereof, for human habitation which possess complete living facilities including provisions for sleeping, eating, cooking, and sanitation.

DWELLING, SINGLE-FAMILY: A building containing not more than one (1) dwelling unit.

DWELLING, TWO FAMILY: A building containing not more than two separate dwelling units designed for residential use.

DWELLING, MULTIPLE FAMILY: A building containing three or more dwelling units designed for residential use.

DWELLING, TEMPORARY: A building containing one or more dwelling units designed for residential use, which are to be occupied on a temporary basis by temporary laborers, emergency service personnel, displaced residents, or other persons on a temporary basis.

### **300.205 E DEFINITIONS:**

EDUCATIONAL FACILITY: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

ENFORCEMENT OFFICER: The Zoning Administrator or a designee charged with the enforcement of this Ordinance.

ESSENTIAL SERVICE: The construction, alteration or maintenance by public utilities or government agencies of gas, electrical, steam, or water transmissions or distribution systems, and communications (except cell towers elsewhere regulated in this Ordinance), collection, supply or disposal systems. These include such equipment such as poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals (and signs) hydrants, and other similar equipment. Buildings and transmission facilities which do not provide direct service to local distribution systems are not included.

ERECTED: Includes “built,” “constructed,” “reconstructed,” “moved upon” or any physical operation of the premises intended or required for a building or structure. Excavation, fill, drainage, land-clearing, and general property improvements shall not be considered “erection”.

EXOTIC ANIMAL: Any species of animal, reptile, or bird that is not indigenous to the environs of Berrien Township and which is not customarily considered as a farm animal or a pet and which may potentially be dangerous to humans, domestic animals or property if not properly managed. (*amended eff. 11/23/11*)

**300.206 F DEFINITIONS:**

FCC: The Federal Communications Commission.

FAMILY: One or more persons occupying a premise and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging or hotel.

FARM: A type of land use as defined in the Right To Farm Act, PA 93 of 1981, as amended.

FARM ANIMALS: Livestock, including, but not limited to, beef and dairy cattle, goats, hogs, horses, poultry, sheep, lamas, alpaca, and other fur-bearing animals, raised, fed, bred, housed and/or processed for products useful to humans.

FARM BUILDING: Any building or accessory structure other than a farm or a non-farm dwelling unit which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and or milkhouse.

FARM EQUIPMENT: Any machine, implement, vehicle, tool, or similar item used in the preparation, maintenance, or processes related to a working farm.

FARM MACHINERY & PRODUCT SUPPLIER: A retail establishment offering farm equipment, machinery, tools, or similar farm related products to aid in a farm operation.

FARM OPERATION: A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to: marketed produce at roadside stands; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

FARM PRODUCTS: Those plants, animals and products, useful to man and including, but not limited to: forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine, insects, worms, and other similar products.

FENCE: A constructed barrier erected to enclose, screen, or separate parcels or portions of parcels.

FENCE, DECORATIVE: A fence as defined herein, which is less than 50% opaque and up to thirty-six inches in height and which is designed primarily to enhance the aesthetics or attractiveness of the site upon which it is located.

FLOOD HAZARD AREA, BOUNDARY MAP: The land in the floodplain in any community which is subject to a one (1) percent or greater chance of flooding in any given year as defined as an area of special flood hazard and designated "Zone A" on the Flood Insurance Rate Map issued for the Township by the Federal Emergency Management Administration.

FLOOR AREA, TOTAL: The sum of the gross horizontal areas of the several floors of a building or structure measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

FLOOR AREA, USABLE: The total floor area, minus any area used primarily for storage, preparation, or sanitation.

FINANCIAL INSTITUTIONS: A business or association providing financial services to the public including savings, credit, investment brokerage and services and similar facilities, with or without drive-through facilities and/or automated teller facilities.

FUNERAL HOME or MORTUARY: A facility used for the preparation of the deceased for burial and for visitation and for the conduct of memorial and funeral services.

### **300.207 G DEFINITIONS:**

GARAGE, PRIVATE: An attached or detached accessory building designed or used primarily for the storage of noncommercial motor vehicles, boats, and residential tools and equipment owned and used by the occupants of the building to which it is accessory.

GAS RECOVERY FACILITY: A licensed and regulated facility for the capture, recovery and refinement of gasses generated by natural decomposition.

GASOLINE STATION: Any building, structure or land used for the dispensing, servicing, sale or offering for sale at retail, of any automobile fuels, oils, or accessories that also includes a retail establishment offering for sale such items as prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for on or off-site consumption.

GOVERNMENTAL OFFICE: The offices of any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.

GRADE: The median level of the finished surface of the ground adjacent to the exterior walls of the building, determined by subtracting the lowest elevation point from the highest, dividing the result by 2 and adding the resulting quotient to the lowest point.

GROSS ACREAGE: The land area occupied within a set of described property lines.

### **300.208 H DEFINITIONS:**

HAZARDOUS SUBSTANCES AND POLLUTING MATERIALS: Hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources and Environment; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

HEIGHT: (See Building Height)

HOME OCCUPATION: An activity carried out for financial gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling or accessory buildings, but not



a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

HOME OCCUPATION, MAJOR: A home occupation, profession, activity, or use that is evident to neighbors by virtue of an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally associated with a residential community.

HOME OCCUPATION, MINOR: A home occupation involving activities which do not affect the residential character of the neighborhood and which, under normal circumstances, would not be detectable by neighbors.

HOSPITAL: A facility licensed by the State of Michigan capable of providing physical, surgical, rehabilitative, medical, or similar treatment to individuals suffering or recovering from illness, injury, or infirmity.

HOTEL or MOTEL: A building, or group of buildings in which lodging or boarding are provided. As such, it is open to the public as distinguished from a boarding house, lodging house or an apartment.

HOUSEHOLD PETS: Household pets include any pets not specifically prohibited by the terms of this Ordinance and any other Township Ordinance. Household pets do not include farm animals.

### 300.209 I DEFINITIONS:

IMPROVEMENTS: Those features and actions associated with a project which are considered necessary by the Township governing body or official granting planning, zoning or Board approval, to protect natural resources, or the health, safety, and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage.

### 300.210 J DEFINITIONS:

JUNK: Any personal unused, or scrapped property which is, or may, be salvaged for reuse, resale, reduction or similar use or disposition, or which is possessed, transported, owned, accumulated, dismantled or sorted for any such reasons. Without limiting the definition of junk, the term shall include used or salvaged metals and their compounds or combinations, used or salvaged rope, bags, paper, glass, rubber and similar articles, and motor vehicles which are parked, deposited, employed, or possessed for the purpose of dismantling or salvaging any part thereof.

JUNKYARD: Any place at which a person engages in the purchase, exchange, accumulation, receipt, storage, sale or disposition of any article which may reasonably be defined as junk, except this definition shall not apply to retail merchants who repossess their own merchandise sold on a title-retaining contract, or chattel-mortgage basis.

### 300.211 K DEFINITIONS:

KENNEL: Any lot or premises on which four (4) or more animals of more than six months in age are kept or boarded temporarily or permanently, for the purpose of commercial breeding, sale, boarding, or training. It shall also include any lot or premises which other fur bearing household or domestic pets of like number are bred or sold.

### 300.212 L DEFINITIONS:

LAND DIVISION: The act of creating a lot defined by a metes and bounds description pursuant to Section 108 of the provisions of the Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act).

LAND DIVISION ACT: The Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) and any Ordinance adopted by the Berrien Township Board in furtherance of Township duties required of the act.

LANDOWNER OR APPLICANT: The legal or beneficiary owner or owners of the land or the holder of an option or contract to purchase a set tract or lot.

LAUNDRY AND DRY CLEANING ESTABLISHMENT: A commercial establishment providing cleaning, dry cleaning and laundry services on-site for businesses and residents.

LODGES, FRATERNAL, LABOR AND SOCIAL HALL: A building and related facilities owned or operated by a corporation, association or group of individuals established for the fraternal, social or recreational enrichment of its members and not primarily for profit whose members gather and meet certain prescribed qualifications for membership.

LODGING HOUSE: A building other than a hotel where lodging only is provided, but not to exceed more than twenty persons.

LOT OR PREMISES: A lot which may be unoccupied, occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot shall also mean the words, "plot," "tract" or "parcel."

LOT AREA: The land that is fully contained within the boundaries of the lot., but excluding any portion located within a public right-of-way.

LOT, CORNER: A lot adjacent to two or more streets at their intersection.

LOT COVERAGE: The total sum of the area occupied by a roofed principle or accessory structure on a lot or tract of land under single ownership.

LOT WIDTH: The horizontal straight-line distance between the side property lines, measured between the two (2) points where the front setback line intersects the side property lines.

### **300.213 M DEFINITIONS:**

MANUFACTURED HOUSING: As used herein the term "manufactured housing" shall mean a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year round living as a single-family dwelling. Provided, however, that the term "Manufactured Housing" shall not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and potable water utilities.

MANUFACTURED HOUSING COMMUNITY OR PARK: An area where two or more manufactured housing units are parked or intended to be parked, designed or intended to be used as living facilities for one or more families and which is subject to the provisions of Act 96 of 1987, as amended.

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

MASTER PLAN: A plan prepared by a planning commission authorized used to provide direction regarding land use within the Township.

MINI-WAREHOUSE, SELF STORAGE: A building or portions of buildings offered to the public for a fee on a monthly or yearly basis for the storage of goods.

MOBILE HOME See “Manufactured Housing”

MOBILE HOME PARK: See “Manufactured Housing Community.”

MORTUARY, FUNERAL PARLOR: See “Funeral Home”

### 300.214 N DEFINITIONS:

NONCONFORMING STRUCTURE: A building or structure that fails to meet one or more provisions of this Ordinance.

NONCONFORMING USE: The use of a building, structure, lot that fails to meet one or more of the provisions of this Ordinance

NUISANCE: Any activity harmful to the public health, safety, and general welfare which creates an interference in a way of travel, affects public values or prevents the public from the designated use of their land and public right of ways.

NURSING HOME: Pursuant to Act 368 of the Public Acts of 1978 as amended: means a nursing care facility, including a county medical care facility, but excludes a hospital or a facility which provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

### 300.215 O DEFINITIONS:

OPEN SPACE: Land and water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

OUTDOOR STORAGE: An area of a lot, designated by the owner or tenant or used by the owner or tenant for the storage of equipment, motor vehicles of any type (other than parking in a required vehicle parking area), or any other matter including junk and debris which may be regulated by this Ordinance or any other Township Ordinance.

### 300.216 P DEFINITIONS:

PARKING LOT: A lot which is primarily used for the parking of motor vehicles.

PARKING SPACE: An area, enclosed in the main building, in an accessory building, or unenclosed, having an area of not less than 200 square feet, exclusive of driveways, permanently reserved for temporary storage of one automobile and connected with a street, alley, or drive lane which affords satisfactory ingress and egress for automobiles.

PERSONAL PROPERTY SALE: Garage sales, yard sales, basement sales, rummage sales or any other similar sale of personal property, whether it is used, secondhand, damaged or discarded, not otherwise regulated in this Ordinance advertised by means whereby the public at large is or can be aware of such. (amended eff. 11/23/11)

PERSONAL SERVICES: Services provided to an individual such as barbershops, beauty salons, shoe repair, tailors, dress making and such.

PLACES OF PUBLIC ASSEMBLY: Places of public assembly shall include theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for entertainment, instruction, worship or similar activities involving assembled groups of people.

PLANNED UNIT DEVELOPMENT. An area of minimum size, as specified by this Ordinance, to be planned and developed as a single entity containing mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult development challenges.

PLANT NURSERY AND GREENHOUSE: An establishment for the growth, display, and/or wholesale or retail sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

PLAT: The required drawing prepared in accordance with the specification of either the Land Division Act or Condominium Act signed by a Michigan Registered Surveyor. Said drawing is to be approved by the Township Board and the State of Michigan and filed with the Register of Deeds of Berrien County for the conveyance of real property.

PRINCIPAL STRUCTURE: (or principal building), A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE: The primary or predominant use of any parcel.

PROCESSING AND MANUFACTURING: Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical, electrical, mechanical, or other means of transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.

PROFESSIONAL OFFICE: A facility used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

PROFESSIONAL SERVICE ESTABLISHMENTS: An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

PROPERTY LINE: A legal boundary line separating one legally described property from another or from a public right-of-way.

PROPERTY LINE, FRONT: Any property line dividing private property from a public right of way

PROPERTY LINE, REAR: A property line opposite from a front line.

PROPERTY LINE, SIDE: A property line running from the front property line to the rear property line, dividing one property from another property.

PUBLIC ACCESS: Shall mean a boat access site operated by a governmental entity, including access from a public road authorized expressly or impliedly by a governmental entity.

PUBLIC UTILITIES: Shall mean a potable and fire suppression water supply, treatment and distribution system, and/or a wastewater collection and treatment system; owned and operated by a unit of government.

PUBLIC UTILITY BUILDINGS: A building or structure owned and operated by a utility company providing water system, sewer, natural gas, electric or telephone services and including offices, sub-stations, transformers, pump stations, poles and towers and kindred facilities.

**300.217 Q DEFINITIONS: RESERVED**

**300.218 R DEFINITIONS:**

RECREATIONAL FACILITY: A facility providing personal types of recreation in which customers actively participate, rather than as spectators, and which has been approved as an appropriate and compatible use with the other uses permitted in the zoning district.

RECREATIONAL FACILITY, PUBLIC : A recreational facility available to the public which is owned and operated by the State of Michigan, a political subdivision of the State of Michigan, or the U.S. Government.

RECREATIONAL FACILITY, PRIVATE: A recreational facility available to the public which is privately owned and operated.

RECREATIONAL UNIT: A tent, or a vehicular type structure primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit shall include "travel trailers," "camping trailers," "motor home," "truck camper," "slide-in camper." and "chassis-mount camper," as defined in Public Acts 171, Public Acts of 1970, Michigan.

REFINERY: A facility that processes raw materials from the ground, air, water, or land, or waste materials into usable products.

RESTAURANT: A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for takeout.

RETAIL BUSINESS: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

ROAD: Any existing or planned publicly controlled and dedicated or privately held vehicular access way, used or intended to be used for access to public or private lands and/or for the conveyance of traffic.

ROAD, ACCESS BY EASEMENT-EASEMENT ACCESS: A vehicular access way constructed within a common easement along with the easement, which provides access to lots within a plat or a non-platted subdivisions of metes and bounds described parcels and which provides continuous access for safety services vehicles operating within the Township.

ROAD, COUNTY STANDARDS: The Standards and Specifications for streets as adopted by the Berrien County Road Commission.

ROAD, CUL-DE-SAC: A local road of short length having one end terminated by a vehicular turn-around.

ROAD, HIGHWAY: A right-of-way along with related improvements which provides for access to abutting properties or local roads.

ROAD, LOCAL: A public road designated a local road by the Berrien County Road Commission which is not part of the County Primary Road System, which is intended primarily for access to abutting properties.

ROAD, PRIMARY: Those roads of considerable continuity which are designated as primary roads by the Berrien County Road Commission.

ROAD, PUBLIC: A road dedicated to the public, such dedication having been accepted by the appropriate public Road Commission or Michigan Department of Transportation, which meets the minimum construction standards of said Road Commission or Michigan Department of Transportation.

ROAD, PRIVATE: A road held in private ownership and dedicated to the use of two or more abutting properties which meets the design and construction standards of the Berrien County Road Commission.

ROAD, UNREGULATED PRIVATE: A road held in private ownership and contained within and/or abutting not more than three (3) adjoining parcels.

ROAD, PRIVATE CONDO: A private road in a condominium subdivision meeting the Berrien County Road Commission public road standards.

ROADSIDE MARKET: A permanent building which is used year around for sale of farm products, produce, and similar goods.

ROADSIDE STAND: A temporary building used for seasonal sales of produce.

ROAD, STATE HIGHWAY: State or federal numbered highway.

ROAD, SIGHT DISTANCE: The unobstructed vision on a horizontal plane along a road centerline from a driver-eye height of 3.5 feet and an object height of 6 inches.

### **300.219 S DEFINITIONS:**

SAWMILL: A facility for the processing of harvested timber.

SAWMILL TEMPORARY: A portable machine used for the processing of harvested timber for period of time as determined by the Planning Commission.

SERVICE DRIVES: A service drive shall be a front or rear interconnection between parcels, and may include the maneuvering lane within a parking lot. A service drive is not a private road.

SETBACK: The minimum required distance between a structure, including steps and porches, and a property line, measured perpendicular from the property line.

SIGNS: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product which are visible from any public way and used as an outdoor display.

SIGN FACE: Each part of a sign structure that is used to graphically communicate a message or announcement.

SIGN, GROUND: A sign supported by a pole or poles, uprights or braces on the ground; that is, not attached to a building.

SIGN, OFF-PREMISE: Any sign that directs attention to a business, commodity, services or entertainment conducted, offered or sold at a location other than the premises on which the sign is located.

SIGN, PORTABLE: A sign painted on, or in any manner affixed to, a supporting structure which is not permanently attached to the ground or another stationary structure.

SIGN, POLE: A type of ground sign at least ten (10) feet above the ground supported on a post(s) or pole(s).

SIGN, WALL: A sign affixed flat against the wall of a building.

SITE CONDOMINIUM: See Condominium Subdivision.

SITE PLAN: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to Section 300.1203 of this Ordinance.

SOLAR PANEL: A panel consisting of an array of photovoltaic solar cells or liquid-filled tubes, often attached to structures as a way to generate electricity or heat from sunlight.

SPECIFIED ANATOMICAL AREAS: Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: means and includes the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy masturbation, actual or simulated; or, excretory functions as part of or in connection with any of the activities set forth above.

STORY: That portion of a building, except a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling above it.

STABLE/RIDING ACADEMY: A building and grounds used or to be used for the housing of horses or mules for hire by the owner or operator thereof and which may or may not provide instruction in horseback riding.

STRUCTURE: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something have permanent location on the ground, including, but without

limiting the generality of the foregoing; fences, advertising devices, billboards, back stops for tennis courts and pergolas, and similar structures.

**SUBDIVISION:** A residential use that divides substantially all of the land contained within its boundaries into not more than the number of lots permissible by the applicable zoning district.

### 300.220 T DEFINITIONS:

**TAVERN** An establishment used primarily for the serving of liquor, beer and wine to the general public and where food or packaged liquors may be served or sold only as an accessory to the primary use.

**TENTS:** Any structure primarily of canvas, paper, cardboard, building board, cloth, rubber, plastic or like type of material which is being used or intended to be used for either temporary or permanent living quarters.

**TOWNSHIP PLANNING COMMISSION:** (Or Planning Commission) The Township Planning Commission of Berrien Township herein the official body duly organized under the Michigan Planning Enabling Act, Act 33 of 2008 and empowered hereby to assume all power, duties, and responsibilities authorized for a zoning board under the, Michigan Zoning Enabling Act of 2006 as amended.

### 300.221 U DEFINITIONS: RESERVED

### 300.222 V DEFINITIONS:

**VEHICLE REPAIR FACILITY:** A building, structure or lot, or any portion thereof, used for the diagnosing, repairing, cleaning, equipping and/or painting of motor vehicles.

**VETERINARY SERVICES:** The medical care, treatment, and rehabilitation of animals.

### 300.223 W DEFINITIONS:

**WAREHOUSE:** A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by and for the owner or operator of the facility, or as a commercial service on behalf of the owner(s) of such items.

**WETLAND, REGULATED:** As defined in Act 451 of the Public Acts of 1994, as amended, a regulated wetland shall mean 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.

**WHOLESALE ESTABLISHMENT:** A commercial establishment selling bulk goods to retail business or distribution companies for resale.

**WIND ENERGY CONVERSION SYSTEM:** Turbine with blades used to harness the energy from the wind and convert the energy into usable electricity. Shall also be known as WECS.

**WIND ENERGY CONVERSION SYSTEM - PERSONAL:** Wind energy conversion system for personal, commercial or industrial on site use, which may or may not be connected to the electrical grid.

**WIND ENERGY CONVERSION SYSTEM - REGIONAL:** Wind energy conversion system constructed for the energy production exclusively for a subdivision, site condominium, or similar group or cluster of buildings.



WIND ENERGY CONVERSION SYSTEM – COMMERCIAL: Wind energy conversion system constructed for the commercial production of electricity, operated by a utility company, and connected to the electrical grid.

WINERY/ BREWERY Agricultural facility in which grapes, fruits, or grains are grown or purchased, fermented or brewed, and processed into wine, mead, or beer, and packaged for distribution.

WOOD BURNER: Interior or exterior heating furnace which uses wood as a fuel for the production of heat.

**300.224 X DEFINITIONS: RESERVED**

**300.225 Y DEFINITIONS:**

YARD: An open space between a building foundation wall and the adjoining property lines, unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided herein.

YARD, FRONT: An open space extending across the front of the lot between the side property lines and located between the building and the front property line.

YARD, REAR: An open space extending across the rear of the lot between the side lines and located between the building and the rear property line.

YARD, SIDE: An open space between the main building and the side property line.

**300.226 Z DEFINITIONS:**

ZONING ADMINISTRATOR The Township Official appointed by the Township Board to administer the this Ordinance.

ZONING BOARD OF APPEALS OR BOARD OF APPEALS: The Zoning Board of Appeals of Berrien Township herein being a quasi-judicial body which hears and decides matters relating to appeals from the decisions of the Zoning Administrator and considers variances and interpretations of this Ordinance as permitted by the Michigan Zoning Enabling Act of 2006 as amended and the Michigan Planning Enabling Act of 2008.

ZONING MAP: A map of the current regulatory districts as defined within this Ordinance. The district boundaries shall go to the nearest property line, center line of the road, or any location as determined by the planning commission.



## ARTICLE THREE - ZONING DISTRICTS AND MAPS

**300.300 DIVISION OF THE TOWNSHIP INTO ZONING DISTRICTS:** For the purpose of this Ordinance, all of the unincorporated area of within the Township shall be divided into Zoning Districts and set forth in Section 300.301.

**300.301 CLASSIFICATION OF DISTRICTS:**

A. Zoning Districts:

A-R AGRICULTURE - RESIDENTIAL

R-1 RESIDENTIAL

M-H MOBILE HOME

C - COMMERCIAL

I - INDUSTRIAL

B. For the purposes of this Ordinance, the A-R, R-1 and M-H districts shall be considered residential districts.

**300.302 ZONING MAP:** The area assigned to these districts and the boundaries thereof shown upon the map entitled "Berrien Township Zoning Map" are hereby established, and that map, may be amended from time to time, and all proper notations, references and other information shown thereon are hereby made a part of this Ordinance. The Berrien Township Zoning Map shall be identified by the signature of the Township Supervisor attested to by the Township Clerk under the words: "This is to certify that this is the Official Zoning Map of Berrien Township referred to in Section 300.302 of the Berrien Zoning Ordinance of Berrien Township."

**300.303 BOUNDARIES OF ZONING DISTRICTS:** Unless otherwise provided in this Ordinance, the boundaries of zoning districts shall be interpreted as following along section lines, or lines of customary subdivision of such section; or the right-of-way line of highways, streets, alleys or property lines on record at the office of the Register of Deeds of Berrien County as of the date of enactment of this Ordinance.

**300.304 INTERPRETATION OF DISTRICT BOUNDARIES:** Where there is uncertainty as to the boundary of any district shown on the Zoning Map, the Zoning Board of Appeals shall determine the location of such boundaries according to the following standards for interpretation of district boundaries established in this Ordinance.

- A. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such line.
- B. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of the Township shall be construed as following such line.

- D. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right of way.
- E. A boundary indicated as following the center thread of the St. Joseph River.
- F. A boundary indicated as parallel to, or an extension of, a feature indicated in subsections A through F above shall be so construed.
- G. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

INSERT MAP

BACK OF MAP

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## ARTICLE FOUR - GENERAL PROVISIONS

**300.400 SCOPE OF ORDINANCE:** Except as otherwise provided in this Ordinance, no land or existing building shall be used, and no building or structure shall hereafter be located or erected or used on any premises other than in conformity with the provisions of this Ordinance.

**300.401 ACCESSORY BUILDINGS AND STRUCTURES:**

- A. All attached accessory buildings shall meet the yard, setback and building height requirements of this Ordinance unless regulated elsewhere within this Ordinance.
- B. Except in the Agriculture - Residential (A-R) district, an accessory building shall not be constructed prior to the construction of the principal structure. Provided, however, that the Zoning Administrator shall be permitted to issue a certificate of zoning compliance for an accessory building to be used for up to one (1) year prior to the construction of the principal building on a lot of two acres or more.
- C. If an accessory building is attached to a principal building by either a common foundation, common wall or common roof element, it shall be deemed to be a part of the principal structure and the entire structure shall comply with the terms of this Ordinance.
- D. In the R-1, and C districts, the total footprint of all accessory buildings on the lot shall not exceed the footprint of the principal structure.
- E. All attached accessory buildings and structures, including garages, open porches and breezeways, shall be considered a part of the main building in determining setback requirements. All unattached buildings shall be located not less than eight (8) feet from the side property lines, not less than the required front yard setback of the principal structure, and ten (10) feet separation between buildings.
- F. Personal Wind Energy Conversion Systems (WECS) shall be considered an accessory structure and shall be subject to the following provisions:
  - 1. Setbacks shall be no less than 1.5 times the total height of the WECS from the ground level to the top of the blade at the highest point in rotation.
  - 2. Rooftop mounted and detached personal WECS shall not exceed 1.5 times the maximum permitted building height for the district in which they are located.
- G. Solar Panels may be affixed to the roof of a principle or accessory structure and aligned in a manner not to create glare or adverse effects to neighboring properties or right-of-ways.
- H. Wood Burners shall be considered an accessory structure and shall be subject to the following provisions:
  - 1. Setbacks shall meet the setbacks of the principal building
  - 2. Smoke stacks or chimneys shall be constructed so that they will not create a nuisance.
- I. Swimming pools shall be considered an accessory use and shall be located in compliance with the yard and setback requirements of this Ordinance. Swimming pools shall be constructed, installed and maintained in compliance with the requirements of the adopted building code of Berrien Township pertaining to fences, ladders, and electrical regulations, and other matters.

**300.402 DWELLING, SINGLE-FAMILY:** A single-family dwelling shall not contain more than one (1) dwelling unit designated for residential use and shall comply with the following standards:

- A. It shall comply with the minimum square footage requirements of this Ordinance for the district in which it is located.
- B. It shall have a core area of living space of at least 20 feet by 20 feet in size and complies in all respects with the Township Building Code, including minimum heights and areas for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code, then and in that event such federal or state standard or regulation shall apply.

**300.403 DWELLING, TWO-FAMILY & MULTIPLE FAMILY:** Two Family and Multiple Family Dwellings shall have a minimum width across any front, side or rear elevation of 20 feet and shall comply in all respects with the Building Code, including minimum heights for habitable rooms.

**300.404 DWELLING, TEMPORARY:** No tent, trailer, camper, motor home, or other temporary structure shall be used as a dwelling unit except the following:

- A. Temporary structures may be used to house itinerant temporary laborers during the normal harvest season.
- B. Temporary structures may be used to house campers at an organized recreational camp approved by the Berrien County District Health Department.
- C. Emergency service personnel or displaced Township residents during a declared emergency.
- D. Temporary dwellings with a medical exception.

**300.405 ESSENTIAL PUBLIC SERVICES:** Existing utilities, essential public services and railroads may continue to be operated and maintained, but no new essential public service construction other than poles, wires, and usual underground utilities shall be started without first obtaining the approval of the Planning Commission.

**300.406 FENCES:** All fences hereinafter constructed in Berrien Township shall conform to the following standards:

- A. Except as provided herein, construction of a fence shall require issuance of a certificate of zoning compliance issued by the Zoning Administrator prior to construction or erection of the fence. The following fences shall be exempt from this requirement:
  1. Fences associated with a farm operation in the A-R district.
  2. Decorative fences as defined herein.
- B. Chain-link fencing shall not exceed 6-feet in height, unless otherwise required within this Ordinance. Opaque fencing shall not exceed three (3) feet in height in the front yard and six (6) feet in height located in the side or rear yard unless otherwise required within this Ordinance.
- C. Any form of electrified and/or barbed wire, or single strand wire fence or barrier is prohibited in the R-1 and M-H Zoning Districts, other than underground pet fencing on using a radio collar system.



- D. Barbed wire, barbwire or any form of single strand wire fence or barrier is prohibited in any Commercial or Industrial District except for the installation as cap wires on industrial grade cyclone type fence with a minimum height of six (6) feet.
- E. Any fence erected or maintained in violation of this section shall be deemed a hazard to public health and welfare and shall constitute a violation of this Ordinance.

**300.407 HOME OCCUPATIONS- MINOR:** All minor home occupations shall meet the following requirements:

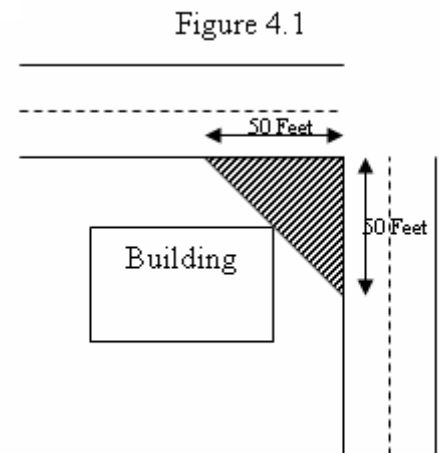
- A. Home occupations shall be operated in their entirety within the dwelling or accessory building located upon the premises, including incidental storage in or use of an accessory building upon the premises.
- B. Home occupations shall only be conducted by the person or persons occupying the premises as their principal residence a major portion of each month; provided, however, the Planning Commission shall have the authority to permit additional subordinate assistants who do not reside within said dwelling as a special land use where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed three in number.
- C. The dwelling shall have no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
- D. The occupation conducted therein shall be clearly incidental and subordinate to the use of the premises for residential purposes.
- E. Goods shall not be sold from the premises which are not strictly incidental to the home occupation conducted therein.
- F. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance shall not be discernible beyond the boundaries of the property from which the occupation is conducted. No overnight parking of simitrucks is permitted within the R-1 and M-H zoning districts.
- G. Any such home occupation may be subject to inspection by the Zoning Administrator of and may be terminated by order of such administrator wherever the home occupation fails to comply with the Ordinance.
- H. The Zoning Administrator shall have authority to determine whether or not a proposed use complies with the Ordinance and is within the spirit of the same to ensure the compatibility of any use with the character of the zoning classification in which the same is located and that the health, safety, and general welfare of the neighborhood will not thereby be impaired.
- I. Home Occupations not meeting the above standards shall be regulated as a special land use pursuant to Section 300.1125.

**300.408 LAND AND YARD PROVISIONS:**

- A. Lots of record. Every non-farm dwelling hereafter erected or altered shall be located on a lot, the

description of the boundaries of which are on record at the office of the Berrien County Register of Deeds, which description shall be on file with and satisfactory to both the Supervisor, and Zoning Administrator as adequate for identifying the location of the premises.

- B. Existing Substandard lots. When a lot, legally existing upon the effective date of this Ordinance, does not meet the minimum width requirements, the required minimum side yard setback requirements may be reduced by no more than twenty-five percent (25%), and if the minimum lot area requirement cannot be met, the minimum front and rear yard setbacks may be reduced by no more than twenty five percent (25%) of the requirement for a one family dwelling if approved by the Zoning Board of Appeals, provided:
1. Setback shall not be less than 8 feet in any distance
  2. The structure shall be used for a one-family dwelling
- C. Use of yard space. No yard or open area shall be used for open-air storage, wrecking, parking, dismantling, accumulation or abandonment, either temporarily or otherwise of any disused, discarded or dismantled vehicles, machinery, apparatus implements, furniture, appliances, junk or similar property, unless otherwise provided in this Ordinance.
- D. Grading. No premises shall be so filled or graded as to discharge surface runoff on abutting premises in such manner as to cause ponding or surface accumulation of such runoff thereon.
- E. Road or highway intersections. No building, structure, trees, bushes or other vegetation or obstruction exceeding three (3) feet in height, except open fences through which there shall be clear vision, shall be erected, planted or maintained in a triangle formed by measuring 50' each way from the intersection of two rights of way.
- F. Corner lots. Whenever a lot is situated at a street intersection or intersection of a public street and an alley or easement serving more than one lot, the lot shall have two front yards and a rear yard opposite the street address of the lot. The remaining area shall be a side yard.
- G. Principal Use. Only one principal use shall be located on any lot of record except as provided under an approved Planned Unit Development.



### 300.409 NONCONFORMING USES:

- A. Existing lawful uses. The lawful use of any dwelling, building, structure or lot as existing and lawful on the effective date of this Ordinance may be continued even though such use may not otherwise be in conformity with the provisions of this Ordinance.
- B. Discontinuance. Any nonconforming use of land, building or structure shall be permitted only as long as such nonconforming use is continued. If discontinued through vacancies, lack of operation or otherwise for a period of six (6) months, such discontinuance shall be construed to be an abandonment of use, following which, any further use then shall conform to this Ordinance.

- C. Change. No nonconforming use shall be changed to other than a conforming use, nor shall any conforming use be reverted to a former nonconforming use after the use has been changed to a conforming use.
- D. Extension. Extension of a nonconforming use throughout a building incompletely occupied by such use may be granted by the Zoning Board of Appeals on written application filed with the Zoning Administrator.

#### **300.410 NONCONFORMING AND SUBSTANDARD BUILDINGS AND STRUCTURES:**

- A. Minor repairs. Nothing in this Ordinance shall prevent such minor repairs of a nonconforming building existing on the date of enactment of this Ordinance as may be reasonably necessary to secure advantageous use thereof during its natural life, provided that no such repair shall result in change or enlargement of said nonconforming use, and the owner shall first obtain a Certificate of Zoning Compliance from the Zoning Administrator.
- B. Reconstruction of damaged nonconforming buildings. No nonconforming building damaged by fire, explosion, storm, or similar uncontrollable cause exceeding fifty (50%) percent of its usable floor area immediately prior thereto shall be restored except in conformity with the provisions of this Ordinance. If damaged to a lesser extent, such building may be repaired and restored to its previous condition, provided that the owner shall first obtain a Certificate of Zoning Compliance from the Zoning Administrator and such repair is completed and such use resumed within twelve (12) months from the date of damage.
- C. Substandard dwellings. For the express purpose of promoting the health, safety and general welfare of the citizens of the Township, and of reducing hazards to health, life and property, no substandard structures including but not limited to basement dwellings, cellar dwellings, garage-house dwellings, shall be erected, altered or moved on any premises or used for dwelling purposes.
- D. Unsafe buildings. Nothing in this Ordinance shall prevent compliance with action by an appropriate law enforcement officer or other appropriate authority to limit occupancy, to correct, improve, strengthen or remove, or to place in a safe condition any building or structure or part thereof found to be unsafe.

#### **300.411 OUTDOOR LIGHTING REQUIREMENTS:**

- A. Intent and Purpose: To maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”, and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plan or plot plans submitted for approval under the terms of this Ordinance.
- B. General Provisions:
  - 1. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:

- a) Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal lights such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.
  - b) Sign lighting as regulated by Section 300.416 - Signs.
  - c) Lighting associated with detached single-family housing.
  - d) Farm yard lighting.
2. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
- a) Parking lot lighting and site lighting for commercial, industrial and institutional developments.
  - b) Multiple Family Developments including parking lot lighting and site lighting.
  - c) Publicly and privately owned roadway lighting.
  - d) Building facade lighting for any Commercial, Industrial, or use permitted as a Special Land Use.
  - e) Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
  - f) All forms of neon lighting
3. Standards: Lighting shall be designed and constructed in such as manner to:
- a) Insure that direct or directly reflected light is confined to the subject property.
  - b) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any right-of-way, or the light source is not directly visible from beyond the boundary of the site.
  - c) The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.
  - d) Lighting fixtures shall have one hundred percent (100%) cut off fixtures above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane (see Figure 4.2). No light fixture shall be mounted higher than twenty (20) feet above the grade of the site.

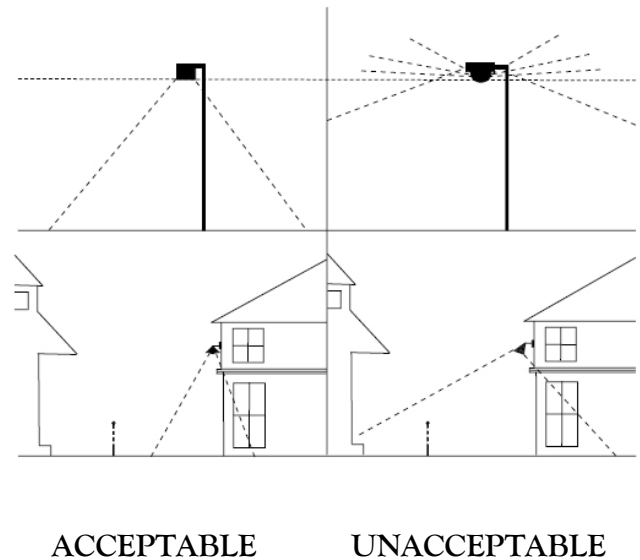


Figure 4.2

- e) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
- f) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- g) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

**300.412 PARKING:** Required off-street parking space with adequate access to all spaces shall hereafter be provided in all districts at the time of erection or enlargement of any main building or structure. Approval of each exit and entrance shall be obtained from the County Road Commission or Michigan Department of Transportation, which approval shall include the design and construction thereof in the interests of safety, adequate drainage and other public requirements. A minimum of two hundred (200) square feet located on the property intended to be served shall comprise one vehicular parking space. Adequate space shall be included in the parking area to facilitate turning of vehicles so that entry on the road may be in forward manner and not by backing into the road right-of-way.

A. Minimum Required Parking: The minimum number of required parking spaces for each use are as follows:

Table 4.1

<i>Use</i>	<i>Minimum number of parking spaces per unit</i>
Banks, business offices, and professional offices of architects, engineers, lawyers and similar professions.	-One (1) space for each four hundred (400) square feet of usable space
Personal Services	-One (1) space for each one hundred (100) square feet of usable floor area, or Two (2) spaces for each chair
Dwellings	- Two (2) for each dwelling unit
Hospitals, clinics and similar establishments	-One (1) space for each four (4) beds and one (1) space for each two (2) employees and staff members
Industrial Uses	- The greater of one (1) space for each one thousand (1,000) square feet of usable floor area, or one space for each employee in the largest shift.
Laundromats	-One (1) space for each two (2) washing machines
Places of Public Assembly	-One (1) space for each three (3) seats of legal capacity.

Professional and Personal Service Offices;	-One (1) space for each one hundred (100) square feet of usable floor area, and not less than 4 spaces, whichever is greater
Restaurants and Similar Establishments	-One (1) space for each one hundred (100) square feet of usable floor area
Retail Businesses	-One (1) space for each one hundred fifty (150) square feet of usable floor space
Motels, Hotels, and Similar Lodging Facilities	-One (1) space for each guest room
Uses not listed	-One (1) space for each five hundred (500) square feet of usable floor space unless otherwise determined by the Planning Commission.

B. Loading and Unloading Space: Every building or structure engaged in loading and unloading goods shall provide space on the premises in addition to that required for parking, for the loading, unloading and standing of all vehicles, in addition to that required for parking, as hereinbefore provided, to avoid undue interference with public use of the public highway.

**300.413 PARKING DIMENSIONS:**

The minimum dimensional standards for parking spaces and aisles shall be as follows:

**Table 4.2  
Minimum Parking Space and Maneuvering Lane Standards**

Parking Pattern	Lane Width		Parking Space		Total Width of Two Tiers Plus Lane(s)	
	One-way (ft)	Two-way (ft)	Width <sup>(1)</sup> (ft)	Length <sup>(2)</sup> (ft)	One-way (ft)	Two-way (ft)
Parallel	12	18	10	23	32	38
30°-53°	12	20	10	19	50	58
54°-74°	13	24	10	19	51	62
75°-90°	15	26	10	20	51	62

(1) Measured perpendicular to the space centerline.

(2) Measured along the space centerline.

**300.414 PRIVATE ROAD STANDARDS:**

A. Private Roads: Private roads shall only be permitted as part of a Planned Unit Development. All lots shall have access along a public road or private road, such private roads also include access by easement or easement access roads. Such roads within these definitions shall require planned unit development approval and developed according to the standards herein.

B. Joint Maintenance Agreement: A proposed easement and road maintenance agreement shall be provided with the private road plan. The easement and road maintenance agreement shall provide as a minimum:

1. Majority vote rules regarding road maintenance and improvement decisions.
2. The owner of each parcel will be responsible for payment of the share of costs apportioned to his

or her parcel.

3. The owners shall have standing and the right to commence legal or equitable action against a delinquent lot owner or lot owners to foreclose a lien or otherwise collect the sums owed.
  4. The agreement shall be recorded and shall run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
  5. The owner or owners of the land served by the road shall provide for maintenance of road grade, drain, and otherwise maintain the private road including the road name sign, and emergency service access, in accordance with public agency requirements.
  6. A statement that the owners are aware that the road will not be maintained by Berrien Township, Berrien County Road Commission or Michigan Department of Transportation. As such, the roadway will be private, and neither the Township, Road Commission or Department of Transportation will have any obligation to maintain the road in any manner.
  7. The easement and road maintenance agreement may be reviewed and approved by the Township Attorney for compliance with the Township regulations. Following approval of the Township Attorney when required, the agreement shall be recorded with the Berrien County Register of Deeds.
- C. Drainage Plans: A Drainage Plan approved by of the Berrien County Drain Commissioner or Township Engineer shall be provided with the road plan. The drainage plan shall conform to the requirements of all agencies having jurisdiction.
- D. Rights-of-Way Widths: The minimum width of rights-of-way shall be 66 feet. The right-of-way may be a dedicated road, easement access, or common areas dedicated to lot owners. The right-of-way document shall include express utilities provisions and shall be recorded with the Berrien County Register of Deeds, and it shall be a document running with the land.
- E. Hold Harmless Agreement: Waiver or indemnification and "hold harmless" agreement to benefit the Township as approved by the Township Attorney.
- F. Design Requirement: The Private Road Plan shall be prepared by a registered professional engineer. The road design and construction plan shall be reviewed by the county engineer for compliance with the county road standards. Unless expressly waived by the Planning Commission, the design and construction of private roads shall comply with the requirements of the Berrien County Road Commission, as amended from time to time.
- G. Waivers. If, in the judgment of the Planning Commission, the implementation of a private road in accord with the requirements of the Berrien County Road Commission, or similar successor regulations, will result in the loss or degradation of important natural features, upon the recommendation of the Zoning Administrator, the Planning Commission may approve a waiver of the strict application of such standards for a private road. An applicant for such a waiver shall identify the specific features that would be lost or degraded through the use of said Standards and alternative methodologies considered to mitigate such loss or degradation. The Zoning Administrator shall consult with the Berrien County Fire Department and may consult with experts as needed to evaluate such a request and the cost of such consultation shall be borne by the applicant

- H. Emergency Services Review: The private road plan shall be reviewed and approved by the appropriate Emergency Services agencies before approval is granted by the Township.
- I. Road Layout:
1. All existing roads that abut or terminate at the boundaries of a proposed development shall be connected with the road system of the proposed development.
  2. The street layout in any proposed development shall be designed so that all future adjacent developments shall be connected. Enforceable agreements and provisions for the joint maintenance of existing and proposed roads shall be incorporated into any subdivision, property-owners association or condominium documents. All connection roads shall be provided by easement or dedication.
  3. Suitable access must be maintained for an isolated parcel previously dependent on the property to be served by the private road for sole access to existing public roads. Such access must be provided by easement or dedication.
  4. The layout of roads shall provide as much as possible for a continuous circuit for travel. In special cases where the lands to be divided are limited in area or are subject to a natural barrier, the Planning Commission may approve a dedication which provides access to another road at one end only if an engineered designed cul-de-sac is provided at the terminus of the road to permit turning in a continuous circuit.
- J. Road Names: All private roads shall have a road names approved by the County Road Commission. The developer/proprietor shall furnish and erect road name signs at all intersections within the project and entrances thereto to assist in the location of the property by emergency vehicles. The design and color of the road name sign shall be in accordance with Berrien County Ordinances.
- K. Signs: Traffic control signs shall be placed in accordance to the Michigan Manual of Uniform Traffic Control Devices. Signs marked "Private Road" shall be erected and maintained by the proprietor at the entrance to all private roads.
- L. Utilities: Adequate utility easements shall be provided within or adjacent to the right-of-way and dedicated to the gas, electric, telephone, cable, or similar use or utility. All utilities shall be constructed underground.
- M. Private Road Approval Process: The Private Road Plan approval shall be processed through the requirements of planned unit developments. In order to insure that the requirements of this section are met, the Registered Professional Engineer that designs the private road shall verify that the road was built in compliance with the approved plans, specifications and the County road construction standards.
- N. Existing Non-Conforming Private Roads: Roads existing and used as private roads as of the adoption of this Ordinance may continue to be used, without the requirement of a recorded maintenance agreement as provided in Section 300.414,B.
- O. Home Construction: No building permits shall be issued for homes to be accessed exclusively by a private road until the private road has been constructed, the as-built plans have been sealed by an engineer and the road has been approved by the Township.



- P. Preexisting Roads: For any extension of a private road, such extended portion shall meet all of the requirements of this Ordinance.

**300.415 PUBLIC UTILITY BUILDINGS AND STRUCTURES:** Subject to site plan review, the erection, alteration and maintenance of public utility and publicly owned structures, and of power, communications, supply, distributions and similar facilities, including accessories therewith, as authorized and regulated by law shall be permitted in every Zoning District.

**300.416 SIGNS:**

- A. Purpose and Intent: The provisions in this section are intended to regulate the size, number, location and manner of display of signs in Berrien Township consistent with the following intent and purpose:
1. To protect the safety and welfare of Township residents; to conserve and preserve the values of the Township; to promote economic viability and at the same time enhance quality of living by minimizing visual clutter.
  2. To facilitate the public to locate goods, services and facilities without difficulty and confusion.
  3. To prevent traffic hazards caused by signs that obstruct vision or are distracting or confusing.
  4. To promote uniformity in size, number and placement of signs within zoning districts.
- B. General Provisions:
1. Signs prohibited, all districts.
    - a) Any sign that has flashing, moving, oscillating or blinking lights, excluding time and temperature signs which are permitted.
    - b) Off premise signs where not regulated by state highway authority or otherwise permitted within this Ordinance
    - c) Signs that are not stationary or do not pertain to the business or activity conducted on the premises, except for political and community special events and where signs may be approved by Zoning Administrator, planning commission or as otherwise permitted in this Ordinance.
    - d) Signs painted on a building structure.
    - e) Signs posted on utility poles including support cables (signs, nails, and staples present a danger to utility workers).
    - f) Any other signs not expressly permitted by this Ordinance.
    - g) Any sign over 6 feet in height unless otherwise permitted within this Ordinance
  2. Signs Exempted (no certificate of zoning compliance required), all districts.
    - a) Governmental signs and flags.
    - b) Signs that are directional and for essential services located on the same property as the principal use.
    - c) Historical markers.

- d) Memorial signs or tablets.
  - e) No Trespassing, No Hunting, safety/caution, family events and holiday decorative displays when located on private property.
  - f) Signs with an address and/or name of the owner, occupant or residence as follows:
    - 1) Not more than two (2) square feet in area, attached to a mail box, light fixture or exterior wall;
    - 2) Not more than one (1) square foot in area if freestanding
  - g) Garage or yard sale, estate, craft, bazaar, construction/job site and signs of the like not to exceed four (4) square feet in area. Such signs are temporary and shall be removed within 48 hours after the event.
  - h) Election campaign signs not to exceed four (4) square feet in area shall be removed within 48 hours after the voting date.
  - i) Dimensional Standards and Measurements. All signs shall be measured in the following way:
    - 1) Area of the sign shall be measured by calculating the area within a four sided polygon containing all text, graphics, emblems, or other representative or advertising features of a sign.
    - 2) The height of a sign shall be measured from the road surface level to the highest point of a sign.
    - 3) The minimum setback distance of a sign shall be measured from the closest property line to the leading edge of a sign.
3. Off Premise Signs. One 32 square-foot, off premise sign shall be permitted subject to the following conditions:
- a) Shall be associated with seasonal agricultural use.
  - b) Shall be permitted for a period of 6 months.
  - c) Shall be located at least 10 feet from any property lines and in a manner not to create a traffic vision obstruction.
  - d) Shall be reviewed by the Zoning Administrator.

C. Sign applications:

- 1. A certificate of zoning compliance shall be required for the erection, use, construction or major alteration of all signs except for those exempted by the terms of this Ordinance.
- 2. An application for a certificate of zoning compliance shall be made to the Zoning Administrator and shall include submission of such fee as required by resolution may be adopted by the Township Board. The Zoning Administrator shall grant Certificate of Zoning Compliance provided all provisions of this Ordinance and other related Ordinances as set forth are met. Any application not meeting the provisions of this Ordinance shall be denied.

3. All signs requiring electrical service shall be reviewed for compliance with the current Township electrical code.
4. A sign authorized by certificate of zoning compliance shall be under construction within six (6) months of the date of issuance of the sign certificate of zoning compliance and installed within twelve (12) months or the certificate of zoning compliance shall expire.

D. SIGNS PERMITTED BY DISTRICT:

1. R-1 Residential or M-H Mobile Home

- a) No certificate of zoning compliance shall be required for the following:
  - 1) One (1) sign advertising the sale, rent, or lease of the lot or building, not to exceed six (6) square feet in area on any one (1) lot. Such sign shall be placed no closer to the front property line (street right-of-way) than one-half (1/2) the required front yard setback.
  - 2) It shall be permissible to place a nameplate on a dwelling. Such nameplate not to be more than two (2) square feet in area.
- b) Certificate of zoning compliance shall be required for the following:
  - 1) One (1) sign advertising a recorded subdivision or development not to exceed thirty-two (32) square feet in area may be permitted on each road, not closer than 500 feet between signs, and placed no closer to any street right-of-way than one-half (1/2) the required front yard setback and, furthermore, placed so as not to interfere with the full view of traffic.
  - 2) One (1) sign identifying a public park or building, church or other similar use. Said sign shall be compatible with the neighborhood and be placed no closer to the front property line (street right-of-way) line than one-half (1/2) the required front yard setback. Maximum square footage is 72 square feet.
- c) Restrictions. Signs in the R-1 Residential and M-H Mobile Home districts shall not be illuminated except for signs allowed for public buildings, schools and churches. All flood or spot lighting for illumination of signs shall be directed away from and shall be shielded from any dwellings. Illumination shall be arranged so as not to affect adversely the view of drivers on adjacent thoroughfares.

2. A-R Agricultural Residential district.

- a) No certificate of zoning compliance shall be required for the following:
  - 1) Any sign as provided in section 300.416,B,2 not requiring a certificate of zoning compliance in the R-1 Residential and M-H Mobile Home districts.
  - 2) Signs identifying a farm business or similar operation shall not exceed two (2) advertising the type of farm products. Such signs shall not exceed thirty-two (32) square feet in area and shall be located off the road right-of-way so as not to interfere with the full view of traffic.
  - 3) Signs for agriculture produce sales (such as "road side stand" or "U-pick" operations) and shall not be exceed thirty-two (32) square feet.

- b) No sign shall be closer than two (2) feet from the front property line (road right-of-way), ten (10) feet from the side property lines or 1320 feet from any sign on the same property. A sign shall not be located in such a manner as to interfere with vehicular traffic and be located a minimum of five (5) feet from the nearest driveway.
- c) Signs requiring a certificate of zoning compliance under R-1 Residential and M-H Mobile Home districts will also be required to obtain a certificate of zoning compliance in A-R Agricultural- Residential district.

3. C-1 Commercial and I Industrial districts.

- a) Sale, Rent, or Lease Signs. No sign certificate of zoning compliance shall be required. One (1) sign per lot advertising the sale, rent or lease, of the lot or building upon which the sign is erected is permitted. Such sign shall be located no closer than two (2) feet to the (road right-of-way), and ten (10) feet from a side property line. A sign shall not be located in such a manner as to interfere with or obstruct clear vision of vehicular or pedestrian traffic. A sign shall be located a minimum of five (5) feet from the nearest driveway. Such signs shall not exceed thirty-two (32) square feet in of area and shall be removed within five (5) days of the sale, closing or rental.
- b) Certificate of zoning compliance shall be required for the following:
  - 1) A ground sign is shall be allowed only where it advertises a business occupying the same lot upon which the sign is erected. No sign shall be located closer than two (2) feet from the (road right-of-way), or ten (10) feet from the side of the property line. A sign shall not be located in such a manner as to interfere with vehicular or pedestrian traffic. A sign shall be located a minimum of five (5) feet from the nearest driveway.
  - 2) Where permitted by the Planning Commission, ground signs shall not exceed 72 square feet in area or six (6) feet in height above grade. Pole signs shall not exceed 64 square feet in area or 25 feet in height above grade. All other signs, banners etc. are at the discretion of the Planning Commission and/or the applicable highway authority.
  - 3) One (1) projecting sign may be permitted per building when no other wall signs exist, not to exceed a maximum of fifty (50) square feet in area.
  - 4) Each commercial building will be allowed one wall sign per public or private street frontage where no other projecting signs are evident. Wall signs cannot exceed the lesser of 12% of the area of the building face to which it is attached or 150 square feet in area.
  - 5) Portable signs shall be only permitted for grand openings and charitable/community related events. Portable signs are viewed as temporary and allowed placement may occur up to 30 days prior to the event with removal to occur within 48 hours after the event. They shall not exceed 64 square feet in area and shall be located no closer than 15 feet from the front property line (road right-of-way).

E. NON-CONFORMING SIGNS: Signs erected prior to the adoption of this Ordinance (with the exception of signs posted on utility poles) may be continued except as herein provided. Non-conforming signs shall not:

1. Have any changes made in the words or symbols used or the message displayed on the sign unless the sign and the message are specifically designed for periodic change of message;
2. Be structurally altered so as to change the shape, size, type or design of the sign;
3. Be reestablished or continued after the activity, business ownership it served has been discontinued. At that time, a new application for certificate of zoning compliance shall be made and may either be allowed "as is," with specified changes, and/or be altered to conform to the provisions of this section, or removed at the owner's expense by discretion of the Zoning Administrator.
4. Present a danger to the public because of placement, location, condition or disrepair. Non-conforming signs determined to present a danger to the public are to be relocated or removed by the owner. Such relocation shall be in compliance with this Ordinance and all other applicable Ordinances and codes. The Township Zoning Administrator may order any dangerous sign removed at the owner's expense. If the owner fails to do so and upon notice of not less than 30 days to the owner of the property on which the sign is located, if the owner of the sign is not also the owner of the property, the Township may take appropriate action in a court of law to have the sign to be removed and collect all costs associated therewith against the property on which the sign was located. This remedy shall be cumulative and in addition to any other remedy available to the Township.

F. **UNAUTHORIZED SIGNS:** The Berrien Township Zoning Administrator shall issue a written notice of unauthorized signs or non-compliance to the owner of said sign(s) and/or the property owner so proper steps may be taken to obtain a certificate of zoning compliance for a sign meeting the requirements of this Ordinance or to effect the removal of said sign. The owner/property owner of the sign(s) will have 15 days after receipt of notice to comply.

**300.417 WATER SUPPLY AND SEWAGE DISPOSAL:** Every building or structure hereafter erected on any premises and used in whole or in part for human occupancy or frequency shall be connected to public utilities or provided with a safe and sanitary water supply, and a septic tank system of sewage disposal erected and maintained in accordance with the standards of material and installation recommended by the Berrien County Health Department.

**300.418 KEEPING OF ANIMALS (*amended eff. 11/23/11*)**

- A. The keeping of pets is permitted as an accessory use in all Zoning Districts provided that the provisions of this Ordinance and other County regulations are met.
- B. The keeping of exotic animals shall only be allowed as part of a properly authorized zoo or other similar use and provided that the provisions of this Ordinance and other County regulations are met.
- C. In the A-R district, all farm animals and livestock shall be properly housed and fenced. Such housing and fencing for farm animals and livestock shall be erected not less than one hundred fifty (150) feet from any dwelling, school, church, cemetery or hospital located on an adjoining property and in no event closer than ten (10) feet from any lot line adjoining the R-1 or M-H districts.
- D. The minimum area provided for housing farm animals and livestock on nonfarm properties in the A-R district shall not be less than one acre and the number of animals permitted shall not exceed the

standards in the table below:

Farm Animal Type	Maximum number of individual animals per acre of land
Slaughter and Feeder Cattle	1 per acre
Mature Dairy Cattle	1 per acre
Swine (55 lbs and over)	3 per acre
Sheep and lambs	10 per acre
Horses	1 per acre
Turkey	55 per acre
Laying Hens or Broilers (chickens)	100 per acre
Other animal species equivalency shall be determined by the Zoning Administrator in accordance with GAAMPs standards.	

- E. Manure shall not be stored within 40 feet of any property line and shall be maintained and removed monthly so as to minimize adverse impacts on neighboring property.
- F. In the R-1 district on lots of one acre or more in area, up to six (6) chickens, hens but not roosters, may be kept if properly controlled, as an accessory use to the residence.
- G. Farm Animals kept as part of a farm operation shall be governed by Generally Accepted Agricultural Management Practices as defined by the Right to Farm Act, Act 93 of 1981, as amended. In all districts Generally Accepted Agricultural Management Practices as defined by the Right to Farm Act shall be observed at all times.

### 300.419 PERSONAL PROPERTY SALES: *(amended eff. 11/23/11)*

#### A. Permit

1. It shall be unlawful for any person, any owner, tenant or lessee of a residence, or any charitable institution to conduct, advertise, or promote any sale of personal property except as provided by this section.
2. A written application for a permit shall be filed with the Township Clerk on forms provided by the clerk and the application shall contain the following information:
  - a. The name, address, phone number of the person conducting the sale.
  - b. The address at which the sale is to be conducted.
  - c. The number of days during which the sale is to be conducted and the calendar dates of said sale.
  - d. A general description of items proposed to be sold.

- 
- e. The date, nature, and location of past sales conducted by the applicant.
  3. In the event of a common yard sale (such as in a subdivision or site condo) a permit may be obtained by the chairperson of the subdivision or condo association for all lots in the same development and for each separate sale date.
  4. There is no fee for a permit.
  5. Denial of Permit. An application for a personal property sale may be denied by the Township Clerk if:
    - a. A previous personal property sale conducted by the applicant did not comply with the terms of this ordinance.
    - b. The duration of the proposed personal property sale is expected to be in excess of (four) consecutive days
    - c. If the applicant has conducted three (3) or more sales within the previous twelve (12) months.
    - d. If the proposed personal property sale is likely to generate adverse impacts to surrounding properties.
  - B. Time limitations. A personal property sale shall not be conducted for any period in excess of four (4) consecutive days, and three (3) sales are permitted per year per applicant or household.
  - C. Exemptions: The following are exempt from the requirements of this section:
    1. An owner, tenant or lessee of a residence of a charitable institution, including churches, schools and hospitals may conduct a garage or rummage sale upon the premises of such charitable institution as provided in this section.
    2. Moving sale. If the applicant is in the process of moving into or out of Berrien Township an additional permit, for up to three consecutive days, within a one (1) month period from moving in or out of a home, may be issued by the clerk.
    3. A personal property sale conducted for two days or less shall be exempt from the permitting requirements of Sections A and D hereof.
  - D. Display of Permit. The permit authorizing a personal property sale shall be displayed in the front window or other prominent place, clearly visible from the street, at each location where a sale is being conducted.
  - E. Signs. Signs advertising a personal property sale are temporary and shall be removed within 48 hours after the event. Such signs are subject to the following provisions:
    1. Signs advertising a personal property sale shall not be illuminated.

2. Signs advertising a personal property sale shall not exceed four (4) square feet in area.
  3. Signs advertising a personal property sale shall not be placed on public property, road and/or street rights-of-way, and may only be placed on private property of another with the consent of that property owner.
  4. Signs advertising a personal property sale shall meet the standards of Section 300.416 of this Ordinance.
- F. Parking. Parking shall be controlled so as not to impair traffic nor cause a parking violation on a public street or roadway.
- G. Removal of Props and Goods. On the final day of personal property sale, all items, including signs, tables and any item used in the conduct of the sale shall be removed or stored so as not to violate the existing blight ordinance #31.



## ARTICLE FIVE – SCHEDULE OF REGULATIONS

**300.500 USE MATRIX:** Table 5-1, Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

Table 5-1 Table of Uses:  
P= Permitted by Right, SLU = Special Land Use

Uses	A-R	R-1	M-H	C	I
Accessory Buildings and Uses	P	P	P	P	P
Adult Foster Care, Family Home	P				
Adult Foster Care, Group Home	SLU				
Adult Uses				SLU	
Antique, Gift, Art, and Handicraft Shops	SLU				
Assembly Operation					P
Automobile Sales				SLU	
Broadcast Towers	SLU			SLU	SLU
Camps, Recreational	SLU				
Carwash				SLU	
Catering Service	SLU			P	
Cemetery	SLU				
Clinic (Medical)				SLU	
Contractor's Yard	SLU				P
Convenience Store <i>(amended eff. 11/23/11)</i>	SLU			P	
Day Care Center or Child Care Center	SLU	SLU	SLU	P	
Dwelling, Single Family	P	P	P		
Dwelling, Two Family	P	SLU	SLU		
Dwelling, Multiple Family	SLU				
Dwelling, Temporary	SLU				
Educational Facility	SLU	SLU		SLU	SLU
Essential Service	P	P	P	P	P
Farms	P				
Farms Machinery and Product Supplier	SLU			P	
Financial Institutions	SLU			P	
Funeral Home or Mortuary				SLU	
Gas Recovery Facility	SLU				SLU
Gas Station				SLU	
Governmental Office	P			P	
Home Occupations - Minor	P	P	P		
Home Occupations - Major	SLU	SLU	SLU		
Hospital	SLU	SLU		SLU	
Hotel and Motel	SLU			P	
Junkyard					SLU
Kennels	SLU				
Laundry and Dry Cleaning Establishment				P	
Lodges, Fraternal, Labor and Social Hall	SLU			P	
Lodging Houses	SLU				

Uses	A-R	R-1	M-H	C	I
Manufactured House Community and Park			P		
Mini Warehouse, Self Storage				P	P
Nursing Home				P	
Parking Lot				SLU	
Personal Services	SLU			P	
Places of Public Assembly	SLU	SLU		P	
Planned Unit Development	SLU	SLU	SLU	SLU	SLU
Plant Nurseries & Greenhouse	P			SLU	
Portable Sawmills	SLU				
Processing and Manufacturing					SLU
Professional Service Establishments				P	
Public Utility Buildings	SLU	SLU	SLU	P	SLU
Recreation Facilities - Private	SLU	SLU	SLU	SLU	
Recreation Facilities - Public	P	P	P	P	P
Refinery					SLU
Restaurant	SLU			SLU	
Retail Business				P	P
Road Side Market	SLU			SLU	
Road Side Stand	P				
Sawmill	SLU				P
Stable/ Riding Academy	P				
Tavern				SLU	
Vehicle Repair Facility	SLU			SLU	
Veterinary Services	SLU			SLU	
Warehouse					P
Wholesale Establishment	SLU			P	P
Wind Energy Conversion Systems - Commercial	SLU				SLU
Wind Energy Conversion Systems - Regional	SLU	SLU	SLU	SLU	SLU
Winery/ Brewery	SLU			SLU	P

**300.501 DIMENSIONAL REQUIREMENTS:** Table 5-2, Table of Dimensional Requirements, provides an overview of the dimensional requirements of this Ordinance. It provide for expeditions reference. However, it should not be substituted for a precise reference to the specific language of this Ordinance.

Table 5-2 Dimensional Requirements.

	Setbacks			Min Width	Min Size W/ W&S <sup>(1)</sup>	Min Size W/O W&S <sup>(1)</sup>	Building Height	Maximum Lot Coverage	Minimum Floor Area		
	Front	Side <sup>(5)</sup>	Rear						1 story	2 story	Tri-level
R-1	25'	8' <sup>(2)</sup>	25'	90'	12,500 SF	1 Acre	35' or 2.5 Stories, (which ever is less)	25%	720 SF	720 SF 1st Story	720 SF on any two stories
A-R	40'	12'	25'	105'	12,500 SF	1 Acre	35' or 2.5 Stories (which ever is less) <sup>(3)</sup>	25%	720 SF	720 SF 1st Story	1440 SF total, (720 1st story)
MH <sup>(4)</sup>	40'	12'	12'	90'	12,500 SF	1 Acre	35' or 2.5 Stories (which ever is less)	25%	720 SF	720 SF 1st Story	1440 SF total, (720 1st story)
C	75'	12'	40'	105'	12,500 SF	1 Acre	60' or 4 Stories (which ever is less)	75%	NA	NA	NA
I	50'	25'	50'	105'	1 Acre	1 Acre	60' or 4 Stories (which ever is less)	75%	NA	NA	NA

<sup>(1)</sup> W&S; Public Water and Sewer Service

<sup>(2)</sup> 8 feet on one side, total for both side yards shall equal 24 feet.

<sup>(3)</sup> Provided a farm building may not exceed 70 feet in height, not including grain handling equipment (ex Silo) not to exceed 200 feet.

<sup>(4)</sup> For lots, dwellings, and structures outside a manufactured home community

<sup>(5)</sup> Each side unless otherwise noted.



## ARTICLE SIX AGRICULTURE- RESIDENTIAL DISTRICT

### 300.600 INTENT:

The predominant land uses in Agricultural-Residential, A-R, are agricultural in character. It is a primary intent of this Ordinance to conserve and promote this character. The provisions of this Article recognize, however, a gradual increase in non-farm uses and other developments that have taken place in the District, and the importance of protecting and conserving existing land uses and establishing safe and desirable standards governing future developments. Since various property uses are generally accepted as compatible with agricultural and residential property uses, if properly integrated, the inclusion of certain additional uses is provided by Special Land Use Approval.

#### 300.601 PERMITTED USES:

- ◆ Accessory Buildings and Uses
- ◆ Adult Foster Care - Family
- ◆ Dwelling, Single Family
- ◆ Dwelling, Two Family
- ◆ Essential Services
- ◆ Farms
- ◆ Governmental Office
- ◆ Home Occupations - Minor
- ◆ Plant Nurseries and Greenhouses
- ◆ Recreation Facilities - Public
- ◆ Road Side Stand
- ◆ Stable/ Riding Academy

#### 300.602 SPECIAL LAND USES (continued):

- ◆ Educational Facilities
- ◆ Farm Machinery and Product Supplies
- ◆ Financial Institutions
- ◆ Gas Recovery Facility
- ◆ Home Occupations - Major
- ◆ Hospital
- ◆ Hotels and Motel
- ◆ Kennels
- ◆ Lodges, Fraternal, Labor and Social Hall
- ◆ Lodging Houses
- ◆ Personal Services
- ◆ Places of Public Assembly
- ◆ Planned Unit Development
- ◆ Portable Sawmills
- ◆ Public Utility Buildings
- ◆ Recreation Facilities - Private
- ◆ Restaurant
- ◆ Road Side Market
- ◆ Sawmill
- ◆ Vehicle Repair Facility
- ◆ Veterinary Services
- ◆ Wholesale Establishments
- ◆ Wind Energy Conversation Systems - Commercial
- ◆ Wind Energy Conversion Systems - Regional
- ◆ Winery/ Brewery

#### 300.602 SPECIAL LAND USES: (See Article Eleven)

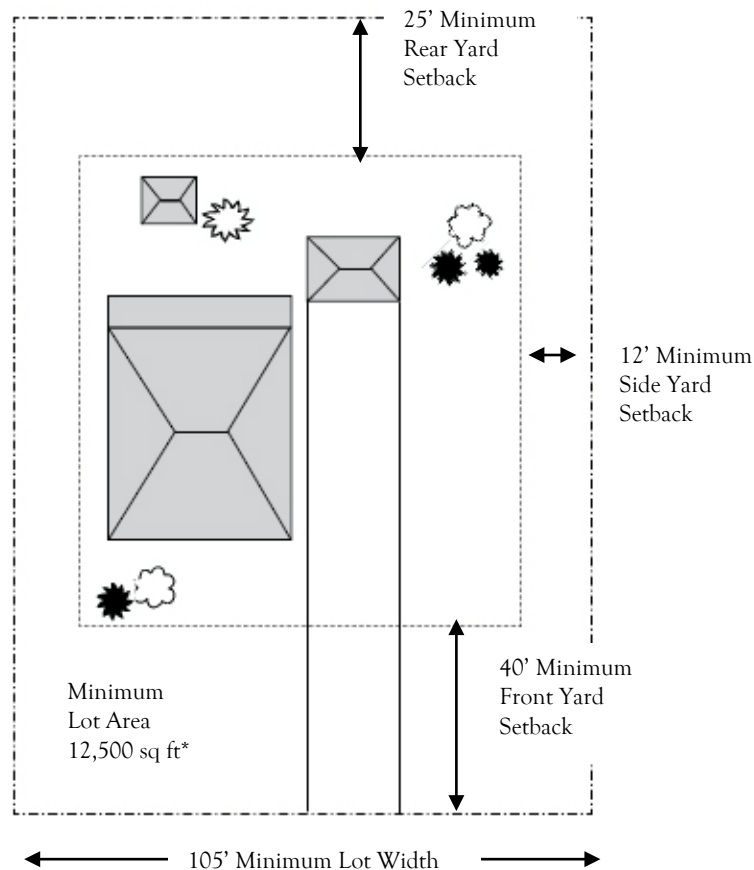
- ◆ Adult Foster Care- Group
- ◆ Antique, Gift, Art, and Handicraft Shops
- ◆ Broadcast Towers
- ◆ Camps, Recreational
- ◆ Catering Service
- ◆ Cemetery
- ◆ Clinics (Medical)
- ◆ Contractors Yards
- ◆ Convenience Store (*amended eff. 11/23/11*)
- ◆ Day Care Center or Child Care Center
- ◆ Dwelling - Multiple Family
- ◆ Dwelling - Temporary

**300.603 ADDITIONAL STANDARDS:**

- ◆ Accessory buildings and structures must comply with the requirements of this Section 300.401 unless otherwise regulated elsewhere.
- ◆ Outdoor Lighting requirements subject to Section 300.411
- ◆ Parking requirements subject to Section 300.412
- ◆ Private Road requirements are subject to Section 300.414
- ◆ Signage requirements subject to Section 300.416
- ◆ Special Land Uses are subject to Article Eleven.
- ◆ Farms must meet GAAMPS and Right to Farm regulations

**300.604 DISTRICT REGULATIONS:**

<b>Minimum Lot Area:</b> 1 Acre w/o Water & Sewer 12,500 SF. w/ Water & Sewer*	<b>Minimum Lot Width:</b>	105 Feet
<b>Minimum Building Setbacks:</b>	<b>Maximum Building Height:</b>	Lesser of 35 Feet or 2 ½ Stories
Front: 40 Feet	<b>Maximum Lot Coverage:</b>	25%
Side: 12 Feet	<b>Minimum Floor Area:</b>	720 SF on Ground Floor per Dwelling
Rear: 25 Feet		



## ARTICLE SEVEN – R-1 RESIDENTIAL DISTRICT

### 300.700 INTENT:

The purpose of the Residential District, R-1, is to provide areas in the Township dedicated primarily to residential use, with each dwelling located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, minimize hazards of spreading fire, and permit setback from the public thoroughfare to facilitate safe exit from and entrance to the premises. The requirements are intended to protect and stabilize the basic qualities of each district and provide suitable and safe conditions for family living. Since certain uses of land are generally acceptable as compatible with residential developments, if properly integrated, the inclusion of such uses is provided by Special Land Use Approval.

#### 300.701 PERMITTED USES:

- ◆ Accessory Buildings and Uses
- ◆ Dwelling, Single Family
- ◆ Essential Services
- ◆ Home Occupations – Minor
- ◆ Recreation Facilities – Public

#### 300.702 SPECIAL LAND USES:

(See Article Eleven)

- ◆ Day Care and Child Care Center
- ◆ Dwellings – Two Family
- ◆ Educational Facilities
- ◆ Home Occupations -Major
- ◆ Hospitals
- ◆ Planned Unit Development
- ◆ Public Utility Buildings
- ◆ Places of Public Assembly
- ◆ Recreation Facilities – Private
- ◆ Wind Energy Conversion Systems – Regional

#### 300.703 ADDITIONAL STANDARDS:

- ◆ Accessory buildings and structures must comply with the requirements of Section 300.401 unless otherwise regulated elsewhere.
- ◆ Outdoor Lighting requirements subject to 300.411
- ◆ Parking requirements subject to Section 300.412
- ◆ Private Road requirements are subject to Section 300.414
- ◆ Signage requirements subject to Section 300.416
- ◆ Special Land Uses are subject to Article Eleven.

**300.704 DISTRICT REGULATIONS:**

**Minimum Lot Area:** 1 Acre w/o Water & Sewer  
12,500 SF. w/ Water & Sewer\*

**Minimum Lot Width:** 90 Feet

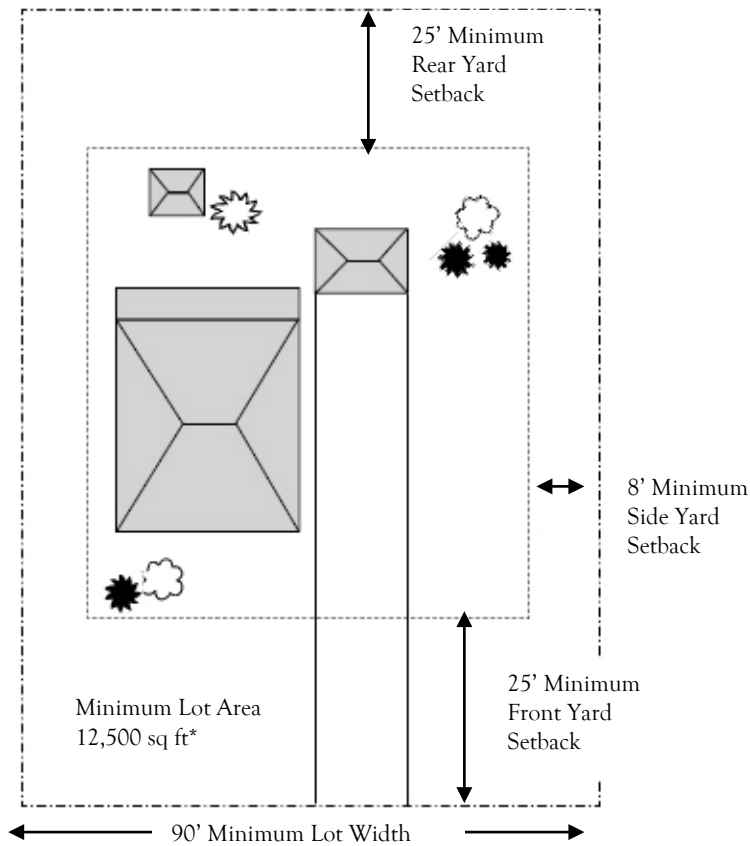
**Minimum Building Setbacks:**

Front: 25 Feet  
Side: 8' each side & 24' total both sides  
Rear: 25 Feet

**Maximum Building Height:** Lesser of 35 Feet  
or 2 ½ Stories

**Maximum Lot Coverage:** 25%

**Minimum Floor Area:** 720 SF on Ground  
Floor per Dwelling





## ARTICLE EIGHT – M-H MOBILE HOME DISTRICT

### 300.800 INTENT:

The purpose of the M-H Mobile Home District is to provide areas in the Township dedicated primarily to establishment of manufactured home communities or parks, with each dwelling located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, minimize hazards of spreading fire, and permit setback from the public thoroughfare to facilitate safe exit from and entrance to the premises. The requirements are intended to protect and stabilize the basic qualities of each district and provide suitable and safe conditions for family living. Since certain uses of land are generally acceptable as compatible with residential developments, if properly integrated, the inclusion of such uses is provided by Special Approval

#### 300.801 PERMITTED USES:

- ◆ Accessory Buildings and Uses
- ◆ Dwelling, Single Family
- ◆ Essential Services
- ◆ Home Occupations – Minor
- ◆ Manufactured Housing Community and Parks subject to Section 300.805.
- ◆ Recreation Facilities – Public

#### 300.802 SPECIAL LAND USES: (See Article Eleven)

- ◆ Day Care and Child Care Center
- ◆ Dwellings – Two Family
- ◆ Home Occupations – Major
- ◆ Planned Unit Development
- ◆ Public Utility Buildings
- ◆ Recreation Facilities – Private
- ◆ Wind Energy Conversion Systems – Regional

#### 300.803 ADDITIONAL STANDARDS:

- ◆ Accessory buildings and structures must comply with the requirements of this Article unless otherwise regulated elsewhere.
- ◆ Outdoor Lighting requirements subject to 300.411
- ◆ Parking requirements subject to Section 300.412
- ◆ Private Road requirements are subject to Section 300.414
- ◆ Signage requirements subject to Section 300.416
- ◆ Special Land Uses are subject to Article Eleven.

**300.804 DISTRICT REGULATIONS:\***

**Minimum Lot Area:** 1 Acre w/o Water & Sewer  
12,500 SF. w/ Water & Sewer\*\*

**Minimum Lot Width:** 90 Feet

**Minimum Building Setbacks:**

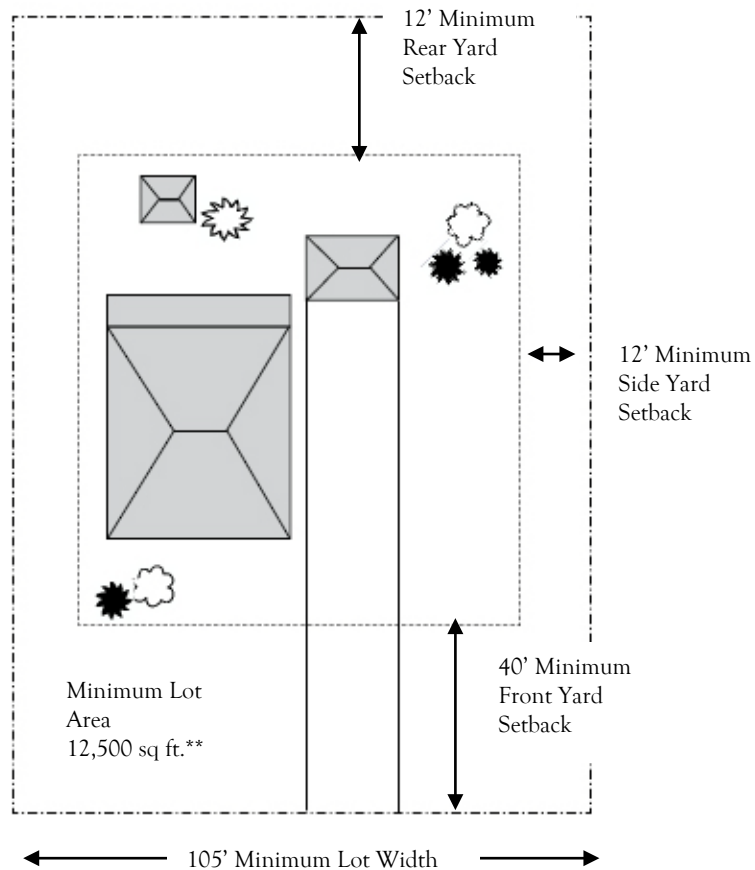
Front: 40 Feet  
Side: 12 Feet  
Rear: 12 Feet

**Maximum Building Height:** Lesser of 35 Feet  
or 2 ½ Stories

**Maximum Lot Coverage:** 25%

**Minimum Floor Area:** 720 SF on Ground  
Floor

\* Except as provided in Section 300.805 for Manufactured Housing Communities



**300.805 MANUFACTURED HOME PARKS AND COMMUNITIES:** Any Manufactured Home Community or Park shall meet the following requirements:

A General Requirements:

1. Every mobile home park in Berrien Township shall be licensed in accordance with State of Michigan Act 96 of 1987 as amended.
2. Every park shall provide at least 5,000 square feet of land area for each mobile home. At least 20 feet shall be maintained between mobile homes.
3. Mobile Home park owner or operator shall establish and continually maintain a green belt of 10 feet width along both sides and the rear of the park, consisting of an adequate planting of pine, spruce, juniper or other evergreen plants to afford an all-season screen when mature.
4. Plans for the park must be approved by the Township Zoning Administrator who shall enforce the aforesaid Michigan State Regulations and shall re-inspect the site for deficiencies at each renewal of license.
5. No mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the building code in effect within Berrien Township.
6. Each mobile home site shall be provided with a stand consisting of a four (4) inch poured concrete apron, with footings a minimum of twelve (12) inches deep and four (4) inches wide, said apron to be at least as wide and long as the trailer located thereon.
7. Each mobile home shall be supported on a uniform masonry block or metallic device and the occupants of the mobile home shall not be allowed to use the area beneath the mobile home for storage.
8. A hard surfaced outdoor patio area of not less than one hundred eighty (180) square feet shall be provided at such mobile home sites, conveniently located to the entrance of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space.
9. All electric lines from supply poles to the mobile home sites shall be underground. Separate meters shall be installed and each meter shall be uniformly located.  
  
All fuel oil or gas lines shall be located underground at each mobile home site or the Mobile Home Park owners shall provide a central tank location or locations for fuel oil and gas from which fuel oil and gas shall be furnished underground to each mobile home site.
10. At least one acre per mobile home park or minimum of one acre per 100 sites (or fraction thereof), whichever is greater, shall be developed and maintained for recreation space, the location and specifications of which shall be approved in advance by the Berrien Township Planning Commission.
11. All public driveways, motor vehicle parking spaces and walkways within the park shall be hard surfaced and adequately lighted for safety and ease of movement. In addition, all public driveways shall have curbs and suitable drainage facilities.

12. There shall be provided at least two automobile parking spaces for each mobile home site.
13. All streets and appurtenant structures, not covered by more stringent standards in this Ordinance, shall comply with the standards required by the Federal Housing Administration, as set forth in the Administration's minimum property standards for mobile home parks, as amended from time to time.
14. Public walks shall be provided on the street side of each mobile home site. All public walks, such as those from mobile homes to service buildings and along streets and drives, shall be at least four (4) feet in width; Walks used in common by more than one (1) site, such as walks connecting the sites to a common area or primary walk, shall be at least thirty (30) inches in width.
15. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools.

B. Construction of Manufactured Home Parks:

1. The petition for development of a Manufactured Housing Park Home Zoning District as defined by this Ordinance shall include a site plan to be approved by the Planning Commission and the Township Board.
2. The applicant shall obtain a health permit from the Michigan State Health Department.
3. The applicant shall obtain the necessary Certificate of Zoning Compliance from the Zoning Administrator.
4. The applicant shall obtain a construction permit from the Michigan Mobile Home Commission in the manner prescribed by the Mobile Home Commission Act, Act 96 of 1987, as amended.
5. Mobile Homes shall be required to be completely enclosed from the foundation to the bottom of the exterior walls with a suitable metal, laminated plastic or comparable material skirting fastened at both top and bottom to exclude the entrance of rodents and other pests to the area under said mobile home.

C. Operation of mobile parks. To maintain, conduct or operate a trailer park, a person shall:

1. Obtain an annual license from the Michigan Department of State Health Commerce in the manner prescribed by the Mobile Home Commission Act, Act 96 of 1987, , as amended.
2. Obtain from the Township Zoning Administrator certificate of occupancy and compliance.

D. Non-conforming mobile homes in Berrien Township mobile home parks.

1. Non-conforming mobile home parks are those parks which do not conform with the

requirements of this Ordinance and which are in operation on the effective date of this Ordinance, and had been approved by the Township Board or Michigan Department of Labor and Economic Growth. A nonconforming mobile home park as defined above, however, may continue to operate in accordance with its existing condition on the effective date of the Ordinance. Except as herein provided, however, a nonconforming mobile home park may not be enlarged or expanded beyond its existing operation unless the enlargement or expanded portion of the park is constructed and operated in conformity with the requirements of this Ordinance.

- 2 Special building requirements. Mobile Homes located pursuant to this section shall be required:
  - a) To be placed on a permanent foundation consisting of a poured four (4) inch concrete apron there from.
  - b) To be completely enclosed from the foundation to the bottom of the exterior walls with a suitable metal, laminated plastic or comparable material skirting fastened at both top and bottom so as to exclude the entrance of rodents and other pests to the area under said mobile home.



## ARTICLE NINE – C COMMERCIAL DISTRICT

### 300.900 INTENT:

The primary purpose of the Commercial District is to provide areas designated for a variety of commercial and service establishments with commercial and business enterprises. As in other districts, provision is also made for integration of certain enterprises and property uses by Special Land Use Approval.

#### 300.901 PERMITTED USES:

- ◆ Accessory Buildings and Uses
- ◆ Catering Service
- ◆ Convenience Store (*amended eff. 11/23/11*)
- ◆ Day Care Center or Child Care Center
- ◆ Essential Services
- ◆ Farm Machinery and Product Suppliers
- ◆ Financial Institutions
- ◆ Governmental Office
- ◆ Hotels and Motels
- ◆ Laundry and Dry Cleaning Establishment
- ◆ Lodges, Fraternal, Labor and Social Hall
- ◆ Mini Warehouse, Self Storage
- ◆ Nursing Home
- ◆ Personal Services
- ◆ Places of Public Assembly
- ◆ Professional Service Establishments
- ◆ Public Utility Buildings
- ◆ Recreational Facilities – Public
- ◆ Retail Business

#### 300.902 SPECIAL LAND USES: (See Article eleven)

- ◆ Adult Uses
- ◆ Automobile Sales
- ◆ Broadcast Towers
- ◆ Carwash
- ◆ Clinic (Medical)
- ◆ Educational Facility
- ◆ Funeral Home or Mortuary
- ◆ Garage – Public
- ◆ Gasoline Stations
- ◆ Hospital
- ◆ Parking Lots
- ◆ Planned Unit Development
- ◆ Plant Nursery & Greenhouse
- ◆ Recreation Facilities – Private
- ◆ Restaurants
- ◆ Road Side Market
- ◆ Tavern
- ◆ Vehicle Repair Facility
- ◆ Veterinary Services
- ◆ Wind Energy Conversion Systems – Regional
- ◆ Winery/Brewery

**300.903 ADDITIONAL STANDARDS:**

- ◆ Accessory buildings and structures must comply with the requirements of Section 300.401 unless otherwise regulated elsewhere.
- ◆ Outdoor Lighting requirements subject to Section 300.411
- ◆ Parking requirements subject to Section 300.412
- ◆ Private Road requirements are subject to Section 300.414
- ◆ Signage requirements subject to Section 300.416
- ◆ Special land Uses are subject to Article Eleven.
- ◆ Uses Permitted by right are subject to Site Plan Review per Section 300.1203.

**300.904 DISTRICT REGULATIONS:**

<b>Minimum Lot Area:</b> 1 Acre w/o Water & Sewer	<b>Minimum Lot Width:</b> 105 Feet
12,500 SF. w/ Water & Sewer	
<b>Minimum Building Setbacks:</b>	<b>Maximum Building Height:</b> Lesser of 60 Feet or 4 Stories
Front: 75 Feet	
Side: 12 Feet	<b>Maximum Lot Coverage:</b> 75%
Rear: 40 Feet	<b>Minimum Floor Area:</b> NA



## ARTICLE TEN – I INDUSTRIAL DISTRICT

### 300.1000 INTENT:

The primary purpose of the I Industrial District is to provide areas to accommodate manufacturing and refining activities including processing selected raw and semi-finished materials; for storage of industrial products; location of wholesale establishments; and the assembly of goods into finished products.

<p style="text-align: center;"><b>300.1001 PERMITTED USES:</b></p> <ul style="list-style-type: none"> <li>◆ Accessory Buildings and Uses</li> <li>◆ Assembly Operation</li> <li>◆ Contractor’s Yard</li> <li>◆ Essential Services</li> <li>◆ Mini Warehouse, Self Storage</li> <li>◆ Recreation Facilities – Public</li> <li>◆ Retail Business</li> <li>◆ Sawmill</li> <li>◆ Warehouse &amp; Storage Buildings</li> <li>◆ Wholesale Establishments</li> <li>◆ Winery/ Brewery</li> </ul>	<p style="text-align: center;"><b>300.1002 SPECIAL LAND USES:</b></p> <ul style="list-style-type: none"> <li>◆ Broadcast Towers</li> <li>◆ Educational Facilities</li> <li>◆ Garage, Public</li> <li>◆ Junk Yards</li> <li>◆ Planned Unit Development</li> <li>◆ Processing and Manufacturing</li> <li>◆ Refinery</li> <li>◆ Wind Energy Conversion Systems – Commercial</li> <li>◆ Wind Energy Conversion Systems – Regional</li> </ul>
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<b>300.1003 ADDITIONAL STANDARDS:</b>
<ul style="list-style-type: none"> <li>◆ Accessory buildings and structures must comply with the requirements of this Section 300.401 unless otherwise regulated elsewhere.</li> <li>◆ Outdoor Lighting requirements subject to Section 300.411</li> <li>◆ Parking requirements subject to Section 300.412</li> <li>◆ Private Road requirements are subject to Section 300.414</li> <li>◆ Signage requirements subject to Section 300.416</li> <li>◆ Special Land Uses are subject to Article Eleven.</li> <li>◆ Uses Permitted by right are subject to Site Plan Review per Section 300.1203.</li> </ul>

<b>300.1004 DISTRICT REGULATIONS:</b>			
<b>Minimum Lot Area:</b> 1 Acre	<b>Minimum Lot Width:</b>	105 Feet	
<b>Minimum Building Setbacks:</b>	<b>Maximum Building Height:</b>	Lesser of 60 Feet or 4 Stories	
Front: 50 Feet	<b>Maximum Lot Coverage:</b>	75%	
Side: 25 Feet	<b>Minimum Floor Area:</b>	NA	
Rear: 50 Feet			

**300.1005 SUPPLEMENTAL REQUIREMENTS:**

- A. Statement of operating conditions. The application shall include a written statement of the effects of the operation on traffic on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions to maintain the same within the limitations of the Ordinance. It shall show the plans for the disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including plans for smoke and pollution control.
- B. Determination by planning commission. Following receipt of such application, the Zoning Administrator shall file his recommendation with the Planning Commission which shall make the determination thereof. The Planning Commission may hold a public hearing upon the application for any use permitted by right.
- C. Performance Standards.
  - 1. No use shall constitute a nuisance to adjacent premises or defeat the purpose of this Ordinance as expressed by Section 300.214.
  - 2. No use shall discharge any produced dust, odorous matter or noxious, corrosive or toxic fumes; or physical vibrations; or heat or glare beyond the premises whereon located.
  - 3. On-premises parking and loading space shall be provided for all owned and leased vehicles.
  - 4. No building shall be erected within five hundred (500) feet of any portion of a church, cemetery or hospital.
  - 5. Any use which includes the storage of hazardous substances or pollution materials is subject to review from the MDNRE, County Health Authority, or other applicable agency.
  - 6. Any development may be required to receive approval form the County Emergency Management Commission.

## ARTICLE ELEVEN – SPECIAL LAND USES

### 300.1100 PURPOSE:

- A. The purpose of this Article is to provide requirements and standards upon which decisions as to special land use approval will be based and required procedures. Special land uses are not essentially incompatible with permitted land uses in a given zoning district, but should not be permitted without application of standards hereafter stated by reason of special problems presented by the Special Land Use or its location in relation to neighboring properties and uses.
- B. Following the pre-application conference listed in 300.1101,B, the requirements of Section 300.1101 may be waived for Special Land Uses which involve a use of existing buildings for which no structural changes or changes in site grades, access or parking layout are required or proposed.
- C. Special land uses which are vacant or not in operation for period of 24 consecutive months, shall seek re-approval per the requirements of this Ordinance.

### 300.1101 SPECIAL LAND USE PROCEDURES:

- A. Applicant: Any person owning or having an interest in subject land may file an application for one or more Special Land Uses provided for in this Ordinance in the zoning district in which the land is situated.
- B. Pre-application Conference. Prior to submitting a Special Land Use Application, the pre-applicant shall request a conference with the Township Supervisor, Township Clerk, and/or Zoning Administrator. The purpose of the pre-application conference is to identify information required to accompany the application and a review of required procedures. The Township Supervisor, Township Clerk, and/or Zoning Administrator, at their discretion, may request additional persons to attend the pre-application conference. Each Special Land Use shall require separate application and fee.
- C. Application. In addition to the Site Plan Requirements in Section 300.1203, an application(s) for Special Land Use approval shall be submitted to the Township Clerk or other official who may be designated by the Township Board on a form for that purpose. Each application shall be accompanied by payment of a fee in accordance with the duly adopted "Schedule of Zoning Fees". No part of any fee paid shall be refundable.
- D. Procedure. On receipt of a complete application for Special Land Use, the Township Clerk or official designated by the Township Board shall refer the application and accompanying Site Plan to the Township Planning Commission
- E. Planning Commission public hearing. The Planning Commission shall review the application at its next regular meeting following referral from the Township Clerk and shall set a date for public hearing within 45 days thereafter in accordance with the Michigan Zoning Enabling Act (being Act 110 of 2006, as amended). The notice shall specify the following: *(amended eff. 11/23/11)*
  - 1. A description of the Special Land Use requested.
  - 2. Identification of the property in question.
  - 3. Statement of when and where the Special Land Use Application will be considered by the Planning Commission.

4. Before a public hearing is held, on review of the application, the Commission may require one or more of the following data, information and analysis:
  - a. Estimated population holding a capacity of residential or commercial accommodations to be included in the proposed development and general impact on community facilities such as schools and parks.
  - b. A market study pursuant to standards listed in Section 300.1203,E,3 justifying need for commercial facilities to be included in the proposed development. The analysis shall include a survey of competing commercial facilities serving the trade area of the proposed facility.
  - c. A traffic analysis pursuant to standards listed in Section 300.1203,E,2 which relates to trip generation capacity of the proposed development, projected traffic volumes and patterns on surrounding streets and the traffic capacity of existing streets.
  - d. An environmental impact assessment pursuant to standards listed in Section 300.1203,E,1 of the proposed development.
  - e. A statement presenting probable impact of the special land use(s) upon adjoining property and existing land uses, including but not limited to, property values, quiet enjoyment, harmony of land use, odors, dust, vibrations, noise, visual impact and related factors .
  - f. The Commission may also request where applicable written comments of other public agencies including Berrien County Road Commission, police, fire, MDNRE, FEMA, Homeland Security, or any other agency as to the proposed development as well as any other information pertinent to the Special Land Use Application.
- F. Planning Commission findings and recommendation. The Commission may recommend approval, denial or modified approval of any Special Land Use Application and Site Plan. Copies of the public hearing record, application material, and the Commission's findings and recommendations regarding the Special Land Use Application and Site Plan shall be forwarded to the Township Board. The Planning Commission shall formulate its findings and recommendations on the Special Land Use Application and Site Plan based on the following standards:
  1. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area;
  2. The special use shall not change the essential use of the surrounding area;
  3. The special use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety or welfare or persons or property through the excessive production of traffic, noise, smoke, fumes or glare;
  4. The special use shall not place demands on public services and facilities in excess of current capacity;
  5. The special use is in compliance with the Berrien Township Master Plan;
  6. The special land use meets the requirements as outlined in this article.
- G. H. Township Board action. The Township Board shall have final authority to accept or reject the findings and recommendations of the Planning Commission and shall hold a public hearing in accordance with the Michigan Zoning Enabling Act, (being Act 110 of 2006, as amended). In acting to approve, deny or grant modified approval, the Board shall make its decision based upon competent,

material, and substantial evidence contained in the public record and shall record its decision in writing. Approval of the special land use shall incorporate approval of the Preliminary Site Plan. Within seven (7) days of Township Board action on any Special Land Use Application and Site Plan, a copy of the Board's decision shall be provided to the applicant. *(amended eff. 11/23/11)*

- H. Approval of a special land use. Upon approval by the Township Board of an application for Special Land Use, the Township Clerk or other official designated by the Board, shall issue a Special Land Use Permit which shall be subject to Final Site Plan approval of all uses authorized by the Special Land Use Permit and further subject to compliance bonds authorized by Michigan Zoning Enabling Act.

**300.1102 VALIDITY OF THE SPECIAL LAND USE APPROVAL:**

- A. Township Board approval of a Special Land Use approval shall be valid regardless of a change of land ownership, provided all terms, conditions and zoning regulations are complied with by the new owner. A copy of special land use approvals shall be maintained in the office of the Township Clerk.
- B. Where development authorized by the special land use approval has not commenced within two years of issuance, the approval shall be null and void and all rights granted there under shall be suspended. Upon written application by the property owner, the Township Board may authorize extension of one year.
- C. Any special land uses which have been vacant, abandoned, or not in operation as approved for a period of twenty-four (24) consecutive months shall be required to reapply for approval as described above and be brought up to standards in existence at that time. *(amended eff. 11/23/11)*

**300.1103 USES SUBJECT TO SPECIAL LAND USE PROVISIONS:** All uses referenced, identified or which are similar to uses specified as special land uses in any zoning district shall be required to meet the requirements of sections 300.1105 to 300.1149.

**300.1104 AMENDMENTS:** Amending the special land use approval and approved site plan. Amendments to the Approved Special Land Use Preliminary or Final Site Plans shall be accomplished in the same manner as the original approval as specified in this Section.

**300.1105 ADULT FOSTER CARE, GROUP HOME:**

- A. Definition: Pursuant to Act 218 of the Public Acts of 1979 as amended, a governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for seven or more adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult Foster Care Homes shall not include nursing homes.
- B. Conditions and Regulations:
1. Adult foster care group homes serving less than seven (7) residents shall be considered a single family dwelling and shall not be subject to the requirements of this Section.
  2. Adult foster care group homes shall, as a condition of special land use approval, at all times maintain all valid state and local licenses.
  3. An adult foster care group home serving seven (7) or more residents shall not be located within fifteen hundred (1,500) feet of any other adult foster care group home.

4. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
5. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
6. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.

### **300.1106 – ADULT USES:**

- A. Purpose and Intent. The purpose and intent of this section is to deal with the regulation of Adult Businesses (as well as the defining "Adult Businesses" generally) is to regulate the location and operation of, but not to exclude, Adult Businesses within the Township, by preventing the concentration of such uses in close proximity to one another and to minimize the negative secondary effects associated with them by separating such uses from residential, educational and religious uses, as well as other areas of public and private congregation, all within the limits of the Township's authority.
1. This regulation is implemented with the understanding and recognition that there are some uses which, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects such as urban blight, reduction in property values, increased crime, upon nearby residential, educational, religious and other similar public and private uses. This has been demonstrated in previous studies undertaken by communities in Michigan as well as other states. Berrien Township maintains an active file of these studies.
  2. The implementation of appropriate regulations is necessary to insure that negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not otherwise be affect to the health, safety and general welfare of Township residents. The provisions of this Ordinance are not intended to impose a limitation or restriction on the content of any communicative material, including sexually oriented materials, protected by the First Amendment to the United States Constitution. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials, but to regulate land uses associated with such distribution or dissemination in a manner designed, within the limits of the United States Constitution and judicial opinions interpreting its breadth and scope, to insure that the health, safety and general welfare of the citizens of Berrien Township are appropriately protected from any negative secondary effects associated therewith.
  3. If any section, subsection, subdivision, sentence, clause, phrase or word of the Amendments reflected herein is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. In such event, to the extent feasible, any such section, subsection, subdivision, sentence, clause, phrase or word held to be invalid or unconstitutional shall be disregarded, reduced and/or revised so as to be recognized to the fullest extent permitted by law. Through the enactment hereof, the Township Board declares that it would have passed and adopted Section 300.1106 and all provisions thereof, irrespective of the fact that one or more provisions may be declared invalid or unconstitutional.

- B. Review Provisions. Adult Businesses as defined herein will be permitted in the C-1 District as a listed special land use, subject to all the provisions of this Article.
- C. Additional Information Required for Review. In addition to the standard requirements of information requested of all uses under Special Land Uses and Site Plan Review, Adult Businesses will be required to provide additional information as follows;
1. A statement of supporting evidence demonstrating compliance with the requirements of this section on a paragraph by paragraph basis.
  2. The site plan consistent with the requirements of Section 300.1203 showing the location of all abutting streets, the location of all existing and proposed structures and their uses, the location and extent of all above ground development, both existing and proposed on the site, site lighting, proposed signage, and exterior elevations of the proposed Adult Business depicting it, to the extent feasible, in what will become its "as-built" condition, all in legible form.
  3. Final building floor plans and specifications of the proposed development.
  4. A description of the proposed use, including references to definitions within this section.
  5. An area map, in a scale (no larger than 1" = 50'), depicting and describing all land uses situated within 750 feet of the boundaries of the property upon which the proposed Adult Business is to be located.
- D. Basis for Determinations – Specific Requirements. In reviewing an application for an Adult Business, the Planning Commission shall determine whether the following specific requirements have been met;
1. The proposed Adult Business shall not be located within 300 feet of any residence, park, school, childcare establishment, place of worship or any other Adult Business. For purposes of this paragraph, the distance between a proposed Adult Business and any of the above listed uses, shall be measured in a straight line, without regard to intervening structures or objects, from the nearest structure the proposed Adult Business is to be located to the above listed uses, regardless of the political jurisdiction.
  2. The proposed Adult Business shall not have a detrimental impact upon the property values of properties located within 750 feet of such proposed Adult Business as determined by an independent licensed appraiser.
  3. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms with the requirements of Section 300.416. Proposed signage may contain only the name of the Adult Business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
  4. Entrances to the proposed Adult Business shall be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than two inches in height that (a) "No one under the age of eighteen is permitted to enter the premises" and (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.
  5. No product or service for sale or gift, or any picture or other representation thereof, shall be displayed so as to be visible from the street or exterior of the building.

6. Hours of operation shall be limited to 8:00 a.m. to 12:00 a.m. (midnight).
7. Patrons shall be off the premises by the close of business.
8. Persons operating an Adult Business shall not permit any person under the age of 18 years to be on the premises either as an employee or as a customer.
9. Physical contact between performers, dancers or entertainers and the establishment patrons shall be prohibited. The interior arrangement shall incorporate a minimum six (6) foot isolation buffer between any performers, dancers or entertainers and the establishment patrons, regardless of whether any intervening glass or otherwise transparent barrier is provided.
10. Total nudity of service persons, wait-staff, performers, dancers, entertainers or others, whether employees of the adult use or contractors, shall be prohibited.
11. All off-street parking areas shall be illuminated during all hours of operation in accordance with this Ordinance and shall otherwise be open to view from the adjacent roadway.
12. The proposed Adult Business owner/operator shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its Special Land Use Application, which program shall provide for routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once-per-day. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this Section.
13. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Enclosed viewing booths shall not be permitted. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
14. The premises shall meet all barrier free requirements and building code requirements applicable in the Township.
15. The number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.
16. The applicant shall provide an overall management plan for the facility including explicit rules to prohibit total nudity and to prevent any physical contact between performers, dancers or entertainers and the establishment patrons. Other rules shall include, but not be limited to, hours of operation which shall not be greater than 8:00 a.m. to 12:00 a.m., prohibition of alcoholic beverages, unless specifically licensed therefore by appropriate authority, and other rules that may be imposed by the Planning Commission. Failure to abide by any such approved rules of operation shall be grounds for revocation of special land use approval.
17. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from Adult Businesses for



the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard before the Planning Commission.

### **300.1107 ASSEMBLY OPERATION:**

- A. Definition: Buildings, structures and premises used for the combining of parts into finished products and/or sub-assembly components for subsequent finishing on or off site and for the packaging, shipping and receiving of such products.
- B. Conditions and Regulations:
1. The applicant shall disclose the nature and quantity of any and all chemicals, electrical, or electronic hazardous materials to be used or stored on site and all uses and activities shall at all times comply with applicable local, state and federal standards pertaining thereto.
  2. Wastewater discharges to any municipal wastewater system shall conform to the requirements for industrial pre-treatment. No toxic or hazardous materials shall be discharged to groundwater or surface water.
  3. Within one hundred (100) feet of a R-1, district, all assembly operations shall take place within a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.
  4. All local, county, state and federal laws, statutory and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permit issued pursuant to this section.
  5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
  6. The Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
  7. All exterior lighting shall be in accordance with Section 300.411 hereof.

### **300.1108 AUTOMOBILE SALES:**

- A. Definition: An establishment for the sale or transfer of ownership of new or used automobiles.
- B. Conditions and Regulations:
1. Balloons, banners, streamers, or other decorative embellishments shall be prohibited.
  2. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  3. All signs shall comply with Section 300.416 of this Ordinance.
  4. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.
  5. Any display area for vehicles shall provide a minimum of a 10 foot setback from any property line.

**300.1109 BROADCAST TOWERS:**

A. Definition: Antenna towers and masts for broadcast radio service, telephone relay, or other communication.

B. Conditions and Regulations:

1. Tower shall be of the minimum height necessary to serve its intended function. Towers under 100 feet in height shall be subject to administrative review.
2. The construction of new towers shall not be permitted unless equivalent service by locating the antenna on an existing tower or other existing structures in the Township is not possible.
3. The broadcast tower shall not have an adverse impact on significant views from properties within one-quarter mile of the tower site. For purposes of the section, a significant view is defined as a view from residential property which has one (1) or more of the following characteristics.
  - a. A view from a residence and its immediate perimeter which encompasses landscape features shall be substantially free of man-made alteration, as a result of the unique topographic siting of the home.
  - b. A view which is a dominant feature of residential building site, and which contributes significantly to the value of the residential building site, as evidenced by the siting of a dwelling unit on the site, the size, number and orientation of windows on the structure and location and orientation of improved outdoor spaces on the site, such as patios and decks shall be protected.
4. Any building housing equipment needed for operation of the tower shall be of a size, type and exterior materials which are aesthetically and architecturally compatible with the surrounding area and as minimally obtrusive as possible. A security fence shall be erected around any building and any freestanding tower for safety and must have accessibility for safety and emergency services staff or personnel. Non-freestanding towers will have the tower base, building and each guy cable anchor fenced the same. The security fence shall be six (6) feet minimum height.
5. The applicant shall provide documentation for any lighting to be installed on the tower. If the lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse aesthetic impact on properties and residents of the surrounding area.
6. The transmitting facilities shall not interfere with any radio or TV transmission, telecommunications, or reception in the surrounding area.
7. Towers shall be designed to withstand a uniform wind loading as prescribed in the building code.
8. The plans of the tower construction shall be certified by a registered engineer or architect.
9. The applicant shall present to the Planning Commission copies of all state and federal permits (FCC, FAA, etc.) licenses, approvals, conditions and rulings pertaining to the proposed use and must guarantee compliance therewith.
10. The owner/operator of the tower shall agree to permit use of the tower by other broadcast radio service providers, on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower, or exceeds design of the tower.

11. Owner shall provide a bond to Berrien Township to cover the cost of removal of said tower. If for any reason, the tower ceases operation or is abandoned, it shall be removed from the site by the tower owner within six (6) months of termination of service.
12. Setback of the tower from property lines shall be the height of tower and antennas plus ten (10) percent of that height.

**300.1110 CAMP, RECREATIONAL:**

- A. Definition: An establishment to accommodate an organized, supervised recreational program of activities for boys, girls or families, normally housed in tents or cabins, usually operated during the summer.
- B. Conditions and Regulations:
  1. Any such facility shall meet all county, state, and federal requirements.
  2. All signs shall comply with Section 300.416 of this Ordinance.

**300.1111 CARWASH:**

- A. Definition: A building and equipment used for the commercial washing, waxing, detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated and hand-wash facilities, as well as any combination thereof.
- B. Conditions and Regulations:
  1. All such facilities shall be connected to a public sewer system or provide for onsite water retention.
  2. All washing activities shall be carried out within a building.
  3. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
  4. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
  5. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  6. All signs shall comply with Section 300.416 of this Ordinance.

**300.1112 CATERING SERVICE:**

- A. Definition: A commercial establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.
- B. Conditions and Regulations:
  1. Catering services shall meet all governmental regulations and licensing requirements.
  2. No food or meals in conjunction with the establishment shall be served on site.
  3. Dumpsters and refuse containers shall be screened from the public right-of-way.

**300.1113 CEMETERY:**

- A. Definition: Publicly or privately owned property which guarantees perpetual care of grounds used solely for the interment of deceased human beings or customary household pets.

B. Conditions and Regulations:

1. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, Public Act 88 of 1875, as amended, and other applicable state laws.
2. All signs shall comply with Section 300.416 of this Ordinance.
3. Such uses shall meet county, state, and federal regulations.
4. Private cemeteries shall provide a bond for perpetual maintenance.

**300.1114 CLINIC (MEDICAL):**

A. Definition: An establishment where patients who are not lodged overnight are admitted for examination and treatment by a physician or a group of physicians practicing medicine, osteopathy, dentistry, or chiropractic.

B. Conditions and Regulations:

1. Any such facility must be licensed and meet all county, state, or federal regulations.
2. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
3. All signs shall comply with Section 300.416 of this Ordinance.
4. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.

**300.1115 CONTRACTOR'S YARD:**

A. Definition: Land space used for storage of equipment and material used by contractors to do work on off premises job sites.

B. Conditions and Regulations:

1. A contractor's yard shall only be conducted by the person or persons occupying the premises as their principal residence a major portion of each month; however, the Township Board of Trustees shall have the authority to permit additional subordinate assistants who do not reside within said dwelling where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed three in number.
2. The dwelling shall have no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling when located within the A-R District.
3. The occupation conducted therein shall be clearly incidental and subordinate to the principal use of the premises for residential purposes when located within the A-R District.
4. No goods are sold from the premises which are not strictly incidental to the occupation conducted therein.
5. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.

6. Any contractor's yard shall be subject to annual inspection by the Zoning Inspector of the Township and may be terminated by order of such inspector wherever the same fails to comply with the this Ordinance.

### **300.1116 DAY CARE CENTER OR CHILD CARE CENTER:**

- A Definition: A facility, other than a private residence, receiving one (1) or more preschool or school age children for 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. Child care center or day care center 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, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:
1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
  2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services
- B. Conditions and Regulations:
1. Building and lot shall conform to the yard, setback and height standards of the zoning district in which it is located.
  2. All required state and local licensing shall be maintained at all times.
  3. All outdoor areas used for the care and supervision of patrons shall have appropriate fencing for the safety of the children in the group day-care home; consisting of a minimum 6-foot high privacy fence along the area adjoining another residence, and a minimum 4-foot high fence in the remaining area devoted to the day-care area.
  4. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
  5. Such facilities shall be located at least 1,500 feet from any one of the following:
    - a. A licensed or pre-existing operating group day-care home.
    - b. An adult care small group home (1-12 adults).
    - c. An adult foster care large group home (13-20 adults).
    - d. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
    - e. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
  6. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.

7. Hours of operation shall not exceed sixteen (16) hours during a 24-hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
8. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
9. All signs shall comply with Section 300.416 of this Ordinance.

**300.1117 DWELLING, TWO FAMILY:**

- A. Definition: A building containing two separate dwelling units designed for residential use.
- B. Conditions and Regulations:
  1. Building and lot shall conform to the site development requirements contained in Section 300.1203 of this Ordinance.
  2. No dwelling unit shall have its principal access more than one-hundred fifty (150) feet from either an access drive or a public street, and the required off-street parking area.
  3. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
  4. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.

**300.1118 DWELLING, MULTIPLE FAMILY:**

- A. Definition: A building containing three or more dwelling units designed for residential use.
- B. Conditions and Regulations:
  1. Building and lot shall conform to the site development requirements contained in Section 300.1203 of this Ordinance.
  2. No dwelling unit shall have its principal access more than one-hundred fifty (150) feet from either an access drive or a public street, and the required off-street parking area.
  3. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
  4. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.

**300.1119 DWELLING, TEMPORARY:**

- A. Definition: A building containing one or more dwelling units designed for residential use, which are to be occupied on a temporary basis by seasonal laborers, emergency service personnel, displaced residents, or other persons on a temporary basis.
- B. Conditions and Regulations:
  1. Dwellings shall not be occupied by seasonal laborers for more than 12 consecutive months
  2. Dwellings shall meet the single-family dwelling unit setbacks for the district in which it is located.
  3. Temporary dwellings not used for seasonal labor purposes shall be vacated 90-days after the issuance of a certificate of occupancy; unless a medical exception is granted in which applicants shall reapply each year. The Planning Commission may grant up to two extensions to the 90-day time limit.
  4. Medical exemptions shall meet the following requirements:

- a. All medical exemptions for temporary dwellings shall require a valid doctor's recommendation.
  - b. Occupants shall be family members as defined in this Ordinance.
  - c. Location of dwelling shall be no closer than 10 feet from primary dwelling and shall meet all applicable setbacks
  - d. Dwelling shall meet all applicable building code requirements.
  - e. Applicants shall be required to submit a bond upon installation for the removal of the temporary dwelling at the end of its approved use.
4. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.
  5. A temporary dwelling used for displaced residents may be placed on the same lot as a dwelling unit damaged by fire, flood, weather, or similar situation prior to approval with Zoning Administrator permission. If denied by the Planning Commission, said temporary dwelling unit shall be removed within 10 days of denial.

**300.1120 EDUCATIONAL FACILITY:**

- A. Definition: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.
- B. Conditions and Regulations:
  1. An education facility shall have its primary access directly from a paved, all-season road.
  2. If an education facility incorporates any gymnasium, theater, auditorium or large meeting space, it shall also comply with the requirements pertaining to Places of Public Assembly.
  3. All outdoor play areas shall be enclosed with a durable fence six (6) feet in height.
  4. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes.
  5. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
  6. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
  7. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.

**300.1121 FARM MACHINERY AND PRODUCT SUPPLIER:**

- A. Definition: A retail establishment offering farm equipment, machinery, tools, or similar farm related products to aid in a farm operation.
- B. Conditions and Regulations:
  1. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  2. All signs shall comply with Section 300.416 of this Ordinance.
  3. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

**300.1122 FUNERAL HOME OR MORTUARY:**

- A. Definition: A facility used for the preparation of the deceased for burial and for visitation and for the conduct of memorial and funeral services.
- B. Conditions and Regulations:
  - 1. Mortuary shall be located on a lot with a minimum area of five (5) acres.
  - 2. A Mortuary with a total combined seating capacity of three hundred (300) or more shall be regarded as a large place of public assembly and shall be required to meet the standards of Section 1133 pertaining thereto.
  - 3. A Mortuary shall be set back from the road right-of-way and any property line by not less than two hundred (200) feet.
  - 4. A Mortuary shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
  - 5. The site shall be so located as to have all ingress and egress, or a marginal access service drive, connected directly onto a primary road, excluding however, onto state roads.
  - 6. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
  - 7. No building shall be located closer than fifty (50) feet from a property line that abuts any residential district.
  - 8. A caretaker's residence may be provided within the main building of the mortuary establishment.
  - 9. All required federal, state and local licensing and permits shall be maintained at all times.
  - 10. All exterior light fixtures shall be equipped with cutoff fixtures to prevent light from casting off the site.
  - 11. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
  - 12. All off-street parking shall be in compliance with 300.412 of this Ordinance.
  - 13. Any crematory facilities in association with a funeral home or mortuary must meet all applicable county, state, and federal regulations.

**300.1123 GAS RECOVERY FACILITY:**

- A. Definition: A regulated and licensed facility for the capture, recovery and refinement of gasses generated by natural decomposition.
- B. Conditions and Regulations:
  - 1. All required state and federal licenses and permits shall be issued prior to the start of operations and shall remain in effect.
  - 2. No operation to capture, refine or remarket gasses from a landfill or agricultural operation use shall be initiated without prior approval from the Township.



3. An operation to capture, refine or remarket gasses from a landfill or agricultural operation shall not result in any additional public expense for the Township without compensating reimbursement from such operation.

**300.1124 GASOLINE STATION:**

- A. Definition: Any building, structure or land used for the dispensing, servicing, sale or offering for sale at retail, of any automobile fuels, oils, or accessories that also includes a retail establishment offering for sale such items as prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for on or off-site consumption.
- B. Conditions and Regulations:
  1. All required state and federal licenses and permits shall be issued prior to the start of operations and shall remain in effect.
  2. Gasoline Stations shall be located on a major thoroughfare as indicated by the County Road Commission.
  3. All storm water shall be retained on site.

**300.1125 HOME OCCUPATIONS – MAJOR:**

- A. Definition: A home occupation, profession, activity, or use that is evident to neighbors by virtue of an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally associated with a residential community.
- B. Conditions and Regulations
  1. Purpose. These standards are intended to insure compatibility with the other permitted uses and the residential character of the neighborhoods in which home occupations and home-based businesses are located. Major home occupations shall be secondary or incidental to the residential use of the parcel and principal structure. Each, when meeting the standards contained herein, shall be so located and constructed that the average neighbor, under normal circumstances, will not be negatively impacted by such home occupation.
  2. Registration Required. Home occupations and home based businesses shall be registered with the Township's Zoning Administrator prior to commencement of any activity related to such home occupation or home-based businesses.
  3. Performance Standards. Home occupations shall comply with the following standards:
    - a. A home occupation shall be conducted only by the resident(s) of the dwelling plus not more than (1) nonresident.
    - b. A home occupation shall be conducted entirely within the dwelling unit or not more than one accessory building.
    - c. The home occupation shall not alter the external appearance of the dwelling to cause the premises to differ from its residential construction, and shall not utilize lighting, signs, or cause the emission of sounds, noises, fumes, or odors, or electrical interference beyond what normally occurs in a residential zoning district.

- d. All equipment and/or tools associated with the home-based business shall be stored indoors and shall be limited to one (1) accessory building. There shall be no outdoor storage or display of any kind related to the home occupation.
  - e. No traffic shall be generated by such home occupation in greater volumes than what normally occurs within the residential neighborhoods located in this zoning district including, but not limited, to customer traffic and deliveries.
  - f. Parking generated by the conduct of the home occupation shall be provided off the street.
  - g. Only one commercial automobile, limited to maximum of one (1) ton, shall be parked at the residence at any given time for the purpose of the home-based business within the R-1 Zoning District.
4. Revocation of Permit. All permits issued to home occupations pursuant to this Ordinance, or which have been granted by the Township previously, shall be revocable by the Township Zoning Administrator if such home occupation fails to comply with any of the applicable standards as set forth in this Ordinance, any other applicable Ordinance or code.

**300.1126 HOSPITAL:**

- A. Definition: A facility licensed by the State of Michigan capable of providing physical, surgical, rehabilitative, medical, or similar treatment to individuals suffering or recovering from illness, injury, or infirmity.
- B. Conditions and Regulations:
  - 1. Any Hospital Operations shall be licensed by the State of Michigan.
  - 2. All facilities shall be located on a parcel of one (1) acre or more.
  - 3. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  - 4. All signs shall comply with Section 300.416 of this Ordinance.
  - 5. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

**300.1127 HOTEL AND MOTEL:**

- A. Definition: A building, or group of buildings in which lodging or boarding are provided. As such, it is open to the public as distinguished from a boarding house, lodging house or an apartment.
- B. Conditions and Regulations:
  - 1. Hotels and Motels shall be located on a parcel of two (2) or more acres.
  - 2. All such facilities shall be connected to public sewer or have an onsite system approved by the County Health Department.
  - 3. Parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  - 4. Signs shall comply with Section 300.416 of this Ordinance.
  - 5. Exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

**300.1128 JUNKYARD:**

- A. Definition: Any place at which a person engages in the purchase, exchange, accumulation, receipt, storage, sale or disposition of any article which may reasonably be defined as junk, except this definition shall not apply to retail merchants who repossess their own merchandise sold on a title-retaining contract, or chattel-mortgage basis.
- B. Conditions and Regulations: The erection, use and alteration of any building, structure and use of premises for a junkyard shall be subject to the following requirements:
  - 1. The entire premises shall be surrounded and obscured by a permanent wall, evergreen hedge or the equivalent thereof not less than eight (8) feet in height which shall be maintained in good condition at all times and constructed of wood, metal, masonry or other comparable material. An earth formed berm of eight (8) feet in height, properly protected from erosion, may be substituted if approved by the Township Board.
  - 2. Glare from any process, such acetylene torch cutting which emits harmful ultra-violet rays shall not be visible beyond the boundaries of the premises and shall be limited to the hours between 8:00 A.M. and 3 P.M. No burning or emissions whatsoever shall be permitted on any Saturday, Sunday, legal holidays, or during adverse weather conditions.

**300.1129 KENNELS:**

- A. Definition: Any lot or premises on which four (4) or more animals of more than six months in age are kept or boarded temporarily or permanently, for the purpose of commercial breeding, for sale, boarding, or training. It shall also include any lot or premises which other fur bearing household or domestic pets of like number are bred or sold.
- B. Conditions and Regulations:
  - 1. The minimum lot area shall be one (1) acre for the first four (4) animals, and an additional one-third (1/3) acre for each animal in addition to the first four (4).
  - 2. Buildings where animals are kept, dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling and shall be set back at least seventy-five (75) feet from any R-1 district.
  - 3. Dog runs and exercise areas shall not be located in any front yard or required side or rear yard setback area.
  - 4. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.
  - 5. The lot shall be screened along the side and rear property lines with 6 foot evergreen plantings.

**300.1130 LODGES, FRATERNAL, LABOR AND SOCIAL HALL:**

- A. Definition: A building and related facilities owned or operated by a corporation, association or group of individuals established for the fraternal, social or recreational enrichment of its members and not primarily for profit whose members meet and pay dues and meet certain prescribed qualifications for membership.
- B. Conditions and Regulations:

1. Any such facility shall have its primary access directly from a paved, all-season road.
2. If a lodge or hall incorporates any gymnasium, theater, auditorium or large meeting space, it shall also comply with the requirements pertaining to Places of Public Assembly.
3. Any required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes.
4. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
5. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
6. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.
7. Residential occupancy shall be prohibited within the structure.

**300.1131 LODGING HOUSES:**

- A. Definition: A building other than a hotel where lodging only is provided for three or more but not more than twenty persons.
- B. Conditions and Regulations:
  1. Lodging houses shall be located on a parcel of one (1) or more acre.
  2. All such facilities shall be connected to a public sewer system or have a onsite septic system approved by the County Health Department.
  3. Parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  4. Signs shall comply with Section 300.416 of this Ordinance.
  5. Exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

**300.1132 RESERVED**

**300.1133 PARKING LOTS:**

- A. Definition: A lot which is used for the parking of motor vehicles.
- B. Conditions and Regulations:
  1. Parking lot shall be improved with gravel, asphalt, concrete, or substitute material as deemed permissible by the Planning Commission
  2. Shall not occupy more than 75% of the lot to which it is placed.
  3. The lot shall include a storm water retention basin capable of collection 100% of the runoff from any impervious parking lot surface.
  4. Signage for the parking lot shall be limit to six (6) square feet, be less than ten (10) feet in height, and be located at least ten (10) feet from any property lines.
  5. Parking spaces shall meet the requirements of section 300.413 of this Ordinance.

**300.1134 PLACES OF PUBLIC ASSEMBLY:**

- A. Definition: Places of public assembly shall include theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for entertainment, instruction, worship or similar activities involving assembled groups of people.
- B. Regulations and Conditions:
  - 1. A place of public assembly shall be located so as to have its primary access directly onto a State or County Road.
  - 2. The Zoning Administrator may require the completion of a traffic impact study under the terms of Section 300.1203,E,2 of this Ordinance.
  - 3. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
  - 4. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.

**300.1135 PLANNED UNIT DEVELOPMENT:**

- A. Definition: An area of minimum size, as specified by this Ordinance, to be planned and developed as a single entity containing mixed or varied uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult development challenges.
- B. Purpose and Intent. This section provides enabling authority and standards for the submission, review, and approval of applications for a Planned Unit Development. Subdivisions shall also follow the procedures and requirements as listed below. The provisions of this section are not intended as a device for ignoring the Ordinance or the planning upon which it has been based. To that end, provisions of this section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from district regulations such as density, height, lot coverage, lot width, and setbacks, in accordance with standards provided in this section to ensure appropriate, fair, and consistent decision-making. Modifications and departures of the Private Road pavement and easement width dimensions may also be requested and considered, however, modifications to the construction or maintenance specifications may not be granted. It is the intent of this section to authorize the consideration and use of Planned Unit Development regulations for the following purposes:
  - 1. To promote the conservation of natural features and resources.
  - 2. To promote and ensure greater compatibility of design and use between neighboring parties.
  - 3. To allow for the flexibility in the regulation of land development.
  - 4. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
  - 5. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
  - 6. To encourage useful open space.
- C. Qualifying Conditions. In order to be eligible for PUD special land use, the proposed area must meet the following criteria:

1. The proposed area shall consist of a minimum of ten (10) acres of contiguous land.
2. Only those uses permitted in the underlying zoning district shall be permitted in a PUD.

D. Development Requirements.

1. Open Space. Uses in any underlying zoning district shall be subject to the following open space standards, provided however, there shall be no density bonus for a non-residential PUD:

<b>TABLE 11-1</b>	
Minimum Percent of Site Preserved as Common Open Space	Maximum Density Bonus
25% minimum open space	5% density bonus
35% minimum open space	10% density bonus
45% minimum open space	15% density bonus

In each case, the maximum density for residential use shall be determined by the Township Board up to the maximum indicated in Table 11-1, after review by the Planning Commission based on the following standards. The residential uses shall:

- a. Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  - b. Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
  - c. Not create excessive additional requirements at public cost for public facilities and services.
  - d. Be developed in accordance with the intent for a Planned Unit Development as contained herein.
2. Dwelling Unit Computation. The density permitted by the Township Board shall be applied to the net development area of the site in order to determine the maximum number of dwelling units permitted for the site. The net development area is determined by subtracting the following from the gross or total site area:
    - a. Area within existing road rights-of-way and / or private road easement.
    - b. Area within a 100-year Floodplain, as defined in the Flood Hazard Area Boundary Map or FIRM map, as defined by the Department of Environmental Quality.
  3. Amount of Open Space. A planned unit development shall maintain a minimum of twenty (20) percent of the gross area of the site as dedicated open space held in common ownership, provided additional open space may be required if density bonuses are requested per Table 11-1.
  4. Areas Not Considered Open Space. The following land areas are not included as dedicated open space for the purposes of meeting the requirements of Table 11-1.

- a. Lot areas proposed as single family residential or site condominiums, or commercial, industrial structures, provided however, that area any required transition strip may be counted towards open space so long as it meets the requirements of this section.
  - b. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
  - c. The area of any road right-of-way or private road easement.
  - d. Any submerged land area of a pond, lake or stream. Except, constructed wetlands and stormwater detention / retention ponds designed to appear and function similar to natural wetlands and ponds, may be counted as open space, provided at least fifty percent (50%) of the minimum required open space area (i.e. 25% of the total site) shall be in the form of usable park area or upland nature preserves.
  - e. Golf Courses.
5. Open Space Location. Open space shall be planned in locations visible and accessible to all in the planned unit development. The open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area considered for density bonus calculation:
- a. The open space along the exterior public roads shall have a depth of at least fifty (50) feet, either landscaped or preserved in a natural wooded condition.
  - b. Open space shall be situated to maximize the preservation of existing site woodlands.
  - c. A minimum of one-hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the Township may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
  - d. A minimum one-hundred (100) foot wide open space buffer shall be maintained between residential lots and any adjacent parcel zoned AR and actively farmed.
  - e. Where adjacent land includes open space, public land or existing or planned unit developments or open space cluster developments, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.
  - f. Any open space area shall be a minimum of at least fifty (50) feet in all dimensions.
6. Open Space Protection. The dedicated open space shall be set-aside in perpetuity by the developer through a conservation easement or other deed restriction that is found acceptable to the Township. The conservation easement or deed restriction shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement or deed restriction shall provide the following:
- a. Allowable use(s) of the dedicated open space shall be indicated. The Township may require the inclusion of open space restrictions that prohibit the following:
    - (1) Dumping or storing of any material or refuse;

- (2) Activity that may cause risk of soil erosion or threaten any living plant material;
  - (3) Cutting or removal of live plant material except for removal of dying or diseased vegetation;
  - (4) Use of motorized off road vehicles;
  - (5) Cutting, filling or removal of vegetation from wetland areas;
  - (6) Use of restricted pesticides, herbicides or fertilizers within or adjacent to wetlands.
- b. Dedicated open space shall be maintained by parties who have an ownership interest in the open space. Standards for scheduled maintenance of the open space shall be provided. The conservation easement or deed restriction shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
  - c. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this Section.
  - d. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.
7. Uses. Only those uses permitted in the underlying zoning district shall be permitted in a Planned Unit Development.

E. Application and Processing Procedures

1. Pre-application Conference. Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Zoning Administrator, and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development and a parallel plan with the following information:
  - a. A legal description of the property in question;
  - b. The total number of acres to be included in the project;
  - c. The parallel plan shall include a sketch plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. This number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per Table 11-1.
  - d. A statement of the number of residential units and / or the number, type, and square footage of non-residential uses;
  - e. The number of acres to be occupied and / or devoted to or by each type of use;
  - f. A list of all departures from the regulations of the Ordinance which may be requested;



- g. Graphic and written description of how public water and sanitary sewer will serve the site;
  - h. The number and written description of acres to be preserved as open space; and
  - I All known natural resources and natural features.
2. Site Plan. Following the pre-application conference or conferences, twelve (12) copies of a basic site plan and application for a PUD Special Land Use request shall be submitted not later than forty-five (45) days prior to the next scheduled meeting of the Planning Commission. The submission shall be made to the Zoning Administrator who shall first determine if the application is complete. Only complete applications shall be scheduled for the Planning Commission review. The plan shall be accompanied by an application form and fee as determined by the Township Board. The preliminary site development plan shall contain all of the information required for a site plan in Section 300.1203 in addition to the following:
- a. The boundaries of any Floodplain, as defined by the Michigan Department of Natural Resources and Environment, a flood hazard area boundary map, or other agencies.
  - b. A narrative describing:
    - (1) The nature of the project.
    - (2) The proposed density, number, and types of dwelling units if a residential PUD.
    - (3) A statement describing how the proposed project meets the objectives of the PUD.
    - (4) A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
    - (5) Proof of ownership or legal interest in property.
    - (6) The impact of the project on roads, schools and utilities.
    - (7) Key provisions of the Master Deed that demonstrate how the intent and regulations of this section will be satisfied.
    - (8) Key provisions of any design guidelines, if applicable.
  - c. A parallel plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. The parallel plan shall include the boundaries of any Floodplain, as defined by the Department of Environmental Quality or other agencies. The number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per Table 11-1.
  - d. If the applicant is proposing a Private Road, an application for Private Road shall also be submitted and reviewed concurrent with the Site Plan.
3. Planning Commission Review. The Planning Commission shall review the Site Plan according to the provisions of Section 300.1203, Qualifying Conditions and, if applicable, the Private Road application according to the provisions of Section 300.414 herein and transmit any recommendations for changes or modifications of the basic site plan to the applicant. At the discretion of the Planning Commission, the request for Planned Unit Development approval shall be set for a public hearing.

4. The public hearing notice shall include the special land use to Planned Unit Development as well as preliminary approval of the Planned Unit Development preliminary site development plan. Notice of the hearing shall follow the noticing requirements contained in Article 12.

F. Standards for Approval

1. Following the public hearing, the Planning Commission shall recommend to the Township Board approval, approval with conditions, or denial of the request for the Planned Unit Development subject to the site plan. The Planning Commission shall also have the discretion to recommend a density bonus up to the amounts set forth in Table 11-1. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD special land use and the following standards:
  - a. Approval of the Planned Unit Development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
  - b. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
  - c. The Planned Unit Development shall not change the essential character of the surrounding area.
  - d. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.

G. Township Board Approval and PUD Site Plan Approval. After receiving the recommendation of the Planning Commission, the Township Board shall hold a public hearing in accordance with the Michigan Zoning Enabling Act, being Act 110 of 2006, as amended. Following the hearing, the Board shall approve, deny, or approve with conditions the PUD special land use, density bonus and shall approve, deny or approve with conditions with the Site Plan for the PUD in accordance with the standards for approval and conditions for a PUD as contained herein. This approval shall be valid for a period of twenty-four (24) months. *(amended eff. 11/23/11)*

H. Performance Guarantee. The Planning Commission shall require a performance guarantee such as a letter of credit, cash, escrow account, or certified check in an amount up to the estimated cost of improvements and administrative costs associated with the project or for each phase. Such performance guarantee shall be deposited with the Treasurer of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan. The Township shall rebate a proportional share of the deposit, biannually as requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. The Zoning Administrator may, at their discretion, call upon professional assistance from the Township Engineer or the Township Planner. In cases where the provisions of the final development plan, as approved, have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

- I. Amendments. Amendments to the planned unit development shall only occur as outlined in Section 300.1203, Site Plan Review. Amendments to planned unit developments which were approved under the previous Ordinance shall meet the requirements of that Ordinance unless completed.
- J. Scheduling of Construction. The physical development of the area must start within two (2) years of the date of approval of the detailed site plan and planned development. Failure to start development shall invalidate the plan. Provided, however, the Township Board, upon review and recommendation by the Planning Commission, may extend such period of time up to one (1) year. In the event that physical development does not start within two (2) years or the date of approval of, or by the date authorized by the Planning Commission if an extension is granted, the Board shall invalidate the PUD Special Land Use Approval.

### **300.1136 PLANT NURSERIES & GREENHOUSES:**

- A. Definition: An establishment for the growth, display, and/or wholesale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.
- B. Conditions and Regulations:
  - 1. Plant Nurseries & Greenhouses shall meet any county, state, or federal requirements.
  - 2. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  - 3. All signs shall comply with Section 300.416 of this Ordinance.
  - 4. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

### **300.1137 PROCESSING AND MANUFACTURING:**

- A. Definition: Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical, electrical, or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.
- B. Conditions and Regulations:
  - 1. The applicant shall disclose the nature and quantity of all chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with applicable local, state and federal standards pertaining thereto.
  - 2. Wastewater discharges to any municipal wastewater system shall conform to the requirements for industrial pre-treatment. No toxic or hazardous materials shall be discharged to groundwater or surface water.
  - 3. Within one hundred (100) feet of a R-1, district, all manufacturing and processing activities shall take place within a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.

4. All local, county, state and federal laws, statutory and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permit issued pursuant to this section.
5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
6. The Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
7. All exterior lighting shall be in accordance with Section 300.411 hereof.

**300.1138 PUBLIC UTILITY BUILDINGS:**

- A. Definition: A building or structure owned and operated by a Utility Company providing water system, sewer, natural gas, electric or telephone services and including offices, sub-stations, transformers, pump stations, poles and towers and kindred facilities.
- B. Conditions and Regulations:
  1. The erection, alteration and maintenance of public utility and publicly owned structures, and of power, communications, supply, distributions and similar facilities, including accessories therewith, as authorized and regulated by law shall be permitted in every Zoning District.
  2. The Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
  3. All exterior lighting shall be in accordance with Section 300.411 hereof.
  4. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.
  5. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.

**300.1139 RECREATION FACILITIES – PRIVATE:**

- A. Definition: A recreational facility available to the public which is privately owned and operated.
- B. Conditions and Regulations:
  1. Private recreation facilities in which activities are outdoors shall be completely surrounded by a chain link fence, 6 feet in height.
  2. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  3. All signs shall comply with Section 300.416 of this Ordinance.
  4. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.
  5. The amplification equipment shall not exceed 60 decibels at the property line.

**300.1140 REFINERY:**

- A. Definition: A facility that processes raw materials from the ground, water, or land, or waste materials into usable products.
- B. Conditions and Regulations:

1. The applicant shall disclose the nature and quantity of all chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with applicable local, state and federal standards pertaining thereto.
2. Wastewater discharges to any municipal wastewater system shall conform to the requirements for industrial pre-treatment. No toxic or hazardous materials shall be discharged to groundwater or surface water.
3. Within one hundred (100) feet of a R-1, district, all manufacturing and processing activities shall take place within a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.
4. All local, county, state and federal laws, statutory and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permit issued pursuant to this section.
5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
6. The Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
7. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
8. All signs shall comply with Section 300.416 of this Ordinance.
9. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

**300.1141 RESTAURANT:**

- A. Definition: A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for takeout.
- B. Conditions and Regulations:
  1. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  2. All signs shall comply with Section 300.416 of this Ordinance.
  3. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.
  4. The sale of food or drinks shall meet all local, county, state, and federal laws, guidelines, and licensing requirements.

**300.1142 ROAD SIDE MARKETS:**

- A. Definition: A permanent building which is used year around for sale of farm products, produce, and similar goods.
- B. Conditions and Regulations:
  1. Only fruits, cut flowers, honey, vegetables or other products that have been grown or produced shall be sold in a Roadside Market.

2. No part of the Roadside Market sales area or parking area shall be located within a road right-of-way.
3. All temporary structures associated with the Roadside Market shall be portable and shall be removed when not in use.
5. Only one Roadside Market shall be permitted on any one lot.
6. The Planning Commission shall give due consideration to the nature of the proposed use and its potential impact on the surrounding land uses and may establish appropriate site conditions to assure that the use will generate no detrimental impacts on surrounding property.
7. A Roadside Market shall be permitted not more than two (2) freestanding signs with a surface area of thirty-two (32) square feet. Such sign shall not be lighted.
8. A minimum of two (2) off-street parking spaces shall be provided for each Roadside Market.

**300.1143 SAWMILL:**

A. Definition: A facility for the processing of harvested timber.

B. Conditions and Regulations:

1. Sawmills shall not be located on a lot less than three (3) acres.
2. Within one hundred (100) feet of a R-1, district, all cutting, chipping, stripping, drying or other operations shall take place within a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.
3. All local, county, state and federal laws, statutory and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permit issued pursuant to this section.
4. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
5. The Planning Commission may require additional open space and landscape buffer screening between the proposed use and adjacent property.
6. All exterior lighting shall be in accordance with Section 300.411 hereof.

**300.1144 TAVERN:**

A. Definition: An establishment used primarily for the serving of liquor, beer and wine to the general public and where food or packaged liquors may be served or sold only as an accessory to the primary use.

B. Conditions and Regulations:

1. Taverns shall not be located within 200 feet of a residential structure.
2. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
3. All signs shall comply with Section 300.416 of this Ordinance.
4. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.

5. The sale of food or drinks shall meet all local, county, state, and federal laws, guidelines, and licensing requirements.

**300.1145 VEHICLE REPAIR FACILITY:**

- A. Definition: A building, structure or lot, or any portion thereof, used for the diagnosing, repairing, cleaning, equipping and/or painting of motor vehicles.
- B. Conditions and Regulations:
  1. Dismantled, wrecked or inoperable vehicles or any vehicle parts or scrap of any kind shall not be kept outdoors where they are visible from any adjoining property or right-of-way, nor shall such vehicles be stored for more than 120 days. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an evergreen landscape buffer not less than eight (8) feet in height at time of planting to screen any vehicles from neighboring uses or passers-by.
  2. Not more than two (2) vehicles shall be parked on site at any time for the purpose of selling or renting such vehicles.
  3. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building. No outdoor storage of merchandise or equipment shall be permitted.
  4. All repair and maintenance activities shall be performed entirely within an enclosed building.
  5. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
  6. Disposal of parts, fluids, or hazardous materials must be done in accordance with county, state, and federal regulations.

**300.1146 VETERINARY SERVICES:**

- A. Definition: The medical care, treatment, and rehabilitation of animals.
- B. Conditions and Regulations:
  1. Veterinary Service establishments shall meet all county, state, and federal requirements and licensing regarding the medical treatment and rehabilitation of animals.
  2. Buildings where animals are kept, dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling and shall be set back at least seventy-five (75) feet from any R-1 district.
  3. Animal exercise areas shall not be located in any front yard or required side or rear yard setback area.
  4. All principal use activities, other than outdoor animal exercise areas, shall be conducted within a totally enclosed building.
  5. Outdoor animal exercise shall be screened from neighboring properties with an evergreen other opaque vegetative screening not less than 6 feet in height.

**300.1147 WIND ENERGY CONVERSION SYSTEMS – COMMERCIAL:**

- A. Definition: Wind energy conversion system constructed for the commercial production of electricity, operated by a utility company, and connected to the electrical grid.

## B. Conditions and Regulations:

1. Commercial Wind Energy Conversion Systems (WECS) shall not be permitted on any lot less than 20 acres.
2. Towers shall be connected directly to the commercial electrical grid.
3. Each tower shall be setback a minimum of 1.25 times the total system height (including tips of blades) to any property line or structure on the same parcel.
4. The audible noise standard due to wind turbine operations shall not be created which causes the noise level at the boundary of the proposed project site to exceed (40) dB(A) for more than five (5) minutes out of any one hour time period or to exceed 45 dB(A) for any time period. Wind energy facility shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.
5. The electrical transmission lines connecting the wind turbine generator to the public utility electricity distribution system shall be located underground.
6. Landscaping shall be designed to counter the effects of "shadow flicker" on any neighboring residences or roadways caused by the rotor rotation in the sunlight.
7. A 6-foot, chain-link fence shall be erected to prevent access within ten feet of any tower base.
8. Each wind turbine generator including all accessory structures, or anemometer tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness and shall be so maintained as to be in continuous compliance with this paragraph and to prevent any visible oxidation or corrosion.
9. Each wind turbine generator or anemometer tower shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:
  - a. Shall be the lowest intensity allowable under FAA regulations;
  - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA;
  - c. Shall be a red top light that does not pulsate or blink;
  - d. Shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.
10. Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on view corridors from adjacent properties.
11. Each wind turbine generator or anemometer tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
12. Towers shall be designed to withstand a uniform wind loading as prescribed in the building code and industry standards.



13. The plans of the tower construction shall be certified by a registered engineer or architect.
14. Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, U.S. Fish and Wildlife Service and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.
15. Owner shall provide a bond to Berrien Township to cover the cost of removal of said tower. If for any reason, the tower ceases 'operation or is abandoned, it shall be removed from the site by the tower owner within six (6) months of termination of service.

### **300.1148 WIND ENERGY CONVERSION SYSTEMS – REGIONAL:**

A. Definitions: Wind energy conversion system constructed for the energy production exclusively for a subdivision, site condominium, or similar group or cluster of buildings.

B. Conditions and Regulations:

1. Regional Wind Energy Conversion Systems (WECS) shall not be permitted on any parcel less than 5 acres and shall not exceed 200 feet from base to tip of blade at highest point in rotation.
2. Towers shall be connected directly to an electrical grid which serves the use of a designated development controlled by an association, partnership, corporation, company, or similar collective which would be responsible for the Regional WECS.
3. Each tower shall be setback a minimum of 1.5 times the total system height to any property line or structure on the same parcel.
4. The audible noise standard due to wind turbine operations shall not be created which causes the noise level at the boundary of the proposed project site to exceed (40) dB(A) for more than five (5) minutes out of any one hour time period or to exceed 45 dB(A) for any time period. Wind energy facility shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.
5. The electrical transmission lines connecting the wind turbine generator to the private utility electricity distribution system shall be located underground.
6. Landscaping shall be designed to counter the effects of “shadow flicker” on any neighboring residences or roadways caused by the rotor rotation in the sunlight.
7. Adequate fencing shall be erected to prevent access within ten feet of any tower base.
8. Each wind turbine generator including all accessory structures, or anemometer tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness and shall be so maintained as to be in continuous compliance with this paragraph and to prevent any visible oxidation or corrosion.
9. Each wind turbine generator or anemometer tower shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:
  - a. Shall be the lowest intensity allowable under FAA regulations.

- b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.
  - c. Shall be a red top light that does not pulsate or blink
  - d. Shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.
10. Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on view corridors from adjacent properties.
11. Each wind turbine generator or anemometer tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
12. Towers shall be designed to withstand a uniform wind loading as prescribed in the building code and industry standards.
13. The plans of the tower construction shall be certified by a registered engineer or architect.
14. Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, U.S. Fish and Wildlife Service and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.
15. Owner shall provide a bond to Berrien Township to cover the cost of removal of said tower. If for any reason, the tower ceases 'operation or is abandoned, it shall be removed from the site by the tower owner within six (6) months of termination of service.

### **300.1149 WINERY/ BREWERY:**

- A. Definitions: An agricultural facility in which grapes, fruits, or grains are grown or purchased, fermented or brewed, and processed into wine, mead, or beer, and packaged for distribution.
- B. Conditions and Regulations:
  - 1. Facilities shall have and maintain all applicable local, county, state, or federal regulations.
  - 2. All signs shall comply with Section 300.416 of this Ordinance.
  - 3. All exterior lighting shall be in accordance with Section 300.411 of this Ordinance.
  - 4. All parking areas shall comply with the provisions of Section 300.412 of this Ordinance.
  - 5. Any retail sale of food or drinks shall meet all local, county, state, and federal laws, guidelines, and licensing requirements.

### **300.1150 CONVIENCE STORE (*amended eff. 11/23/11*)**

- A. Definition: A retail establishment offering for sale goods such as but not limited to prepackaged food products, household items, newspapers and magazines, consignment goods, and freshly prepared foods, such as salads and sandwiches, and beverages for on-site or off-site consumption.

B. Regulations and Conditions:

1. The Planning Commission may establish hours of operation for convenience stores to protect the character of land uses in the vicinity.
2. The site shall include measures to control trash and debris to the satisfaction of the Zoning Administrator.
3. No vehicles shall be parked on site for the purposes of selling or renting such vehicles.
4. Convenience stores shall be maintained in a manner consistent with the character of the surrounding neighborhood at all times.
5. All required state and local licenses, permits and similar approvals shall be issued prior to occupancy.
6. No yard, parking area or open area shall be used for outdoor storage.
7. All exterior lighting shall be equipped with cut-off fixtures to prevent light from casting off the site. Exterior light standards shall be no higher than twenty (20) feet.
8. All signs shall be in compliance with the provisions of Section 300.416 of this Ordinance.
9. All off-street parking shall be in compliance with Section 300.412 of this Ordinance.



## ARTICLE TWELVE – ADMINISTRATION

### 300.1200 ZONING ADMINISTRATION:

The Berrien Township Planning Commission shall exercise all duties, powers, and responsibilities as provided by Michigan Planning Enabling Act, Act 33 of 2008, as amended. The Berrien Township Board of Trustees shall appoint a Zoning Administrator.

### 300.1201 ZONING ADMINISTRATOR:

- A. The Zoning Administrator shall be the enforcement officer of all provisions of this Ordinance as prescribed herein or such provisions as may hereafter be enacted. The Zoning Administrator is also authorized to appoint another person to be the enforcement officer if deemed appropriate and approved by the Supervisor.
- B. Said enforcement officer shall have the right and is hereby empowered to enter upon any premises within the Township and inspect the same at a reasonable time to execute the duties and responsibilities of a Zoning Administrator.
- C. Said enforcement officer is empowered to file complaints and prosecute violators of provisions of this Ordinance.

### 300.1202 CERTIFICATE OF ZONING COMPLIANCE:

- A. Application for certificate of zoning compliance. Before proceeding with the erection, moving, or use of any building, structure, or premises subject to the provisions of this Ordinance, the owner of the premises shall first apply for a Certificate of Zoning Compliance from the Zoning Administrator. Application shall be made in duplicate upon forms provided by the Township, and shall be accompanied by an acceptable legal description and the tax description number of the location of the premises, by evidence of ownership of all property to be covered by the Certificate, and by a blueprint or pen-and-ink sketch to approximate scale showing:
  1. The shape, area, dimensions and intended use of the premises.
  2. The type, dimensions, height and location of the building or structure to be erected or moved on the premises, including all yard dimensions and accessory buildings.
  3. The location and type of sewage disposal and water supply facilities, accompanied by the written approval of the Berrien County Health Department of the proposed facilities.
- B. Issuance and limitation of certificate.
  1. If the Zoning Administrator finds that such application conforms to requirements of this Ordinance and applicable law, the Zoning Administrator shall indicate approval by signing and dating the application for Certificate. One copy of the Certificate of approval shall be retained by the Zoning Administrator and one provided to the applicant, stating the terms of the Certificate.
  2. Any Certificate under which no work has been done within twelve (12) months of issue shall expire, but shall be renewable upon re-application and payment of one-half of the original fee, but not less than one dollar, subject however, to provisions of the Ordinance then in effect.

3. The Zoning Administrator shall have the power to revoke or cancel any Certificate in case of failure or neglect to comply with the provisions of this Ordinance, or in case of false statements or misrepresentation made in the application.
- C. Zoning inspection. The erection of every building or structure subject to the provisions of this Ordinance shall be subject to two (2) inspections: (1) when the proposed building is staked out, (2) upon completion of the construction. The property owner shall notify the Zoning Administrator when construction is ready for inspection. Following final inspection, the Zoning Administrator shall issue the property owner a Certificate of Compliance if he finds the building or structure and intended use in conformity with the Ordinance.
- D. Zoning administration fees. The Berrien Township Board of Trustees may, by resolution, set fees to be charged for processing certificates of Zoning Approval, rezoning petitions, special land use applications, planned unit development petitions, site plan applications, petitions for appeal or variance, and other permits, applications or petitions as may be required by this Ordinance. Said fee are intended to cover reasonable costs incurred by Berrien Township regarding public notice, meetings, administrative expenses, and other expenses. The fee schedule established by the Board may provide for variable fees according to complexity of petition or application and the anticipated effort required on the part of the Board, Zoning Board, Board of Appeals, Township attorney or consultant in fairly and reasonably evaluating such petition or application. All fees required by resolution of the Board of Trustees shall be paid at the time of submission to the Township Clerk. Until such fees are paid, no action shall be taken on any petition or application.

### **300.1203 SITE PLAN REVIEW:**

- A. Purpose. The intent of this section is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of the Ordinance, with minimal adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this Ordinance. In this connection, a site plan includes the documents and drawings required by this Ordinance to insure that a proposed land use or activity is in compliance with local Ordinances and state and federal statutes.
- B. Scope. A site plan shall be prepared pursuant to this section for all permitted and special land uses under this Ordinance, with the exception of buildings used in connection with a farm operation. For single-family dwellings, minor home occupations and accessory buildings with a footprint less than or equal to that of the principal dwelling a sketch plan may be substituted for a complete site plan when it illustrates the parcel boundaries, the location of existing and proposed structures and any natural features on the site. When site plan review is required by another section of this Ordinance, the Zoning Administrator shall not issue a Certificate of Zoning Compliance until a site plan, submitted in accordance with this section shall have been reviewed and approved by the Planning Commission.
- C. Optional Sketch Plan Review. Preliminary sketches of proposed site and development plans may be submitted for review to the Zoning Administrator and/or the Planning Commission or a committee of the Planning Commission, prior to official review and approval. The purpose of such procedure is to allow discussion between an applicant and the Zoning Administrator and/or Planning Commission, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive

engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall, at a minimum, include the following:

1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
2. Legal description, property parcel number, and street address of the subject lot.
3. Sketch plans showing tentative site and development plans, produced on a scaled drawing illustrating existing and proposed structures, parcel boundaries, natural features, and all improvements, easements, streets, and sidewalks.
4. The Planning Commission shall not be bound by any comments or observations made pertaining to a sketch plan.

D. Application Procedure. A request for site plan review shall be made by filing with the Township Clerk the required filing fee and escrow, the application form and a site plan that contains all of the information required in this Section, together with any special studies required. The Planning Commission may waive any site plan application submittal requirement upon a finding that the required information is not applicable to the site.

1. An application fee and review escrow as determined by resolution of the Township Board.
2. A copy of the complete application form for site plan review, as determined by the Zoning Administrator, which shall contain as a minimum the following information:
  - a. name and address of the applicant and property owner;
  - b. address and common description of property and complete legal description
  - c. dimensions of land and total acreage;
  - d. zoning on the site and all adjacent properties;
  - e. description of proposed project or use, type of building or structures, and name of proposed development, if applicable;
  - f. name and address of firm or individual who prepared site plan; and,
  - g. proof of property ownership, or intent to purchase.
3. Twelve (12) copies of the site plan, as well as one disk with .pdf file of the site plan, and one 11x17 reduced copy of the site plan. It shall be prepared by an Engineer, Architect, Landscape Architect, Land Surveyor, or Planner licensed to work in Michigan and shall include and illustrate at a minimum the following information:
  - a. Site Plan Description and Identification Data
    - (1) An overall plan for the entire development, drawn to an engineer's scale of not less than 1 inch = 50 feet for property less than 3 acres, or 1 inch = 100 feet for property 3 acres or more in size;
    - (2) title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions;

- (3) scale and north arrow;
- (4) location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile;
- (5) legal and common description of property;
- (6) identification of architect, engineer, land surveyor, or other professional listed in 300.1203,D,3 who prepared drawings, (identification and seal required for detailed site plans);
- (7) zoning classification of petitioner's parcel and all abutting parcels;
- (8) proximity to section corner and major thoroughfares;-
- (9) net acreage (minus rights-of-way) and total acreage, and
- (10) boundary survey.

b. Site Data

- (1) existing property lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site;
- (2) topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark or GPS Elevations;
- (3) proposed property lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site and within 100 feet of the site;
- (4) location of existing drainage courses, streams and wetlands; if applicable;
- (5) all existing and proposed easements;
- (6) location of exterior lighting (site and building lighting);
- (7) location of trash receptacle(s), dumpsters and transformer pad(s) and method of screening; and
- (8) extent of any outdoor sales or display area

c. Access and Circulation

- (1) dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access easements;
- (2) opposing driveways and intersections within 250 feet of site;
- (3) cross section details of proposed roads, driveways, parking lots, sidewalks and non-motorized paths illustrating materials and thickness;
- (4) dimensions of acceleration, deceleration, and passing lanes;
- (5) proposed road locations, widths;
- (6) proposed road grades;
- (7) dimensions of parking spaces, islands, circulation aisles and loading zones;



- (8) calculations for required number of parking and loading spaces;
  - (9) designation of fire lanes;
  - (10) traffic regulatory signs and pavement markings;
  - (11) location of existing and proposed sidewalks/pathways within the site or right-of-way;
  - (12) location, height, and outside dimensions of all storage areas and facilities.
- d. Landscape Plans
- (1) general location of existing trees;
  - (2) location, sizes, and types of existing trees six (6) inches or greater in diameter, with an identification of materials to be removed and materials to be preserved;
  - (3) description of methods to preserve existing landscaping;
  - (4) the location of existing and proposed lawns and landscaped areas;
  - (5) landscape plan, including location and type of proposed shrubs, trees, and other plant material;
  - (6) landscape irrigation plan;
  - (7) planting list for proposed landscape materials with caliper size or height of material, method of installation, botanical and common names, and quantity.
- e. Building and Structure Details
- (1) location, height, and outside dimensions of all proposed buildings or structures;
  - (2) building floor plans and total floor area;
  - (3) details on accessory structures and any screening;
  - (4) location, size, height and material of construction for all obscuring wall(s) or berm(s) with cross-sections, where required;
  - (5) building facade elevations for all sides, drawn at an appropriate scale;
  - (6) existing and proposed grades;
  - (7) description of exterior building materials and colors, and,
  - (8) digital renderings illustrating the appearance of the site both before and after site development shall be required for any proposal that includes more than fifty dwellings or has more than 50,000 square feet of floor area.
- f. Information Regarding Utilities, Drainage and related issues
- (1) location of sanitary sewers and septic systems, existing and proposed;
  - (2) location and size of existing and proposed water mains, well sites, water service, storm sewers loads, and fire hydrants;
  - (3) conceptual drainage plan;
  - (4) site grading, drainage patterns and other stormwater management measures;

- (5) stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume and outfalls also list the non-structural design strategies used to reduce runoff from the subject property (such as use of native plants, rain gardens, porous pavement or other infiltration techniques);
  - (6) a drainage plan prepared and sealed by a licensed professional engineer, identifying measures to be used for control and disposal of storm water runoff from the site. The drainage plan shall identify sizes and dimensions of all drainage structures, and the method, assumptions, and calculations used in the design of drainage facilities and control of runoff;
  - (7) location of above and below ground gas, electric and telephone lines;
  - (8) location of transformers and utility boxes;
  - (9) size, height and method of shielding for all site and building lighting;
  - (10) location, size, height, and lighting of all proposed site and wall signs;
  - (11) photometric grid indicating lighting intensities on the site and at all site boundaries
- g. Additional information required for Site Condominium projects, townhomes, and/or Multi-Unit Development
- (1) the number and location of each type of residential unit i.e. (one bedroom units, two bedroom units);
  - (2) density calculations by type of residential unit (dwelling units per acre);
  - (3) garage and/or carport locations and details, if proposed;
  - (4) mailbox clusters;
  - (5) location, dimensions, floor plans and elevations of common building(s), if applicable;
  - (6) swimming pool fencing detail, including height and type of fence, if applicable;
  - (7) location type and size of recreation and open space areas;
  - (8) indication of type of recreation facilities proposed for recreation area;
  - (9) master deed and bylaws, if applicable, and
  - (10) design standards, if applicable
- h. Other Required Information
- (1) Maintenance agreement, when applicable
  - (2) Easements, when applicable
- E. Special Studies or Research. For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any, all or any part of the following reports or studies as a part of a detailed site plan.

1. Environmental Assessment. An Environmental Assessment shall be a summary review of the environmental impacts of a project in accordance with the following standards:
  - a. The purpose of the Environmental Assessment shall be
    - (1) to provide relevant information to the Zoning Administrator or Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the Township;
    - (2) to inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large, and
    - (3) to facilitate participation of the citizens of the community in the review of substantial developments.
  - b. Guidelines. When required by the Planning Commission or the Zoning Administrator pursuant to this Section, an applicant shall prepare an Environmental Assessment in accordance with these guidelines. An Environmental Assessment is not an Environmental Impact Statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the Development Plan. The complexity of the Environmental Assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the Environmental Assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission or Zoning Administrator may request further elaboration. The Planning Commission or Zoning Administrator may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the Environmental Assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the Environmental Assessment.
  - c. Content. The following material shall be included and/or addressed in the Environmental Assessment, unless specifically waived by the Zoning Administrator or Planning Commission as not applicable:
    - (1). A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
      - i. Flora and fauna (be sure to list any endangered species on-site)
      - ii. General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features
      - iii. Adjacent waterways
      - iv. Existing wells, approximate depth and use

- (2) A description of any asbestos abatement or other hazardous materials proposed for the site. If applicable, this shall include a description of the method to be sure this material does not get into the surrounding area.
- (3) A description of any existing contamination on-site. This should include a description of the nature of the contamination on-site and what will be done on this project to mitigate it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods dispose of the generated waste per county, state, and federal requirements.
- (4) If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
- (5) A description of the existing soils on-site and as to the suitability of these soils for the proposed use.
- (6) A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
- (7) A description of any emissions from the proposed development as it relates to water, soil, or air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- (8) A description of any hazardous materials or waste to be stored on-site. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
- (9) A description of any storm water or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
- (10) If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
- (11) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
- (12) A description of the anticipated traffic to be generated by the proposed use.
- (13) A description of plans for site restoration after construction.
- (14) A description of methods to handle sanitary waste for the project both during construction and after completion.
- (15) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a

description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.

- (16) A description of any additional items as needed to relay the potential environmental impacts of the proposed project.
  - (17) The individual preparing the Environmental Assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.
2. Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study completed by qualified professional be prepared as an attachment to a site plan submitted for any development in the Township meeting the requirements of this section. The purpose of this section is to set forth the standards to be used by the Zoning Administrator or Planning Commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.
- a. Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections. The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.
  - b. Criteria for Requiring a Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential or mixed use development which has the potential to significantly increase traffic volumes on the surrounding roadway network. In determining the level of potential impact, the Zoning Administrator or Planning Commission shall consult appropriate planning and engineering texts including, but not limited to, Trip Generation, published by the Institute of Transportation Engineers and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this section when, in the judgment of the Zoning Administrator or Planning Commission, the proposed development will result in an increase of either the average daily traffic or the peak hour traffic equal to or greater than ten percent (10%) of the current traffic volume on the adjoining roadway.
  - c. Required Study Content. In general, a required traffic impact study shall document existing conditions on the existing roadway network including all intersections within one (1) mile of the proposed development including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds and accident history. Existing pedestrian and non-motorized traffic volumes shall also be estimated. The traffic impact

study shall project the impact of the proposed development on the roadway network including all intersections within one (1) mile of the proposed development including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements and anticipated levels of service. Anticipated impacts on pedestrian and non-motorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the Zoning Administrator or Planning Commission:

- (1) A narrative summary at the beginning of the report, including, but not limited to:
    - i. The applicant and project name.
    - ii. A location map.
    - iii. The size and type of development.
    - iv. Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers - publication, Trip Generation (current edition).
  - (2) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
  - (3) A transportation system inventory, which describes the physical, functional and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
    - i. peak-hour volumes (existing and projected)
    - ii. number of lanes
    - iii. cross-section
    - iv. intersection traffic signals and configuration
    - v. traffic signal progression
    - vi. percentage of heavy trucks
    - vii. adjacent access point locations
    - viii. jurisdiction
    - ix. grades
  - (4) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or Berrien Township standards and guides.
- d. A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.

- e. Evaluation and Criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.
  - f. The Zoning Administrator may be provided to the Township Engineer, Planner and/or an independent traffic engineer or transportation planner to review and comment on any traffic impact study prepared pursuant to this Section. The cost of any such review shall be borne by the applicant.
3. Market Study. For unique development proposals, projects that may entail some financial expense or risk on the part of the Township and/or projects that may, in the judgment of the Planning Commission or Zoning Administrator, fundamentally alter the character of the community, the Planning Commission or Zoning Administrator may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this Section.
- a. Description. A market study shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.
  - b. Content. Unless specifically waived by the Zoning Administrator or Planning Commission, a market study shall include the following elements:
    - (1) An executive summary which outlines the key findings of the study.
    - (2) The background for the study including both project background and the methodology and approach used.
    - (3) An overview of the market area including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.
    - (4) A trade area delineation describing the likely geographic area that may be influenced by the proposed development along with detail on the methodology used in defining the trade area.
    - (5) A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.
    - (6) The credentials of the author(s) of the market study.
  - c. Evaluation. The Zoning Administrator and/or Planning Commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will

meet with economic success without creating excessive dislocations within the existing marketplace.

F. Action on Application and Site Plans

1. Completeness. Upon receipt of a submitted application and site plan, the Zoning Administrator shall review the plan to determine its completeness. If the submittal is incomplete, the Zoning Administrator shall provide the applicant with a list of items needed to make the submittal complete. If the site plan submittal is complete, the Zoning Administrator shall record the date of receipt and transmit copies thereof to each of the Planning Commissioner, the Fire Department when necessary; to other area review agencies, such as the Township Engineer, Township Attorney, Township Planner, County Health Department, Michigan Department of Transportation, and retain at least one (1) copy in the Zoning Administrator's office.
2. Outside Agency Approvals. Prior to approval of a site plan, the applicant shall submit documentation indicating that the site plan has been reviewed and approved by any and all required outside agencies, as applicable, and that the plan has been amended as necessary to satisfy any conditions of said approval. Outside agencies for approval may include but are not limited to the following:
  - a. Berrien County Drain Commissioner (BCDC)
  - b. Berrien County Road Commission (BCRC)
  - c. Berrien County Health Department (BCHD)
  - d. Berrien County Planning Commission
  - e. Michigan Department of Natural Resources and Environment (MDNRE)
  - f. Federal Emergency Management Agency (FEMA)
  - g. Michigan Department of Transportation (MDOT)
3. Variance. If any condition or feature illustrated on a proposed site plan shall necessitate a variance of the provisions of this Ordinance, a decision on such variance shall be made by the Zoning Board of Appeals pursuant to this Article before consideration of the site plan by the Planning Commission.
4. Optional Hearing. A hearing to consider a site plan may be scheduled upon a decision by the Planning Commission that public input on the proposal may aid its consideration. If such hearing is scheduled, it shall be held within forty-five (45) days of the date of the Planning Commission decision to schedule it. The applicant and owners of property adjoining the subject site, shall be notified of the date, time and place of the hearing on the application not less than three (3) days prior to such date.
5. Decisions. After conducting any public hearing, the Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in this Ordinance. Any conditions required by the Planning Commission shall be stated writing and shown on the site plan, together with the reasons and delivered to the applicant. Decisions by the Planning Commission shall be made within one hundred (100) days of the receipt of the completed application. Any conditions imposed on the application and site plan shall:



- a. Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of users of 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 Ordinance, and 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. Record Copies. If approved, two copies of the approved site plan meeting any and all conditions of approval shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed by the applicant and the Chair of the Planning Commission and/or the Zoning Administrator and dated with the date of approval for identification of the approved plans. If any variances from the this Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for information and direction.
7. Guarantee. To insure compliance with the site plan, this Ordinance, and any conditions, limitations or requirements imposed on the applicant, the Zoning Administrator and/or Planning Commission may require a cash deposit, certified check, irrevocable bank letter of credit, or security bond in an amount and under conditions permitted by law. Such security shall be deposited with the Township Treasurer at the time of certificate of zoning compliance issuance authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Zoning Administrator may authorize a return of a portion of the deposit in reasonable proportion to the completion of the required improvements. Such security shall not exceed the estimated cost to fulfill the required conditions, limitations established for the site plan.
- G. Review Criteria. In the process of reviewing a site plan, the Planning Commission shall consider:
1. Whether the streets and highways, water distribution lines and facilities, sanitary sewer collection lines and facilities, storm water facilities, electrical utility lines, communications lines and equipment, sidewalks and other pedestrian access, and other infrastructure as they now exist and may be modified as part of or in conjunction with proposed project or action are reasonably sufficient for the needs existing and planned uses in the Township as a whole, the existing and planned uses in the vicinity of the site, and the existing and planned uses on the site, including during times of reasonably foreseeable strains on such infrastructure due to reasonably frequent weather events, special community-wide events, anticipated construction activity, or similar causes.
  2. Whether the buildings, structures, and entrances thereto proposed to be located upon the site are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
  3. Whether natural features of the landscape are retained, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

4. Whether there are any adverse effects of the proposed development, its uses and any activities emanating there from upon owners, occupants, residents, and uses of nearby property.
  5. Whether the proposed development and uses comply with other Township Ordinances.
  6. Whether the proposed buildings and other structures on and uses of the site will be compatible with those on nearby property.
  7. Whether the proposed buildings and other structures on and uses of the site will generally support and advance the policies and objectives of the Township's Master Plan.
  8. Whether the proposed buildings and other structures on and uses of the site will comply with applicable laws, rules, regulations, permit and license requirements, orders and directives of other governmental agencies or officials of competent jurisdiction. There is no affirmative duty to make this determination. However, if it seems that violations are likely to result or exist, such likely violations can and should be considered.
  9. Whether all buildings and structures are reasonably accessible to emergency vehicles.
  10. Whether the buildings and structures on the site are accessible for regular maintenance, repair and improvement.
  11. Whether the layout and location of any publicly owned utilities, roads, sidewalks or other infrastructure on the site allow for reasonably normal operation, use, maintenance, repair, replacement and improvement including snow removal and storage. Except where mitigating circumstances prevent it, all electrical, telecommunication and similar utility systems shall be placed underground.
  12. Whether the proposed development is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
  13. Whether the development provides open areas, green space and other areas.
  14. Whether the development accommodates sight lines and preserves views that are key assets of the community and its character.
  15. Whether the development will be a significant asset to the community's economic development.
  16. Whether the development includes "best management practices" and "Green" designs and construction materials and methodologies.
  17. Whether all applicable local, regional, state and federal statutes are complied with.
- H. Conformity to Approved Site Plans. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have
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received the approval of the Planning Commission and/or the Zoning Administrator. If construction and development does not conform to such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission and/or the Zoning Administrator may, upon proper application, approve an amendment to the site plan pursuant to part J of this section.

- I. Term of Approval of Site Plan. Approval of the site plan shall be valid for a period of one (1) year after the date of approval. The Zoning Administrator may grant a one-time, one-year extension if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a certificate of zoning compliance has not been obtained and the on-site development actually commenced within said one (1) year, the site plan approval shall become null and void and a site plan approval application shall be required and approved before any construction or earth change is commenced upon the site.
- J. Amendment to the Site Plan. No changes shall be made to an approved site plan, including site plans approved as part of a special land use or Planned Unit Development, prior to or during construction except upon application to the Zoning Administrator according to the following procedures:
  1. The Zoning Administrator may approve minor amendments to a site plan including:
    - a. Changes in the number of parking spaces, up to five percent (5%) of the total required
    - b. Changes in the building size, up to five percent (5%) of the gross floor area
    - c. Movement of buildings or other structures by no more than ten (10) feet
    - d. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number
    - e. Changes to building materials to a comparable or higher quality
    - f. Changes in floor plans that do not alter the character of the use
    - g. Changes required or requested by the Township, the Berrien County Road Commission, or other County, State or Federal regulatory agency in order to conform to other laws or regulations.
  2. Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the Zoning Administrator, shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved.
- K. Appeals. With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administration decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant.

**300.1204 ZONING BOARD OF APPEALS**

## A. Creation and membership.

1. There is hereby established, a Zoning Board of Appeals, as provided by the Michigan Zoning Enabling Act, consisting of five (5) members, appointed by the Berrien Township Board. Of those appointed, one shall be a member of the Berrien Township Planning Commission; one may be a member of the Township Board. The remaining members shall be appointed from the qualified electors residing outside of incorporated cities and villages within the Township.
2. An elected officer of the Township shall not serve as chairperson of the Board of Appeals.

## B. Powers. The duties and powers of the Board of Appeals shall include the following:

1. Review. To hear and decide upon appeals made from determinations of the Zoning Administrator or other administrative agent acting under the terms of this Ordinance.
2. Interpret. To hear and decide upon requests for interpretation of the provisions of this Ordinance in compliance with the intent and purposes set forth in this Ordinance, including zoning district boundaries.
3. Variances. To grant non-use variances on appeal respecting any provision of this Ordinance if the same cause practical difficulties in conforming to the strict letter of the Ordinance, to the end that the spirit of the Ordinance is observed, equity achieved, and substantial justice done. This subsection shall not be construed as permitting the Zoning Board of Appeals to amend the Ordinance, or change any use of property under the guise of a variance.

## C. Procedures.

1. Adoption of proceedings. The Zoning Board of Appeals shall adopt proceedings in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006 as amended.
2. Written requests. All applications or petitions for variance or appeal, shall be made to the Township Clerk, and on a form provided by the Township for that purpose.
3. Appeals. All appeals shall be made in writing by an aggrieved party together with a notice of appeal specifying the grounds thereof to the Zoning Board of Appeals within fifteen (15) days after the date of any decision constituting the basis for appeal. The Zoning Board of Appeals shall return a decision within (30) days after a request or appeal has been filed and heard.
4. The officer from whom the appeal is taken shall transmit to the Zoning Board of Appeals all the papers of record upon which the act appealed from is taken.
5. Action by the zoning board of appeals. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance.
6. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirements, decision or determination in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken. The decisions of such vote shall be final, insofar as it involves discretion or the finding of such facts.

**300.1205 VARIANCES STANDARDS**

- A. Where there are practical difficulties in the way of carrying out the strict letter of this section, the Board of Appeals may in passing on appeals vary or modify any of the rules or provisions of this section relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings or structures, so that the intent of this chapter should be observed, public safety secured, and substantial justice done.
- B. To obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:
  - 1. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
  - 2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;
  - 3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and
  - 4. That the problem is not self-created or based on personal financial circumstances.
- C. The following standards apply to consideration of use and non-use variance requests:
  - 1. If when applying the standards of this section to a variance request, the Zoning Board of Appeals finds that any of the requirements of Section 300.1205,B. as written, can be met or that there is no practical difficulty preventing a reasonable use of the land, then the variance request shall be denied;
  - 2. If when applying the standards of Section 300.1205,B. to a variance request, the Zoning Board of Appeals finds that the practical difficulty is not unique, but common to several properties in the area, the finding must be transmitted by the Board of Appeals to the Planning Commission who shall determine whether to initiate an amendment to this Ordinance.
- D. Conditional Approvals: The zoning board of appeals may impose attach conditions to any approval granted. These conditions may include but are not limited to a lesser variance than requested, requiring the erection of fencing or landscape planting to mitigate the effects of conflicting land uses, or further site plan modifications to protect the public health, safety, or welfare.

**300.1206 HEARINGS AND NOTICING:**

- A. For any hearing required under this article, the local unit of government shall publish notice of the hearing in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.
- B. Notice required under this act shall be given as provided under subsection C below to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection C below to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or

spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

- C. The notice under subsection B. above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- D. Notice under this section shall do all of the following:
  - 1. Describe the nature of the request.
  - 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - 3. State when and where the request will be considered.
  - 4. Indicate when and where written comments will be received concerning the request.

**300.1207 APPEALS:** The decision of the ZBA shall be final; however, a party aggrieved by the decision of the Zoning Board of Appeals may appeal to a court of competent jurisdiction, to the extent and in the manner permitted by law.

## ARTICLE THIRTEEN - VIOLATIONS AND ENFORCEMENT

**300.1300 ABATEMENT OF NUISANCES.** Any use of land, dwellings, buildings or structures, including tents and trailers, used, erected, altered, razed or converted in violation of any provision of this Ordinance, or regulation lawfully adopted hereunder is hereby declared to be a nuisance per se and the Berrien Township Board, after resolution duly adopted or any private citizen, may take action in any court of competent jurisdiction to cause the abatement of such nuisance, and such remedy shall be in addition to the imposition of penalty for violation of the terms hereof as provided in Section 300.1301

**300.1301 PENALTY FOR VIOLATION.** Any person, firm, partnership, corporation or governmental entity that that violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by the Michigan Statute which shall punishable by a civil fine determine in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st Offense within a 3-year period*	\$75.00	\$500.00
2nd Offense within a 3-year period*	\$150.00	\$500.00
3rd Offense within a 3-year period*	\$300.00	\$500.00
4th or More Offense within a 3-year period*	\$500.00	\$500.00

\* Determined on the basis of the date of commission of the Offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Berrien Township has been put in connection with the municipal civil infraction. In no case however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent Jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.





## ARTICLE FOURTEEN - AMENDMENTS

**300.1400 AMENDMENTS:** Amendments or supplements to this Ordinance may be adopted from time to time in the same manner as provided by the Michigan Zoning Enabling Act, Act 112 of 2006 as amended for the enactment of the original Ordinance.

**300.1401 PROCESS:**

A. Application Procedure.

1. An amendment to the text of the ordinance shall be submitted for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, reference to the text proposed for amendment, proposed new text, as well as justification for the request shall be included in the petition.
2. An amendment to the zoning map shall be submitted in writing for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request shall be included in the petition.

B. Applicable Factors. When reviewing an amendment request, the Township may consider, but shall not be limited to:

1. Whether the proposed change is in accordance with the Township's Master Plan.
2. Whether the proposed change is a reasonable alternative to the Master Plan because it will promote land use policies of the Master Plan and will not conflict with present policies.
3. Although representing a change in the Master Plan for Future Land Use, whether the proposed district:
  - a. Would be compatible with existing or future uses in the area.
  - b. Would not have a negative impact on the policies of the Master Plan.
  - c. Would further the objectives, goals or policies of the Master Plan.
  - d. Would preserve an existing, unique natural area.
4. The proposed district does not conform to the Master Plan for future land use and would be in conflict therewith.
5. Whether the proposed change represents a form of spot zoning.
6. Whether the proposed use would be incompatible with existing (and/or future) uses in the area.
7. Whether the proposed change would negatively affect the Township's ability to implement or follow the Master Plan for the area.
8. Whether the proposed use would add more acreage than can be justified, thereby detracting from the Township's ability to develop according to the Master Plan.
9. Other factors set forth in the Zoning Enabling Act, Act 110 of 2006, as amended.

- C. Notice. Except as stated otherwise in this ordinance, whenever a public hearing on a zoning application is required by this ordinance or by the Michigan Zoning Enabling Act, as amended, notice of the public hearing shall be published and delivered in accordance with the requirements of this section.
1. The notice shall be published once, at least 15 days before the date of public hearing, in a newspaper of general circulation in the Township.
  2. For applications involving the rezoning of ten or fewer adjacent properties, for applications to the Zoning Board of Appeals involving a specific parcel of land, for all planned unit development and special land use applications, and for other applications as to which a public hearing is required under this ordinance or the Zoning Enabling Act, Act 110 of 2006, as amended, a notice of public hearing shall be given in the manner set forth in Section 103 (MCL 125.3103) of the Michigan Zoning Enabling Act, as amended.
    - a. The applicant and the owner of the subject property, if different from the applicant;
    - b. All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application regardless of whether the property or structure is in the Township;
    - c. One occupant of each dwelling unit or spatial area in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property regardless of whether the property or structure is in the Township; and
    - d. The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notices at the primary entrance of the building, but failure of such posting, shall not constitute a lack of notice to the owners or occupants of such dwelling units.
    - e. If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.
- D. The notice of public hearing shall include the following information:
1. A description of the application or request.
  2. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
  3. The date and time when the application or request will be considered; the location of the public hearing.
  4. The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.
  5. Any other information required under the Zoning Enabling Act, Act 110 of 2006, as amended.

### **300.1402 CONDITIONAL REZONING:**

A. Intent. It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this

Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
5. Any use or development proposed as part of an 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.
6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning Commission Review. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. Township Board Review. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed

thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. Approval

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form recordable with the Berrien County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  - b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds.
  - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition

contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.

2. No certificate of zoning compliance or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.
- G. Time Period for Establishing Development or Use. Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within one (1) year after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- H. Reversion of Zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under part G above, then the land shall revert to its former zoning classification. 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.
- I. Subsequent Rezoning of Land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 19.08 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds a notice that the Statement of Conditions is no longer in effect.
- J. Amendment of Conditions.
1. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
  2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- K. Township Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2006.
- L. Failure to Offer Conditions. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

- M. Consideration. In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:
1. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan.
  2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
  3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.
  4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

## ARTICLE FIFTEEN - SAVINGS AND REPEALER

**300.1500 VALIDITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**300.1501 SAVINGS CLAUSE.** This Ordinance shall in no manner affect pending actions, either civil or criminal, founded or growing out of any Ordinance, or part of any Ordinance, hereby repealed; this Ordinance shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any Ordinance, or part of any Ordinance hereby repealed.

**300.1502 CONFLICTING ORDINANCES REPEALED.** Any Ordinances or parts of Ordinances in conflict herewith are hereby repealed without voiding any other parts of this Ordinance.

**300.1503 PURPOSE OF CATCH HEADS.** The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**300.1504 REPEAL OF PRIOR ORDINANCE.** The Zoning Ordinance adopted by the Township Board and declared effective as of March 16, 1981, including amendments thereto, is hereby repealed coincident with the effective date of this Ordinance.

**300.1505 EFFECTIVE DATE.** This Ordinance was adopted by the Township Board of Berrien Township, Berrien County, Michigan, by unanimous vote on November 9, 2010 to become effective thirty (30) days after publication of notice of adoption in The Journal Era, Berrien Springs, Michigan.





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