

## **ARTICLE XIX**

### **SPECIAL LAND USES**

#### **Section 19.1 Description and Purpose**

Certain uses of land and/or buildings require a higher level of review and scrutiny due to characteristics that may be incompatible with neighboring properties. Such uses may be permitted by the Planning Commission following a public hearing and subject to design standards and operating conditions set forth in this Article. The Planning Commission may also impose conditions on any special use deemed necessary to reduce or eliminate possible adverse or negative impacts upon adjoining properties.

#### **Section 19.2 Special Land Use Application Procedure**

Whenever a use of land and/or building is identified as a special land use in any zoning district in this Ordinance, such use shall not be established unless approved by the Planning Commission. Application and review of each special land use shall be in accordance with the following procedure, except as provided in Section 21.40:

- (a) Each application for special use shall be filed with the Zoning Administrator. A special land use application shall consist of the following information:
  - (1) Completed special land use application form.
  - (2) Legal description of the real property.
  - (3) Site Plan prepared in accordance with Article XX of this Ordinance.
  - (4) A narrative provided by the applicant describing the proposed special land use, explanation of why the location is appropriate, and statement addressing expected impacts on emergency services and other public services.

When the Zoning Administrator determines the application is complete, the application shall be forwarded to the Planning Commission. The Zoning Administrator shall schedule a public hearing on behalf of the Planning Commission and shall provide public notice as required by law.

- (b) The public hearing notice shall:
  - (1) Be published in a newspaper of general circulation not less than 15 days prior to the date of the public hearing held by the Planning Commission.
  - (2) Be sent by first class mail to all persons to whom real property is assessed and occupants of dwellings within 300 feet of the subject property not less than 15 days prior to the date of the public hearing, except in any A, AR or RR zoning district, notification shall be 500 feet.

- (3) Shall describe the nature of the special land use requested; identify the property on which the special use is proposed; state the date, time and place of the public hearing on the special use; and indicate to whom and where written comments will be received concerning the proposed special land use. On receipt of a special land use application, the Planning Commission shall convene a public hearing on the application.
- (c) At the public hearing, the Planning Commission shall review the application materials filed by the applicant, receive statements from the applicant and convene a public hearing to receive statements and information from any interested party. The Planning Commission shall make a record of the public hearing proceedings.
- (d) Based on statements and information received at the public hearing, the Planning Commission may request specific supplemental information from the applicant before rendering a decision on the special land use application. If additional information is requested, the Planning Commission shall postpone the matter to a date certain.
- (e) The Planning Commission, at any time following conclusion of the public hearing, may render a decision on the special land use application.

### **Section 19.3 Basis of Decision**

The decision of the Planning Commission on a special land use shall be incorporated in a statement which sets forth the findings, determinations and conclusion relative to the special land use application being considered. The statement shall specify the basis for the decision of the Planning Commission and any conditions imposed.

Prior to the approval of a special land use application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Article, shall be satisfied by the special land use application being considered.

The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following general standards, and shall approve a special land use only upon finding compliance with each of the following standards, as well as applicable standards established elsewhere in this Article:

- (1) The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property.
- (2) The special land use shall not impair the essential character of the surrounding area.
- (3) The special land use shall not create serious nuisance nor be hazardous to the adjacent property or involve uses, activities, materials, or

- equipment which will be detrimental to the public health, safety and general welfare.
- (4) The special land use shall not have a substantial adverse effect on storm water drainage; street capacity and volume of traffic; traffic safety and vehicle circulation; sanitary sewage disposal and water supply; or other adverse effects.
  - (5) The special land use shall not have a substantial adverse effect on the need and extent of law enforcement and fire protection services, or other public safety and emergency services.
  - (6) The special land use shall not have a substantial negative impact on the natural resources and natural features.
  - (7) Vehicular and pedestrian traffic circulation shall be designed to minimize conflicts on public streets and upon the property thereof. Safe and convenient off-street parking areas, appropriate to the special land use shall be provided.
  - (8) The period of day and times of the year during which a special land use activity commences or continues shall be reasonably related to both the use and the neighborhood or area in which it is proposed.
  - (9) The special land use shall not place demands on public services and facilities in excess of current capacities.
  - (10) The special land use is in general agreement with the Township's Master Plan.

The Planning Commission may impose conditions with the approval of a special land use which are necessary to protect the public health, safety and general welfare and to ensure compliance with the standards for approval stated in this Section or any other applicable standards contained in this Article. Such conditions shall be considered an integral part of the special land use permit and shall be enforced by the Zoning Administrator.

#### **Section 19.4 Appeal of Special Land Use Decision**

The decision of the Planning Commission of any special land use application is final and may not be appealed to the Zoning Board of Appeals nor to the Township Board. Any person or party aggrieved by the decision of the Planning Commission may seek relief in a court of competent jurisdiction.

#### **Section 19.5 Performance Guarantee**

The Planning Commission may require a performance guarantee for any site improvement necessary in connection with an approved special land use. Such performance guarantee shall be in an amount sufficient to fund the installation of required improvements and shall meet requirements of Section 20.09.

**Section 19.6 Establishing the Special Land Use**

Any special land use approved by the Planning Commission shall not be commenced, established or operated unless and until all requirements of this Article, any conditions imposed and all required building or site improvements have been completed and approved by the Zoning Administrator. Alternatively, a performance guaranty may be filed with the Zoning Administrator.

**Section 19.7 Amendment, Duration and Transfer of Special Land Use Permit**

Each special land use approved by the Planning Commission is effective when and if all conditions set by the Commission have been satisfied. Any amendment to the approved special land use permit shall be considered following the same procedure as the initial permit review and approval.

Each special land use permit shall stay in effect so long as the approved use remains in compliance with this Ordinance and conditions of the approved permit. An approved special land use permit will expire with the occurrence of one or more of the following:

- (1) If replaced or superseded by a subsequent permitted use or special land use permit.
- (2) If the special land use included a time limit stipulation by which date the special use was to expire.
- (3) If the Planning Commission, following due process, acts to rescind the special land use permit.
- (4) If the special land use is abandoned, vacated or ceases to exist.
- (5) The property on which the special land use has been approved is sold to another person, unless application is made to the Planning Commission to transfer the special land use permit to the new land owner. The Planning Commission shall not unreasonably withhold approval to transfer the special use if it is in compliance with this Ordinance and any conditions imposed.

**Section 19.8 Special Land Use Design, Operating and Performance Standards**

The standards and requirements for stated special land uses in this Article are mandatory and applicable to the special land use. If the proposed special land use does not conform to any standard in this Article, the special land use application shall be denied by the Planning Commission. A definition of each special land use listed in this Article appears in Article XXXII.

**Section 19.9 Adult Entertainment Business**

The regulation of sexually oriented business is to regulate the location and operation of sexually oriented businesses within the Township and to minimize their negative secondary effects. It is recognized that sexually oriented businesses

have serious objectionable operational characteristics, which can have negative effects and impacts upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding area and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Article are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market.

Definitions applicable to adult, sexually oriented businesses are:

- (a) *Sexually Oriented Business* – An establishment engaged in providing services, entertainment or adult products characterized by an emphasis on matters involving, depicting, describing or relating to specified sexual activities and/or specified anatomical areas, as defined.
- (b) *Specified Anatomical Areas* – Specified anatomical areas shall include:
  - (1) Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola.
  - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (c) *Specified Sexual Activities* – Any of the following:
  - (1) The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
  - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
  - (3) Masturbation, actual or simulated.
  - (4) Excretory functions as part of or in connection with any of the activities set forth in (1) thru (3) above.

Each adult, sexually oriented business shall be subject to the following standards:

- (a) The proposed Adult Sexually Oriented Business shall not be located within 500 feet of any residentially zoned property, public park, school, child care center, place of worship or other Adult Sexually Oriented Business. The distance between a proposed Sexually Oriented Business and any residence, residentially zoned property, park school, child care center, place of worship or other Adult Sexually Oriented Business shall be measured in a straight line from the nearest property line upon which the proposed Adult Sexually Oriented Business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care center, place of worship, or other Adult Sexually Oriented Businesses.
- (b) Entrances to the proposed Sexually Oriented Business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than 2 inches in height that:

- (1) “Persons under the age of 18 are not permitted to enter the premises”.
- (2) “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.”
- (c) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining public road right-of-way or a neighboring property.
- (d) Hours of operation shall be limited to 8:00 A.M. to 11:00 P.M., Mondays through Saturdays.
- (e) All parking shall be in accordance with Article XXIII of this Ordinance. In addition, all off-street parking areas shall be illuminated during all hours of operation of the Adult Sexually Oriented Business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining public road right-of-way.
- (f) As a condition of approval and continued operation of an Adult Sexually Oriented Business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing.
- (g) Any booth, room or cubicle available in any Adult Sexually Oriented Business used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
  - (1) Be constructed in accord with the Michigan Building Code, as amended.
  - (2) Be unobstructed by any door, lock or other entrance and exit control device.
  - (3) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
  - (4) Be illuminated by a light bulb of wattage not less than 60 watts.
  - (5) Have no holes or openings, other than doorways, in any side or rear walls.
- (h) Compliance with all other applicable standards of this Ordinance.

### **Section 19.10 Adult Foster Care Facility**

Each Adult Foster Care Facility shall conform to the following standards:

- (a) Provides housing and in-residence supervision for 7 and no more than 12 adults who are aged, emotionally disturbed, developmentally disabled or physically handicapped and in need of care.
- (b) An Adult Foster Care Facility shall not be located within fifteen hundred (1,500) feet of any other Adult Foster Care Facility operating under a special land use permit issued by the Planning Commission.
- (c) Maintains at all times required federal and state licenses.
- (d) The facility meets all applicable requirements of the building code in effect, as documented following inspection by the building code official.

- (e) The facility meets all applicable requirements of the fire code in effect, as documented following inspection by the fire marshal.
- (f) Continuing conformance with all applicable provisions of this Ordinance.

An Adult Foster Care Facility does not include any of the following establishments:

- (a) Nursing homes and hospitals licensed under Article 17 of Act 368 of the Public Acts of 1978, as amended.
- (b) Hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended.
- (c) County infirmary operated by a county department of social services under Section 55 of Act 280 of the Public Acts of 1939, as amended.
- (d) A child caring institution, children’s camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended.
- (e) An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care.
- (f) A veteran’s facility created by Act 152 of the Public Acts of 1885 [MCL 36.1 er seq], as amended.

### **Section 19.11 Airport – General Aviation**

All general aviation airports shall conform to the following standards:

- (a) The site plan accompanying the special land use permit application shall, in addition to requirements of Article XX, depict location of aircraft hangers, aprons, aircraft outdoor tie-down area, taxiway(s), runway(s), aircraft maintenance facility, fueling and fuel storage area, and related facilities.
- (b) Charter service, flight school and aircraft pilot club are allowable accessory uses at a general aviation airport, if approved as a part of the special land use permit.
- (c) Approach, departure clearance, runway lighting and related appurtenances shall meet regulations of the Federal Aviation Administration [FAA].
- (d) A minimum setback of 50 feet from any property line shall apply to all buildings and aircraft staging areas and a minimum setback of 100 feet from any part of a runway to any property line.
- (e) Commercial passenger and air freight services are not permitted, except as provided herein.
- (f) Compliance with all applicable standards of this Ordinance.

### **Section 19.20 Athletic Club**

Each athletic club shall conform to the following standards:

- (a) An athletic club may include indoor space for receptions or other gatherings.
- (b) If food service for patrons or receptions is provided on premise, a food service license issued by the Barry-Eaton District Health Department shall be required.
- (c) All outdoor athletic facilities shall be enclosed with a screening fence with decorative rail top to provide security and aesthetic enhancement.

**Section 19.21 Automobile, Motorcycle and Equipment Repair Facility**

Each repair facility shall conform to the following standards:

- (a) All repair work shall be conducted inside a building.
- (b) Outdoor parking of autos, trucks, motorcycles, other motor vehicles and equipment waiting for repairs shall be located separately from patron parking. Such parking area shall be enclosed by a 6 ft. high screen fence.
- (c) Each repair facility shall have on premise a self-contained oil and fluids recycling container capable of being completely pumped of such fluids.
- (d) All used parts taken from vehicles or equipment repair shall be kept indoors or within an enclosed, screened receptacle.

**Section 19.22 Auto, Truck and Equipment Sales or Leasing Facility**

Each vehicle and equipment sales facility shall conform to the following standards:

- (a) Parking spaces for patrons shall be separate from spaces used to display vehicles or equipment for sale or for lease.
- (b) If a sales or leasing facility includes repair services, the facility shall also conform to standards within Section 19.21.
- (c) Direct access from a public street is required and internal drive aisles and parking arrangement shall be convenient and on no occasion create adverse traffic impact.

**Section 19.23 Bed and Breakfast Establishments**

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation and including provisions for a morning meal for overnight guests only. A bed and breakfast establishment is distinguished from a hotel or motel by having one kitchen facility serving overnight guests and resident family, employs only those persons residing in the dwelling and not more than two (2) non-resident employees and has a façade style consistent with other homes in the vicinity.

Each bed and breakfast establishment shall conform to the following standards:

- (a) May occupy a single-family, detached dwelling.
- (b) Shall have no more than twelve guest rooms. Said rooms shall not include any form of kitchen facility but may include a full bathroom.



- (c) The parcel on which the facility is located shall not be less than 1 ½ acres.
- (d) There shall be one paved parking space provided for each guest room, not less than one parking space for the resident family and one parking space for each employee.
- (e) The operator of the establishment must reside and be domiciled within the dwelling.
- (f) The resident operator of the establishment may employ 2 non-resident persons to assist in daily operations.
- (g) All outdoor lighting shall be designed and placed so that illumination at any property line is not greater than 1 ft. candle.
- (h) If parking areas serving the establishment are closer than 25 feet to any property line, they shall be screened from view of neighboring dwellings by a 6 ft. high decorative, opaque fence or landscape screening as may be approved by the Planning Commission. All parking areas shall be drained so as not to discharge storm water onto any adjoining property.
- (i) One ground-mounted sign not to exceed 4 square feet in area for each sign face. Off-premise signs, as defined in this Ordinance, are expressly prohibited, unless approved as a special land use by the Planning Commission.
- (j) The establishment must include a common entry for both resident operator and overnight guests. Quarters for the resident operator shall not be designed as a separate and complete living unit, though a separate kitchenette may be approved by the Planning Commission.
- (k) The application for a bed and breakfast establishment shall include written documentation of approval by the Barry-Eaton District Health Department [BEDHD]. Bi-annual inspection reports by the BEDHD are required to assure continuing safe drinking water supply and properly functioning waste water disposal system.
- (l) All modifications made to the dwelling necessary to accommodate the establishment shall be in conformance to applicable building, plumbing, mechanical, electrical and fire codes.
- (m) All guest gatherings outdoors shall be concluded not later than 11 p.m.
- (n) Prior to approving a bed and breakfast establishment as a special land use, the Planning Commission must make a finding of no adverse impact on the surrounding neighborhood and as regards the public health, safety and general welfare.
- (o) A certificate of occupancy shall not be issued for the establishment unless and until (1) all required final inspections have been approved and documented, (2) the Fire Marshall has, in writing, approved all fire safety installations, and (3) the Zoning Administrator issued a written approval for occupancy as a bed and breakfast establishment.
- (p) Annual compliance inspections by the Zoning Administrator or authorized agent are required for any approved bed and breakfast establishment.
- (q) There shall be a maximum stay limit of 30 consecutive days.

**Section 19.24 Beer, Wine and Liquor Sales Establishment in Package or by the Glass**

Each establishment offering alcoholic beverages for sale in a package for take-out or for on-premise consumption shall conform to the following standards:

- (a) Access to the establishment shall be directly from a public street.
- (b) All licensing and other requirements of the Michigan Liquor Control Commission, applicable to the establishment, shall be complied with fully, at all times.
- (c) The front yard setback of parking areas, and the required setback from side and rear lines, shall be determined by the Planning Commission.
- (d) Access driveways shall be located a sufficiently safe distance away from any intersecting street, and from other driveways, so as to avoid adverse traffic conditions.

**Section 19.25 Campground**

Each campground shall conform to the following standards:

- (a) All provisions of the Township noise regulations applicable to residential use shall apply to each campground.
- (b) All refuse containers within campground premises over 96 gallons capacity shall be enclosed with screening in accordance with Section 21.19.
- (c) The Planning Commission may establish, as a condition of approval, hours of operation with respect to morning and evening check-in.
- (d) Electrical, water supply and/or waste water connections at each campsite, if provided, shall conform to the electrical code in effect and requirements of the Barry-Eaton District Health Department.

**Section 19.26 Car and Motor Vehicle Washing Establishment**

Each facility design for car, pick-up, recreational vehicle or commercial truck drive through washing shall conform to the following standards.

- (a) Each vehicle washing facility shall have direct access from a public street. The access drive shall not create adverse impact on intersecting streets.
- (b) Outdoor vacuuming facilities shall be located no less than 50 feet from any adjoining property used for, zoned for or planned for residential use. Vacuum facilities shall not be located so as to interfere with required stacking aisles.
- (c) Stacking capacity for each wash bay shall be (1) 10-car spaces for an automatic or service washing bay, (2) 2 spaces in front of each self-service washing bay, and (3) 1 space at the exit of each self-service washing bay.
- (d) Noise levels on premise shall conform to the noise ordinance in effect.
- (e) All vehicle or equipment washing activity shall occur indoors.
- (f) There shall be provisions made to contain wash water on-premise and prevent off-site discharge, unless by way of public sanitary sewer.

- (g) A litter container shall be provided at each vacuum facility. A refuse container larger than 96 gallons shall be enclosed in accordance with Section 21.19.

### **Section 19.27 Child Care Center**

Each child care center shall conform to the following standards:

- (a) All required state and local licensing shall be maintained at all times.
- (b) All outdoor play areas shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining land used, zoned or planned for residential use and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way are prohibited.
- (c) Any dumpster on site in excess of 96 gallons shall be enclosed as required by Section 21.19.
- (d) Such facilities shall be located at least 1,500 feet from any one of the following:
  - (1) A licensed or pre-existing operating group day-care home or child care center.
  - (2) Adult foster care facility.
  - (3) A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
  - (4) A community correction center, resident home, halfway house or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.
- (e) Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- (f) The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10 p.m. and 6 a.m.

### **Section 19.28 Churches, Synagogues, Temples, Mosques and Other Recognized Places of Worship**

Each place of worship shall conform to the following standards:

- (a) The minimum parcel size shall be 2 acres unless served by public sanitary sewer.
- (a) Indoor or outdoor recreation facilities may be permitted if approved by the Planning Commission.
- (b) A nursery school or child care center may be permitted if approved by the Planning Commission.
- (c) The main access drive to the facility shall accommodate stacking for no less than 6 motor vehicles outside of the adjoining public road right-of-way.

### **Section 19.29 College or University**

Each college or university, whether public or privately owned and operated, shall conform to the following standards:

- (a) Access to the site shall be directly from a state highway or county primary road. Said access shall conform to requirements of Article XVI of this Ordinance.
- (b) Whether a single building or group of buildings comprising a campus, no building shall be located closer than 100 feet from any property line abutting land used for, zoned for and planned for residential use.
- (c) Parking facilities serving the college or university shall be located and arranged to minimize walking distance and shall include segregated pedestrian walkways.
- (d) The site shall include a bus transit stop with a shelter structure for passenger waiting.
- (e) Within 75 feet of each public entry to a building, a bicycle rack to accommodate no less than twelve (12) bicycles shall be placed.

### **Section 19.30 Commercial Amusement (Indoor/Outdoor)**

Each commercial amusement establishment shall conform to the following standards:

- (a) In all cases involving outdoor amusements, the minimum lot area shall be 5 acres.
- (b) Indoor, accessory retail sales are permitted but limited to supplies and goods related to games and activities provided on site.
- (c) Indoor food and drink services are permitted, excluding alcoholic beverages.
- (d) Noise levels at any property line shall not exceed standards of the noise ordinance.
- (e) Outdoor recreation areas such as tennis courts, ball fields or batting cages may be lighted, but only in conformance with Section 21.31.

### **Section 19.31 Commercial Communication Antennas and Towers**

Each antenna or tower used for cellular telephone, television or radio communications shall conform to the following standards:

- (a) **Qualifying Conditions.** The following site and developmental requirements shall apply:
  - (1) A minimum lot size shall be one and one-half (1½) acres.
  - (2) The use of guyed wires is strictly prohibited within one thousand feet of any zoned or planned residential use.
  - (3) The base of the tower and wire cable supports shall be fenced with a minimum 6 foot high chain link fence.
  - (4) An applicant may locate a tower in the “A”, “AR” or “RR” zoning districts. In all other zoning districts the applicant must demonstrate that:

- a) The new tower cannot be located within the permitted zoning districts and still satisfy the reasonable needs of the applicant; and
  - b) The applicant's tower or antennae cannot be co-located on an existing tower or other structure and still satisfy the reasonable needs of the applicant.
- (5) Each application shall be accompanied by a written demonstration of need (including height) relative to the proposed location. If a leased site, a copy of the lease or proposed lease shall accompany the application.
  - (6) Towers shall be constructed to facilitate the reasonable co-location of other providers' antennas or transmitters.
  - (7) To the extent possible, towers shall be located on public lands or existing utilities.

**(b) Special Performance Standards:**

- (1) The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by a consulting engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of tower failure is minimal. The applicant shall incur all costs associated with Township engineering review.
- (2) No part of any tower, antenna, or accessory structure (including guyed wire bases) shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within 30 feet of a property line.
- (3) Each accessory structure shall not exceed 600 square feet of gross building area.
- (4) All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- (5) The applicant shall provide verification that the tower construction and antenna mount plans have been prepared by a registered structural engineer and that the installation is in compliance with all applicable codes.
- (6) All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- (7) Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or ½ mile radius of a helipad. Notice of all applications received by the Township shall be provided to the Gerald R. Ford International Airport. Any communications received from the Gerald R. Ford International Airport shall be considered by the Planning Commission.
- (8) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- (9) Antennae and metal towers shall be grounded for protection against a

direct strike of lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.

- (10) Towers with antennae shall be designed to withstand wind loading as prescribed in the BOCA building code.
- (11) Towers shall be located so that they do not interfere with reception in nearby residential areas.
- (12) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.
- (13) Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Strobe style and flashing lighting shall not be permitted, except for emergency use.
- (14) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (15) There shall not be visible advertising signage of any kind. One 4 square foot owner-identifying sign shall be placed on the exiting gate providing an emergency telephone number.
- (16) The antenna shall be treated to match the exterior treatment of the tower. The chosen scheme should be designed to minimize off-site visibility of the antenna.
- (17) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the Special Use approval will be subject to revocation by the Planning Commission. Cost for testing and verification of compliance shall be borne by the operators of the antennae.
- (18) There shall be no employees located on the site on a permanent basis to service or maintain the tower and antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- (19) An access exclusive to the communication tower shall be required and shall be gated to prevent unauthorized entry by unauthorized vehicles.
- (20) Where the property is within 1,000 feet of any existing Residential Zoning District, the developer shall plant 2 alternating rows of evergreen trees with a minimum height of 5 feet on 20 foot centers along the entire perimeter fenced enclosure of the tower and related structures. In no case shall the evergreens be any closer than 10 feet to any structure.
- (21) The tower shall be removed by the property owner or lessee with 6 months of disuse.
- (22) A performance guarantee, bond or satisfactory financial surety at the discretion of the Planning Commission, shall be required to provide for tower removal and site reclamation.

- (23) The demonstrated need, tower height and type (monopole skeleton framework, guyed wire) and any other technical claims shall be subject to independent verification at the applicant's cost.
- (24) The applicant shall indicate to the Township the existing or proposed land line phone service provider to provide for assurance that existing utility franchise agreements are maintained.
- (25) The applicant shall provide in writing a detailed tower maintenance program and schedule.

### **Section 19.32 Commercial Fueling Facility**

Each commercial fueling facility shall conform to the following standards:

- (a) Turning radii on-site shall be sufficient to accommodate a semi-truck and 53 foot semi-trailer.
- (b) Dispensing station shall be located no closer than 100 feet from any property line adjacent to residential use, residential zoning or planned residential use.
- (c) The canopy over the fuel dispensers shall be lighted with recessed lighting and in conformance with Section 21.31.
- (d) All fuel dispensing, pump and storage apparatus shall be installed in conformance with requirements of the Michigan Department of Environmental Quality [MDEQ].
- (e) Storm drainage on-site shall be designed to collect separately and retain fuel and oil residues from vehicles. A maintenance plan for the collection device shall be noted in the final site plan.

### **Section 19.33 Commercial Riding Stable**

Each commercial riding stable shall conform to the following standards:

- (a) The minimum site area shall be 10 acres.
- (b) The maximum number of horses, whether or not for hire, shall conform to requirements of Section 21.5.
- (c) A building in which horses are stabled shall be located no closer than 100 feet to any property used for, zoned for or planned for residential use.
- (d) An animal waste management plan shall be filed with the application for special use.

### **Section 19.34 Contractor Facility**

Each contractor facility as defined in this ordinance shall conform to the following standards:

- (a) All drilling, cranes, excavating and other large equipment and all materials stored outdoors shall be enclosed by a 4 foot high earthen berm topped with a 6 foot high decorative screen fence. The storage yard shall have a single gated access.
- (b) Vehicle and equipment repair and fueling activities on-site shall conform to

applicable standards elsewhere in this Ordinance.

### **Section 19.35 Contractor Yard**

Each contractor yard shall conform to the following standards:

- (a) The minimum lot area shall be one and one-half (1½) acres and the maximum lot area shall be 5 acres. All or part of the actual lot area may be used, so long as the area occupied does not exceed 5 acres.
- (b) If the contractor yard is proposed to be located on a parcel greater than 5 acres, the site plan shall clearly depict that portion of the larger site which is to be occupied by the contractor yard. The site plan shall also depict existing and/or planned use(s) for the area not occupied by the contractor yard.
- (c) All equipment, materials and parts stored outdoors shall be enclosed by a 4 foot high earthen berm topped with a 6 foot high decorative screen fence. The storage yard shall have a single gated access.
- (d) No outdoor storage or use shall be permitted in the required front yard.
- (e) Repair activities on-site shall take place within a building.

### **Section 19.36 Drive-Through Facility**

Each business or establishment having a drive-through facility shall conform to the following standards:

- (a) Vehicle queuing for a drive-through window shall be separated from other on-site traffic aisles and vehicle parking by a physical barrier such as curbing or raised landscape island.
- (b) Pedestrian facilities shall be designed so that pedestrians do not cross the drive-through stacking queue.
- (c) The drive-through aisle shall be no less than 9 feet in width and shall have no turning radius less than 35 feet.
- (d) The stacking queue for each drive-through window shall be sufficient in length to accommodate on-site, the highest vehicle volume likely to occur. In no case shall queuing traffic encroach into a moving lane of a public street, drive aisle for parking or access drive. The applicant shall provide relevant data to demonstrate sufficient capacity. If the Planning Commission is not satisfied the queuing capacity is sufficient, the special use shall be denied.

### **Section 19.37 Electrical and Gas Transmission Substations**

Each electric substation or gas transmission substation shall conform to the following standards:

- (a) If the site of the substation abuts property used for, zoned for or planned for residential use, there shall be no less than 50 feet between the common property line and the nearest structure and other apparatus appurtenant to the facility.



- (b) There shall be placed an opaque screen fence 6 feet in height on the perimeter of the property on which the substation is located.
- (c) Access to the facility is limited to one driveway, said driveway to be secured with a gate with a locking mechanism. The gate shall also offer screening.
- (d) Lighting of the facility shall conform to Section 21.31 of this ordinance.

### **Section 19.38 Farm Market with Roadside Stand**

Each farm market shall conform to the following standards:

- (a) Parking serving the market shall not occur within a public road right-of-way nor shall parking spaces be located to cause motor vehicles to back directly onto the public roadway.
- (b) The patron parking area may be gravel but must be well defined and well maintained.
- (c) The market building or stand shall be set back no less than one-half the setback required for a principal structure on the same parcel.

### **Section 19.39 Gasoline, Diesel or Alternative Fuel Filling Station**

Each auto or pick-up fueling station shall conform to the following standards:

- (a) The location of, number of and design of driveway access shall be subject to Planning Commission review and approval, including modification to gasoline station sites in existence at the effective date of this Ordinance if a building or use enlargement is proposed.
- (b) The location of pump islands shall afford ample motor vehicle stacking to prevent vehicle queuing into an access driveway or onto a public roadway. The application shall demonstrate that vehicle stacking is sufficient to meet peak demand periods.
- (c) Site drainage shall be designed to collect, separate and retain fuel and oil residues from vehicles. A maintenance plan for the collection device shall be noted on the final site plan.
- (d) If retail sales occur on-premise, parking on-site shall meet requirements of Article XXIII. Site circulation shall be designed to prevent conflict among vehicles using the pump islands and other vehicles.
- (e) If motor vehicle repairs occur on the same premises, parking for vehicles waiting for service and customers seeking repair service shall be in addition to pump-island stacking and other retail sales, if any.

### **Section 19.40 Golf Course or Country Club**

Each golf course, whether for public use or a member-only country club, shall conform to the following standards:

- (a) All buildings on-premise shall have a setback of no less than 100 feet from abutting land used for, zoned for or planned for residential use, except in cases where residential use is designed as an element of the golf course.

- (b) Retail sales of golf apparel and equipment, golf cart rentals, restaurant, banquet facilities or cross-country skiing, may be included as uses accessory to the golf course. Parking for these accessory uses shall be in addition to parking required for the golf course.
- (c) There shall be maintained along all property lines not abutting a public road, a natural vegetative strip no less than 25 feet in width.
- (d) The layout of each fairway within the golf course shall be configured to prevent golf ball shots entering a public roadway, adjoining properties or lands within the golf course used for purposes other than golf play.
- (e) Golf cart paths serving each tee box, fairway, green and paths connecting each golf course fairway shall be paved with a bituminous or concrete surface.
- (f) Water features within the golf course shall have edge slopes no greater than 1 foot vertical to 3 feet horizontal or, if greater, a barrier fence, wall or plant grouping shall be provided to prevent pedestrian access to the top of slope.
- (g) Storm water system design and turf management practices shall be designed and operated to prevent fertilizers and nutrients entering natural streams or lakes.

#### **Section 19.41 Greenhouse or Nursery Accessory Retail Store**

Each greenhouse or plant nursery with an accessory retail store shall conform to the following standards:

- (a) Parking spaces serving the retail store shall not occur within a public road right-of-way nor shall parking spaces be located to cause motor vehicles to back directly onto the public roadway.
- (b) Required parking for the retail store shall be in addition to patron parking needed for the greenhouse or plant nursery.
- (c) The building in which the retail store is located shall meet the minimum front yard setback required for a principal structure.
- (d) The retail store shall be accessory to the principal use of a greenhouse or plant nursery. If the principal use ceases to operate for a period of one year, (365 days), the retail store shall no longer operate.

#### **Section 19.42 Group Day Care Home**

Each group day care home shall conform to the following standards:

- (a) An area for dropping off and picking up of children served by the day care facility shall be provided outside of the public or private road right of way.
- (b) Each outdoor play area shall be enclosed by a fence no less than 36 inches in height, including an access gate.
- (c) All playground equipment shall be located in a side yard, rear yard or no less than the required front yard setback for a principal structure, if within the front yard.
- (d) A group day care home shall not be located closer than 1,500 feet to any of the following:

- (1) An adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979 [MCL 400.701 et seq], as amended.
  - (2) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978 [MCL 333.61 et seq], as amended.
  - (3) A community correction center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the Michigan Department of Corrections or Barry County.
- (e) A minimum of 1 additional off-street parking space shall be required for each employee working on the same shift in the operation.
  - (f) Maintains the property consistent with the visible characteristics of the neighborhood.
  - (g) One non-illuminated nameplate or free standing sign not to exceed 4 square feet in area shall be permitted.

#### **Section 19.43 Home Based Business**

Each home based business shall conform to the following standards:

- (a) A home based business meeting criteria set forth below for a minor home based business may receive a home based business permit issued by the Zoning Administrator without holding a public hearing. All other home based businesses shall file for special land use approval as prescribed in this Article.

Permitted home based businesses include, but are not limited to the following:

- (1) Beauty salons and barber shops.
- (2) Photography studios.
- (3) Drapery design and fabrication.
- (4) Furniture upholstery.
- (5) Computer repair and service.
- (6) Small engine repair.
- (7) Cabinet making and carpentry work.
- (8) Seamstress service.
- (9) Television and other appliance repair.
- (10) Organized classes with not more than six students at one time for art or craft instruction.
- (11) Internet based business.
- (12) Sign maker.
- (13) Catering business.
- (14) Turf services and landscaping enterprises.
- (15) Other home based businesses complying with the requirements of this Section and which are determined by the Planning

Commission to be reasonably similar in character to those listed in this subsection, and which do not have adverse effects on adjacent or nearby lands that are greater or more serious than those resulting from any of the above-listed home based businesses.

- (b) A minor home based business shall conform to the following site, building and operating criteria:
- (1) The use shall be conducted entirely within the dwelling or accessory building.
  - (2) The use shall be operated only by persons residing in the dwelling.
  - (3) The exterior appearance of the dwelling shall not be modified to accommodate the home based business.
  - (4) The home based business shall not occupy more than 30 percent of the floor area of the dwelling, excluding area of the basement as defined in this Ordinance.
  - (5) There shall be no selling of goods, merchandise, supplies or products, provided that orders made by telephone, internet or at sales events off the premises may be filled on premise so long as customers do not arrive on premise to acquire orders.
  - (6) Outdoor storage or display is prohibited.
  - (7) There shall be no regular deliveries from commercial suppliers to the premises.
  - (8) There shall be no activity on premise resulting in noise, vibration, smoke, dust, odors, heat or glare that creates a nuisance to adjoining properties.
  - (9) As a result of operating the home based business, there shall occur no more motor vehicle traffic than would be normal for a dwelling.
  - (10) No combustible, toxic or hazardous substances shall be kept on premise attendant to the home based business.
  - (11) Each minor home based business is subject to an annual compliance inspection at the discretion of the Zoning Administrator.
  - (12) The Zoning Administrator shall have discretion to refer any home based business to the Planning Commission for approval.
- (c) For all other home based businesses, a special land use permit shall be required as issued by the Planning Commission following public hearing and subject to the following site, building and operating criteria:
- (1) The use shall be conducted entirely within the dwelling and/or not more than 1 accessory building.
  - (2) The use shall be operated by persons residing in the dwelling and not more than one 1 other person.
  - (3) The exterior appearance of the dwelling and accessory building, if used in connection with the home based business, shall not be modified to accommodate the use.
  - (4) The home based business shall not occupy more than 49 percent of the total dwelling floor area, excluding the basement as defined in this Ordinance.
  - (5) The use shall be clearly incidental and secondary to the dwelling.

- (6) Outdoor display of goods or merchandise is prohibited.
- (7) Equipment used in connection with the home based business shall be parked or stored within a building or within a gated 6 foot high screening fence enclosure.
- (8) There shall be adequate off-street parking and maneuvering area.
- (9) There may be only incidental and occasional selling of goods, merchandise, supplies or products.
- (10) No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state, and other governmental requirements concerning the use, handling, transport, storage, and disposal of any such materials; provided, however, that the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted, if otherwise lawful.
- (11) There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat, or glare resulting in an adverse effect at or beyond the property line.
- (12) As a result of the home occupation, there shall not be any appreciably greater motor vehicle or pedestrian traffic than would be normal for the zoning district in which the use is located.
- (13) There shall be no deliveries from commercial suppliers, except on an occasional or incidental basis.
- (14) Any sign shall be non-illuminated and shall comply with the sign requirements for the zoning district in which the use is located.
- (15) Each home based business is subject to an annual compliance inspection at the discretion of the Zoning Administrator.

#### **Section 19.44 Hospital**

Each hospital shall conform to the following standards:

- (a) The minimum parcel area shall be 5 acres.
- (b) Public sanitary sewer and water supply services are mandatory, without exception.
- (c) Adequate off-street parking area shall be provided. Areas designed for dropping off and picking up of patients and others shall be located a sufficient distance back from the public street so as to avoid motor vehicle conflicts and unsafe conditions.
- (d) Access shall be from a public street. Driveways shall be located a sufficient distance away from street intersections so as to avoid unsafe traffic conditions. A traffic impact study will be required consistent with Article XVI of this Ordinance.
- (e) Access for ambulances and other emergency vehicles shall be from a state highway or county primary road.
- (f) Trash and refuse receptacles shall be fully enclosed and screened as required in this Ordinance.

- (g) Adequate driveways and parking areas for delivery of goods and supplies and for service vehicles, shall be provided, and if required by the Planning Commission, they shall be separated from driveways and parking areas used by the public.
- (h) If permitted by the Planning Commission in the approval of the special land use, the use may include a helicopter landing pad for ambulance purposes, at such location and under such operational conditions as may be determined by the Planning Commission.

### **Section 19.45 Heating and Electric Power Generating Plant**

Each steam generator or electric power generating plant, regardless of fuel source, shall conform to the following standards:

- (a) For an electric power generating plant, the minimum site area shall be 20 acres.
- (b) For a steam generating plant used for providing common steam heating to a defined service area, the minimum site area shall be 5 acres or less, if approved by the Planning Commission.
- (c) Each type of generating plant shall conform to the following site, operating and environmental criteria:
  - (1) No building, structure or appurtenant apparatus shall be located closer to any property line than 100 feet.
  - (2) A perimeter buffer zoned as defined in Article XXV shall be required, except at the entry driveway, regardless of adjacent land use, zoning district or planned land use. This requirement may be waived in whole or in part by the Planning Commission as part of the final site plan review and approval. The waiver shall be solely based on what land uses adjoin the site and whether the buffer zone serves the intended purpose.
  - (3) Delivery of fuel stock shall occur via a Class A, All-weather roadway.
  - (4) Fuel stock piles or storage tank facilities shall occur as far as possible on-site from existing residential land use.
  - (5) All operating equipment needed on site shall be stored or parked within a building or within an enclosed screening fence not less than 6 feet in height.
  - (6) All environmental criteria within Article XXII shall be met as well as criteria imposed by state or federal agencies. Whichever criteria are more restrictive, that criteria shall apply.

### **Section 19.46 Intensive Livestock Operation**

Each intensive livestock operation as defined in Article XXXII shall conform to the following standards:

- (a) The minimum lot area shall be 40 acres of contiguous land.
- (b) Any building in which animals are housed shall be located no less than 500 feet from an occupied non-farm dwelling, a natural surface water feature or

- wetland depicted in the National Wetland Inventory.
- (c) Manure management shall conform to the generally accepted agricultural management standards promulgated by the Michigan Department of Agriculture.
  - (d) Each application for a new or expanded intensive livestock operation shall be accompanied by a manure waste management plan. If land application of manure is included in the plan, documentation of soil types and depth to the water table shall also be provided with the application.
  - (e) The intensive livestock operation shall not result in surface runoff of nutrients to an abutting property or natural surface water.

#### **Section 19.47 Kennel**

Each kennel as defined in Article XXXII shall conform to the following standards:

- (a) When animals are kept in shelters located within outdoor enclosures, the minimum lot area shall be 3 acres. When animals are kept in an indoor enclosure with direct access to an enclosed outdoor area, the minimum lot area shall be 1 ½ acres. When animals are kept indoors for human attended outdoor exercise, the minimum lot area shall be 20 thousand square feet.
- (b) Whenever outdoor animal enclosures are present or proposed, such enclosures shall not be located closer than 100 feet to an occupied dwelling.
- (c) Animal outdoor exercise areas shall not be located within an actual front yard area nor within a required side or rear yard setback.
- (d) All animal enclosures including indoor or outdoor exercise areas shall be kept in a clean, sanitary condition and all animal wastes shall be disposed of without adverse effects on the environment or adjoining lands.
- (e) The Planning Commission may require screening to minimize nuisance to any adjoining lands, including one or more of the following: (1) privacy fence, (2) earth berm and/or (3) landscape screening.
- (f) A kennel may be included as an element within a veterinary clinic if approved by the Planning Commission.

#### **Section 19.48 Land Division – 5 or More New Parcels**

Land divisions that are not within a plat or site condominium subdivision shall conform to requirements of Section 21.36 of this Ordinance. Land division applications involving 5 or more parcels shall require special land use review and approval by the Planning Commission and shall comply with the following standards:

- (a) If the land division involves less than the entire parent parcel tract of land, there shall be provisions made to assure access to the remainder of the land not included in the proposed land division.
- (b) If private road access is proposed to any proposed lot and/or the remainder of the land, a private road application shall be filed concurrent with the land division application.

**Section 19.49 Lumber Yards and Building Materials, Wholesale or Retail**

Each lumber yard or building materials enterprise shall conform to the following standards:

- (a) The principal and accessory buildings in which the use operates shall not be located within 100 feet of any Residential Zoning District.
- (b) Outside storage is prohibited in the required front yard setback.
- (c) All outside storage of goods and materials shall occur within a screening fence or enclosure equal in height to the materials stored.
- (d) Commercial deliveries to or shipping from the property shall only occur via a single driveway constructed to commercial standards. Said driveway shall not be located closer than one-hundred 100 feet to the nearest public street intersection. If access is direct to highway M-37, the design and location of the driveway shall conform to requirements of Article XVI.

**Section 19.50 Massage Parlor\***

Each massage parlor shall conform to the following standards:

- (a) All activities shall be conducted indoors.
- (b) Any person administering a massage shall be clothed with a sleeved shirt and slacks at all times during a patron visit to the massage parlor premises.
- (c) Physical contact or touching of genitals or breasts by the person administering a massage or by the person to whom a massage is given, is prohibited.
- (d) Indoor or outdoor display of sexually suggestive or explicit live, printed, video or computer-generated images is prohibited.

**Section 19.51 Manufacture of Alcohol and Other Products Listed in Section 13.3(b)**

Each manufacturer of products stated in Section 13.3(b) of this ordinance shall conform to the following standards:

- (a) All finished manufactured products and processing wastes shall be fully contained to prevent spill or leaking.
- (b) A manufacturing facility in this category shall be connected to public sanitary sewer.
- (c) Depending on chemical content of wastewater discharge, pre-treatment may be required. The chemical content of wastewater shall be disclosed at the time of making the special use application or, if approved without the data, first discharge will be sampled and pre-treatment requirements then set.

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\* Definition to exclude state-licensed physical or massage therapists.



### **Section 19.52 Materials Recovery and Recycling**

Each materials recovery and recycling facility shall conform to the following standards:

- (a) All sorting, chipping, shredding and processing activities shall be conducted within an enclosed building, including all operating machinery used in the processing operation.
- (b) Any recovered materials considered toxic or hazardous to human health or to the natural environment shall be stored in containers designed to prevent exposure to humans, animals or the environment.
- (c) Truck or commercial vehicle access to and departure from the recovery or recycling facility shall be directly to or from a major street, county primary road or state trunkline.
- (d) Outdoor storage of raw materials to be processed in any way is prohibited.
- (e) Outdoor storage of materials recovered or recycled, except toxic or hazardous compounds, is permitted so long as these materials are placed within a covered container such as a roll-off.
- (f) All materials, whether raw or processed, shall be handled, processed or stored in such a manner as to prevent leaching of toxic or hazardous compounds into the soil, air and/or groundwater.
- (g) The facility shall include an interior unloading or dumping area for unsorted materials brought to the facility for processing.

### **Section 19.53 Mineral Extraction and Processing**

Each mineral extraction and/or processing facility shall conform to the following standards:

- (a) Permits for mineral extraction and processing shall be in the names of both the operator and the landowner (hereinafter, “permit holder”).
- (b) It shall be the responsibility of the permit holder to use ecological conservation practices for all areas used for excavation.
- (c) No business or industrial buildings or structures of a permanent nature shall be erected except in the Industrial District.
- (d) Before the commencement of any mineral extraction, a 10/47 fence (standard farm-type fence) or six foot chain link fence (or a suitable substitute approved by the Planning Commission) shall be erected around the perimeter of the active extraction and/or processing site and maintained in good condition until extraction and mining operations have been completed. A locked gate shall be provided at all access points from the public road to the extractive operation. Said gates shall be closed and locked at all times except during the permitted hours of operation.
- (e) No excavation shall occur within 100 feet of a road right-of-way. The Planning Commission may allow excavation within this minimum setback area as part of the reclamation process provided no excavation is allowed within 50 feet of any road right-of-way. No excavation shall occur within 200 feet of an off-site residence. No excavation shall be within 100 feet of a property line. The Planning Commission may allow excavation within this

minimum setback area as part of the reclamation process provided no excavation is allowed within 25 feet of any property line. The Planning Commission may also allow mineral extraction within the minimum setbacks set forth above if those residents and property owners abutting that portion of the site affected by the minimum setbacks consent in writing.

- (f) No processing of minerals, including washing, sorting, grating, grading, crushing, etc. shall be conducted within 500 feet of any off-site residence or within 300 feet of any property line. The Planning Commission may permit processing to be located within the set back requirements if, due to environmental or topographical features, such location will create less adverse impact than strict compliance with the set back requirements.
- (g) Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls and natural planting screens. All equipment shall be maintained and operated in such manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
- (h) Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners.

Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance. Ingress and egress to a public right-of-way shall be paved with asphalt or concrete for a distance of 200 feet from the property line.

- (i) The operation of mineral extraction and processing shall be restricted to the hours of 7 a.m. until 6 p.m. Monday through Friday and 7 a.m. to 12 p.m. on Saturday. No operations shall be conducted on Sundays or legal holidays, or at any time over the Memorial Day or Labor Day weekend, or the Independence Day weekend if July 4 falls on a Monday or Friday. The operation hours, days, seasons or months may be further restricted by the Planning Commission in order to minimize nuisance impacts on neighbors or for public safety considerations with respect to the use of roads.
- (j) All truck operations shall be directed away from residential streets, whenever practical.
- (k) In approving the processing area, the Planning Commission may require berms and/or other screening to reduce sound or vibration impact on neighboring properties.
- (l) Reclamation and rehabilitation of mined areas shall be accomplished progressively as the area is being mined. Exclusive of processing and storage areas, not more than 10 acres of the intended project area may be disturbed at one time. Substantial completion of reclamation and rehabilitation shall be effected within one year after the termination of mining or excavation activity in each area.

- (m) The banks of all excavations shall be sloped to the water line in a water-producing excavation, and to the pit floor in a dry operation at a final slope which shall not be steeper than one foot vertical to four feet horizontal.
- (n) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are to be completed within a 1-year period. Where used, top soil shall be applied to a minimum depth of 4 inches sufficient to support vegetation.
- (o) Vegetation similar to that which existed prior to the excavation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (p) Upon cessation of mining operations by abandonment or otherwise, the operation company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located may be retained.
- (q) No special use permit for mineral extraction or processing shall exceed a term of 2 years. In any request for extension or renewal of a mineral extraction and processing special use permit, the Planning Commission shall take into consideration any violations of restrictions during the preceding period.
- (r) Inspection fees:

For the purpose of reimbursing the Township for inspections, monitoring, administration and enforcement of this Ordinance with respect to the permit holder, and in view of the relative impossibility of calculating and precisely anticipating amounts to be required for such purpose, the permit holder shall, upon approval of the special use, and prior to commencing operation, make an initial deposit of an amount determined by the Township to be sufficient to provide for the cost of regular and/or extraordinary inspections, monitoring and enforcement, as required, including reasonable fees for attorneys, engineers and/or other experts, to insure compliance with this Ordinance to the Township. The Township Treasurer shall hold such amount in an interest bearing account for the permit holder for each approved special use. Interest earned will accrue to the account held in the name of the permit holder. Balance of deposited inspections fees with accumulated earned interest shall be returned to applicant after reclamation is completed and approved by the Township Board.

The fee requirement shall be determined on a monthly basis and paid out of said account, and shall be equal to the aggregate of the statements and invoices to the Township for all costs and expenses incurred which are

reasonably related to inspections, monitoring, administration and enforcement of this Ordinance.

The fee requirement shall be invoiced to the permit holder on a monthly basis, and shall be paid to the Township within 30 days. Upon receipt, the payment shall be disbursed as follows: the amount equal to the statements and invoices shall be credited to the permit holder's account, to reimburse the amounts paid out, as aforementioned.

The amount on account with the Township in connection with the permit holder shall be maintained at a minimum of the amount determined by the Township to be sufficient to provide for the Township's cost of regular and/or extraordinary inspections, monitoring and enforcement, as required, including reasonable fees for attorneys, engineers and/or other experts, to insure compliance with this ordinance. The permit holder shall be invoiced immediately for the deficiency and such amount shall be paid within 30 days.

(s) Performance Bond: Insurance

(1) Bond

The mining operation shall not commence until such time as the permit holder has posted with the Township Clerk a performance bond in an amount determined by the Planning Commission, following recommendation of its experts, to be reasonably necessary to ensure reclamation. The bond shall be in the form of cash, an irrevocable letter of credit issued by a banking or savings and loan institution licensed to do business in the State of Michigan, or a corporate surety bond issued by a company licensed for such purposes in the State of Michigan. The conditions of such bonds shall be that, if the permit holder has satisfactorily reclaimed the property being the subject of the special use permit in accordance with the approved reclamation plan, the performance bond shall be returned to the permit holder; otherwise, the Township shall have a right to use the performance bond to the extent necessary to reclaim the property and to cover the costs of enforcing and bringing about compliance with this Ordinance, including reasonable attorney's fees. Irrevocable letters of credit and corporate surety bonds shall be in a form approved by the Township's attorneys.

The performance bond for reclamation shall be in the name of the applicant on the special use permit and, if different, the property owner. The performance bond shall remain in effect with the Township until the parcel or parcels have been reclaimed, *inspected* and all equipment, machinery, materials, buildings and other operation related improvements removed as required by this Ordinance and/or by the terms of the special use permit.

In the establishment of the amount of the performance bond, the Planning Commission shall take into account the size and scope of the proposed operation, the maximum acreage allowed to be disturbed prior to requiring reclamation, the current and projected costs of reclamation in the event of default by the operator at such time as it is likely to be most costly, and other such conditions and factors as might be relevant in determining a sum reasonable in light of all the facts and circumstances. The Planning Commission, in considering any application to renew the special use permit, may in its discretion, increase or decrease the amount of the performance bond, based upon increased costs, new information, or partial reclamation.

In the event that the permit holder chooses to post cash in lieu of an irrevocable letter of credit or corporate bond, as provided above, such cash may be deposited in an interest bearing account in control of the Township at a bank or savings and loan institution satisfactory to the Township, provided that all sums of deposit shall be readily accessible to the Township in the event of need. Such interest shall accrue for the benefit of the permit holder, or be paid over to the permit holder.

(2) Insurance

Insurance shall be a pre-condition to commencement of operations. Insurance shall be a pre-condition to the right to continue operations. Insurance shall be maintained in full force during the term of special use approval. The permit holder shall provide personal injury and property damage insurance for the project to be carried by an insurance company licensed to do business in the State of Michigan during all times when any reclamation is left to be done, and during all times that any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed remain on the site, said insurance to name the Township, its officers and employees as co-insured or additional insured. This insurance shall be carried in amounts no less than one Million Dollars (\$1,000,000.00) for injury and damage to more than one person's property arising out of single occurrence. This insurance shall cover injury or damage occurring upon the site of the operations, as well as injuries or damage occurring upon adjoining property as the result of conditions or activities conducted upon the subject property.

The insurance certificate shall contain a clause stating that, coverage to be the same as dates of the special land use permit. Insurance shall be in the name of the applicant on the special use permit and, if different, the property owner.

*(Sect. 19.53 effective June 1, 2013)*

### **Section 19.54 Multiple Occupancy Buildings**

Each building containing three or more separate retail, office and/or service businesses shall conform to the following standards:

- (a) Public sanitary sewer and water supply shall be required for multiple occupancy buildings.
- (b) All physical features of the site and building shall be of unified and coordinated design, including anticipated phasing of site or building construction.
- (c) Storm water facilities shall be initially designed and installed to accommodate a built-out site and shall conform to best storm water management practices.
- (d) Site and building signage shall be of uniform style and design.
- (e) Parking layout and design shall incorporate pedestrian facilities separate from traffic aisles and shall be oriented to building entrance(s).
- (f) Fire lanes, if required, shall be shown on the site plan.
- (g) Water mains size and location, water main valves, service lateral size and location and fire hydrants shall be shown on the site plan.
- (h) Sanitary sewer size and location, man-hole structures, and service laterals shall be shown on the site plan.
- (i) Landscape design details, including plant size, species and ground cover, shall be harmonious throughout the site.
- (j) Outdoor lighting shall be uniform as to standards and illuminaries.
- (k) Common refuse management space shall be incorporated on the site plan or reasons for not including on-site waste management shall be stated on the site plan. The Planning Commission shall determine whether or not to accept a plan without waste management facilities on site.

### **Section 19.55 Migrant Worker Housing**

Each farm, on which migrant housing is located on the farm property, shall conform to the following standards:

- (a) Each migrant dwelling unit shall contain one bedroom for each three occupants plus a kitchen, bathroom and living room.
- (b) A building that houses migrant farm workers shall contain no more than two dwelling units, unless a larger number of dwelling units is approved by the Planning Commission.
- (c) The wastewater disposal system and water supply for each migrant housing dwelling unit shall be approved by the Barry-Eaton District Health Department.
- (d) No less than 1 motor vehicle parking space shall be provided for each migrant worker housing unit, said space to be located adjacent to the housing unit.
- (e) The location of each building accommodation migrant worker housing unit shall conform to required setbacks in the zoning district in which they are located.

- (f) Migrant worker housing units shall be located on the farm on which the migrant workers are employed.

**Section 19.56 Outdoor Display of Goods, Merchandise or Equipment for Retail Sale**

Each retail business in a Commercial Zoning District including outdoor display of goods, merchandise or equipment for retail sale shall conform to the following standards:

- (a) The proposed area on any property intended for outdoor display shall be depicted on the site plan.
- (b) The entire area used for outdoor display shall be enclosed with decorative fencing. The fence enclosure need not be opaque. This requirement shall not apply to outdoor display of less than 200 square feet.
- (c) The enclosure fence height shall be equal to the height of goods, merchandise or equipment on display.
- (d) Establishments offering new or used motor vehicles, construction equipment or farm implements for sale are not included in this section, however, such establishments shall conform to requirements of Section 19.22 of this Ordinance.

**Section 19.57 Private Roads Servicing 5 or More Lots or Parcels**

Private Roads serving 5 or more lots, parcels, condominium units or dwelling units shall conform to requirements of Section 21.26 of this Ordinance and the following standards:

- (a) The Planning Commission shall consider the location of the private road in relation to existing land contours, regulated wetlands and other natural features on-site.
- (b) The objectives of this review are: (1) minimal changes of existing contours to accommodate the proposed road, (2) no impact on existing regulated wetlands, (3) minimal 100-year flood plain fill, (4) tree clearing limited to area of road construction and required road grading, and (5) evaluate negative impact on other natural features on the property.
- (c) The private road shall be designed and located to serve the entire site. No portion of the site may be served by an unimproved easement for ingress and egress.

**Section 19.58 Public and Private K-12 Schools**

All public school district facilities and privately owned and operated or charter school facilities shall conform to the following standards:

- (a) Public School Facilities
  - (1) New or modified access points to public streets or county roads shall be located, designed and built to assure safe ingress and egress to the school site and safe traffic operations on the public street.

- (2) Water supply shall be sufficient to accommodate domestic consumption and fire protection. Fire protection shall include on-site water mains located and sized to provide required fire flows as well as fire hydrant location and densities to conform with the fire code in effect.
  - (3) Wastewater treatment and disposal shall be via publicly operated sanitary sewer system or an on-site system approved by the Barry-Eaton District Health Department.
- (b) Privately owned and operated or charter schools
- (1) Conformance to requirements of Section 19.58(A)(1-3) above.
  - (2) A complete site plan as required by Section 20.4 in this Ordinance.
  - (3) A traffic impact study, if required by the Planning Commission.

### **Section 19.59 Public and Institutional Uses**

Each public facility and institutional use shall conform to the following standards:

- (a) Access shall be from a public street.
- (b) Driveways shall be located so as to assure safe and convenient access. Parking areas shall be of sufficient size to accommodate patrons.
- (c) Facilities for the loading/unloading or patron drop-off shall be located a sufficient distance away from the public street right-of-way so as to avoid hazardous traffic conditions.
- (d) Facilities with an occupancy rating over 100 persons shall be required to provide a calculated fire flow requirement by a licensed fire inspector. This information will be compared with available fire flow capacity of the water system by the fire marshal to determine whether or not adequate fire suppression is available.

### **Section 19.60 Publicly-Owned Parks**

Each publicly owned and operated park facility shall conform to the following standards:

- (a) Access driveways shall be a sufficient distance away from intersecting streets so as to avoid adverse traffic conditions.
- (b) Uses in the park involving public assembly, or having characteristics which may cause noise or other adverse impacts shall be located a sufficient distance away from other lands, or shall be adequately shielded and buffered so as to avoid the transmission of noise or other adverse impacts onto other lands.
- (c) There shall be adequate and convenient water supply and sanitary sewage disposal for use by park patrons.
- (d) The screening and buffering of various elements of park use may be required specific to the element and nearby uses in the park or adjoining property.



**Section 19.61 Restaurant with Drive-Up Window Service**

Each restaurant with drive-up window service shall conform to the following standards:

- (a) Conformance with Section 19.36 (a) – (d).
- (b) For restaurants with seating capacity greater than 100 people, a traffic impact study consistent with Article XVI may be required by the Planning Commission.
- (c) The speaker system for taking orders from a vehicle shall be located and designed to minimize broadcast of noise to any adjoining property.

**Section 19.62 Site Condominium Subdivision**

Each site condominium subdivision intended for development under terms of 59 PA 1978 [MCL 559.101 et seq.], as amended, shall conform to the following standards:

- (a) Conformance with requirements of Section 21.30 of this Ordinance.
- (b) Prior to a formal application for special land use and project approval, the proprietor/developer shall present a sketch plan concept to the Planning Commission for a pre-application review by the Commission. Comments and recommendations offered by the Commission relating to the project concept shall be considered when preparing preliminary project plans.

**Section 19.63 Subdivision**

Each subdivision intended for development under terms of 288 PA 1967, as amended and 591 PA 1996 [MCL 560.101 et seq.], as amended shall conform to the following standards:

- (a) Conformance with requirements of Section 21.30 of this Ordinance.
- (b) Prior to a formal application for special land use and project approval, the proprietor/developer shall present a sketch plan concept to the Planning Commission for a pre-application review by the Commission. Comments and recommendations offered by the Commission relating to the project concept shall be considered when preparing preliminary project plans.

**Section 19.64 Two-Family Residential Building**

Each two-family residential building shall conform to the following standards:

- (a) A minimum lot area of 12,000 square feet shall be required with a minimum lot width of 100 feet.
- (b) If access is to a major street or county primary road, a single driveway opening at the abutting street shall serve each two-family building.
- (c) Each two-family building shall be of substantially similar appearance as other residential buildings on adjacent properties and in the neighborhood.
- (d) Front, side and rear yard setback shall be no less than the minimum setback required in the “RZ” Zoning District.
- (e) Each two-family building shall have direct access to a public street.

**Section 19.65 Truck Transportation and Distribution Facility**

Each truck terminal, distribution facility, motor freight warehouse or combination thereof shall conform to the following standards:

- (a) Minimum lot size shall be 3 acres with a minimum lot dimension of 250 feet. The lot location shall be such that at least 1 property line abuts a paved major street or County Primary Road. The ingress and egress for all vehicles shall be directly from said Primary Road.
- (b) The main and accessory buildings shall be set back at least 50 feet from all property lines. If such use abuts residentially zoned property or a residential use, then the setback shall be 100 feet from any such lot line.
- (c) Truck parking and staging areas shall be screened from the view of any abutting Residential Zoning District or land use, as required in Article XXI of this Ordinance.
- (d) Access driveways shall be located as required by Article XVI if located abutting Highway M-37. In all other cases, no closer than 100 feet to an adjoining driveway or intersecting street.
- (e) No overnight truck parking shall be permitted unless the trucks are parked at the main loading/unloading dock and the truck engines are turned off.
- (f) This use shall be supported by a full complement of infrastructure, including Class A roads, municipal water and sanitary sewer and storm drainage.
- (g) Storm water systems on site shall utilize Best Management Practices.

**Section 19.66 Utility and Public Service Buildings**

Each utility or public service building or structure shall conform to the following standards:

- (a) For each lot or parcel abutting residential zoning or use, the driveway access to each such building shall be screened for its entire length with a 6 foot high screen fence.
- (b) Landscaping/screening on all lot or parcel boundaries shall conform to the “C-2” Zoning District requirements abutting residential zoning except where the abutting zoning district is “I”.
- (c) Site security lighting shall conform to requirements of Section 21.31 of this Ordinance.

**Section 19.67 Veterinary Services**

Each veterinary service shall conform to the following standards:

- (a) All buildings shall be set back no less than 50 feet from any property line.
- (b) Landscaping shall be as required for Office use adjacent to an “R-1” Zoning District in Article XXV.
- (c) If animal kennels, pens or runs are proposed, then requirements for kennels set forth in Section 19.47 shall be fully complied with.

**Sections 19.68 Accessory Dwellings for an Immediate Family Member Requiring Special Care (Amended 4-18-2018)**

Accessory dwellings for the use of individuals requiring special care due to age, illness, or disability shall conform to the following standards:

1. The lot has a principal single-family dwelling located on it.
2. Accessory dwelling must be for a member of the property owner's immediate family (child/step-child, brother/sister, parent/parent-in-law, and grandparent/grandparent in-law)
3. The lot meets the lot size and width regulations of the zoning district in which it is located.
4. The accessory dwelling is not located within the front setback area and is not closer than 20 feet to any other lot line.
5. A certification signed by a licensed physician shall be presented to the Planning Commission stating that the need is present.
6. The accessory building shall be compatible in appearance to the dwelling on the property and dwellings in the area. In determining whether the proposed accessory building is compatible in appearance, the following shall be considered: exterior colors, materials, roof pitch, window coverage, landscaping and other features of the structure and site.
7. The proposed accessory dwelling shall meet the provisions of Section 21.9(b) and 21.9(c).
8. Written approval of the Barry Eaton District Health Department for well and septic hook up.
9. The accessory dwelling shall be removed within 90 days after the intended occupancy ceases.
10. Establishment of an escrow fund, in accordance with Section 28, in the amount of 125% of a written estimate to remove the structure and restore the site. Escrow fund must be in place prior to the placement of an accessory dwelling. The applicant shall obtain a written cost estimate for the complete removal of the accessory dwelling and site restoration. In the event the dwelling is not removed within 90 days after intended use ceases, the Township will use the escrow fee to pay for removal of structure and restoration of the site.
11. Subject to annual inspections of accessory use to ensure full compliance with special use permit and review of escrow amount.

**Section 19.69 Commercial Ground-mounted Solar Energy and Solar Farm Special Use Standards** *[As Amended Ordinance 2019-01 effective 9-21-2019]*

Intent and Purpose: To promote the use of Solar Energy within Thornapple Township as a clean alternative energy source and to provide for the land development, installation and construction regulations for large photovoltaic solar farm facilities subject to reasonable conditions that will protect the public health, safety and welfare. These regulations establish minimum requirements and standards for the placement, construction and modification of large photovoltaic

solar farm facilities, while promoting a renewable energy source for our community in a safe, effective and efficient manner.

1. Height Restrictions: All photovoltaic panels located in a solar farm shall be restricted to a height of fourteen (14) feet.
2. Setbacks:
  - a. All photovoltaic solar panels and support structures associated with such facilities (excluding perimeter security fencing) shall be a minimum of ten (10) feet from a side or rear property line and a minimum of forty (40) feet from any road or highway right-of-way.
  - b. All inverters and transformers must be at least 150 feet from all property lines.
3. Maximum Lot Coverage: Maximum lot coverage restrictions shall not apply to photovoltaic solar panels. Any other regulated structures on the parcel are subject to maximum lot coverage restrictions.
4. Safety/Access: A security fence (height and material to be established through the special use permit process) may be required to be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
5. Noise: No large photovoltaic solar farm facilities shall exceed sixty-five (65) dBA as measured at the property line.
6. Landscaping: Large photovoltaic solar farm facilities may be required to install perimeter landscaping equal to one (1) tree for each twenty-five (25) feet of road frontage. One (1) tree shall be required along the sides and rear of such developments equal to one (1) tree every twenty-five (25) feet of property line when abutting existing homes or developed parcels. The Planning Commission may alter the landscaping requirement depending upon the location and existing plant material on the site. Trees shall be a minimum of four (4) feet tall when planted and be maintained in good condition for the life of the large photovoltaic solar farm.
7. Local, State and Federal Permits: Large photovoltaic solar farm facilities shall be required to obtain all necessary permits from the U.S. Government, State of Michigan, and Thornapple Township, and comply with standards of the State of Michigan adopted codes.
8. Electrical Interconnections: All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be prohibited within the site.
9. Additional Special Use Criteria: The following topics shall be addressed in a Special Use application for such large photovoltaic solar farm facilities in addition to the Special Use Review Criteria:
  - (a) Project description and rationale: Identify the type, size, rated power output, performance, safety and noise characteristics of the

system, including the name and address of the manufacturer, and model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions;

- (b) Analysis of onsite traffic: Estimated construction jobs, estimated permanent jobs associated with the development;
- (c) Visual impacts: Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements;
- (d) Wildlife: Review potential impact on wildlife on the site;
- (e) Environmental analysis: Identify impact analysis on the water quality and water supply in the area, and dust from project activities;
- (f) Waste: Identify solid waste or hazardous waste generated by the project;
- (g) Lighting: Provide lighting plans showing all proposed lighting within the facility. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels, and light poles are restricted to eighteen (18) feet in height;
- (h) Transportation plan: Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system. Due to infrequent access to such facilities after construction is completed, it is not required to pave or curb solar panel access drives. It will be necessary to pave and curb any driveway and parking lots used for occupied offices that are located on site;
- (i) Public safety: Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, and to the community in general that may be created;
- (j) Sound limitations and review: Identify noise levels at the property line of the project boundary when completed;
- (k) Telecommunications interference: Identify electromagnetic fields and communications interference generated by the project;
- (l) Life of the project and final reclamation: Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment within six (6) months of decommissioning.

10. The Planning Commission Review: Because of the ever-changing technical capabilities of photovoltaic solar panels and of new technology in general,

the Planning Commission shall have the authority to review and consider alternatives in both dimensional requirements as well as physical development requirements found in this Section.

11. Performance Bond: Insurance

1) Bond

The solar operation shall not commence until such time as the permit holder has posted with the Township Clerk a performance bond in an amount determined by the Planning Commission, following recommendation of its experts, to be reasonably necessary to ensure reclamation of the site. The bond shall be in the form of cash, an irrevocable letter of credit issued by a banking or savings and loan institution licensed to do business in the State of Michigan, or a corporate surety bond issued by a company licensed for such purposes in the State of Michigan and subject to the review and approval of the Township. The conditions of such bonds shall be that, if the permit holder has satisfactorily reclaimed the property being the subject of the special use permit in accordance with the approved reclamation plan, the performance bond shall be returned to the permit holder; otherwise, the Township shall have the right to use the performance bond to the extent necessary to reclaim the property and to cover the costs of enforcing and bringing about compliance with this Ordinance, including reasonable attorney's fees. Irrevocable letters of credit and corporate surety bonds shall be in a form approved by the Township's attorneys.

The performance bond for reclamation shall be in the name of the applicant on the special use permit and, if different, the property owner.

The performance bond shall remain in effect with the Township until the parcel or parcels have been reclaimed, inspected and all equipment, machinery, materials, buildings and other operation related improvements removed as required by this Ordinance and/or by the terms of the special use permit.

In the establishment of the amount of the performance bond, the Planning Commission shall take into account the size and scope of the proposed operation, the maximum acreage allowed to be disturbed prior to requiring reclamation, the current and projected costs of reclamation in the event of default by the operator at such time as it is likely to be most costly, and other such conditions and factors as might be relevant in determining a sum reasonable in light of all the facts and circumstances.

The Planning Commission, may in its discretion, increase or decrease the amount of the performance bond, based upon increased costs, new information, or partial reclamation.

In the event that the permit holder chooses to post cash in lieu of an irrevocable letter of credit or corporate bond, as provided above, such cash may be deposited in an interest bearing account in control of the Township at a bank or savings and loan institution satisfactory to the Township, provided that all sums of deposit shall be readily accessible to the Township in the event of need. Such interest shall accrue for the benefit of the permit holder, or be paid over to the permit holder.

2) Insurance

Insurance shall be a pre-condition to commencement of operations. Insurance shall be a pre-condition to the right to continue operations. Insurance shall be maintained in full force during the term of special use approval. The permit holder shall provide personal injury and property damage insurance for the project to be carried by an insurance company licensed to do business in the State of Michigan during all times when any reclamation is left to be done, and during all times that any machinery and/or equipment remains on the site, or any structures, equipment or improvements to be removed remain on the site, said insurance to name the Township, its officers and employees as co-insured or additional insured. This insurance shall be carried in amounts no less than one Million Dollars (\$1,000,000.00) for injury and damage to more than one person's property arising out of single occurrence. This insurance shall cover injury or damage occurring upon the site of the operations, as well as injuries or damage occurring upon adjoining property as the result of conditions or activities conducted upon the subject property.

The insurance certificate shall contain a clause stating that, coverage to be the same as dates of the special land use permit. Insurance shall be in the name of the applicant on the special use permit and, if different, the property owner. The Township shall be identified as an additional insured on any such policy and the policy shall further provide that it may not be cancelled, revoked, or modified without first providing the Township with a minimum of 30 days written notice.

**Section 19.70 – Barn Event Venue**

(a) **Purpose and Intent.** The purpose of this section is to allow for productive and desirable use of post and beam buildings (often called barns) which were originally constructed for agricultural purposes but are no longer being used for

those purposes. The preservation of such buildings has a public benefit to the Township in maintaining rural character and the agricultural tradition of the Township. In addition, while location on an active operating farm is not required, adaptation of farm buildings to modern uses can enhance and financially support existing farm operations for the benefit of the rural character and promotion of agriculture within the Township.

In order to preserve compatibility with the neighborhood and the road system, and in recognition of a lack of public water, sewer and other public services, the operation of barn event venues is permitted only on a seasonal basis, with limited days and hours of operation, and other appropriate requirements. The use of a barn for wedding receptions and similar gatherings is subject to a special land use approval as an accessory use which is incidental and subordinate to the property's primary use: the single-family home.

(b) **Definition.** A "barn event venue," as described in this section and allowed as a special land use in the Agriculture (A) and Agriculture-Residential (AR) zoning districts, is defined as follows: The use of an existing post and beam building constituting a barn, originally constructed for agricultural uses, and made available currently on a lease or rental basis as a site for events which are open on an invitation only basis, such as weddings, receptions, birthday or anniversary parties, graduation open houses, or bridal or baby showers. Post and beam construction is a traditional building method characterized by heavy timbers carefully fitted and joined by wooden pegs or iron straps as the main structural support rather than dimensional lumber or metal.

(c) **Application.** In addition to a site plan as required for special land uses under Section 19.2(a)(3) and other application materials required by this Ordinance, an application for a barn event venue shall include all of the following:

(1) A narrative describing the plan for the operation of the business, including types of events, catering, alcohol service, proposed days and hours of operation, supervision by responsible parties, and other information necessary or useful to demonstrate compliance with the intent and purposes of the requested special land use approval and the requirements imposed herein.

(2) A written report by a qualified engineer, architect or builder stating at least a preliminary conclusion that the building proposed is in, or can be brought into, compliance with all applicable building, electrical, mechanical and structural codes and requirements applicable to a place of public assembly.

(3) Confirmation in writing from the Barry County Road Commission that a commercial driveway permit can be issued to provide access to the site and parking area.

(4) Verification of the date or approximate date upon which the building proposed for the use was originally constructed. The Zoning Administrator or Planning Commission may waive this requirement if it is obvious that the building was constructed prior to 1960.

(d) **Requirements.** In addition to the general requirements for special land use approval, the following specific requirements and standards shall also apply to a barn event venue:



(1) Existing Building. The building proposed to be used as the barn event venue shall have originally been constructed for farming or agricultural purposes prior to 1960. At least 60% of the main floor area of the barn shall be contained within a traditional post and beam framed barn building. This does not prevent remodeling or reinforcement of an existing building, or the construction of accessory buildings in support of the main building, as allowed in this section.

(2) Minimum Parcel Size. The barn event venue shall be located on a parcel of no less than 10 acres. The Planning Commission may modify the minimum acreage requirement for a particular use upon a finding that the use is compatible with adjacent or nearby properties and may be conducted in compliance with all other standards in this Ordinance on less than 10 acres. The size and capacity of the buildings, parking area, and sanitation facilities shall be capable of safely handling all of the events on the property.

(3) Operation by Occupants. The person(s) who operates the barn event venue shall have a primary residence on the same property. This shall not prevent the use of caterers or others to perform functions under the supervision of the operator of the business (who must live on the same property as the barn event venue). To assure continued compliance with this provision, notification of all transfers of property associated with a barn event venue special land use shall be given by the property owner to the Zoning Administrator at least 30 days prior to any such land transfer.

(4) Food and Beverage Service. Food and beverage service shall be provided by caterers, and not through a full-scale kitchen or the equivalent on the premises. Alcohol service is permitted by licensed caterers in compliance with the Michigan Liquor Control Code. This shall not prevent the installation of warming, storage, cooling or other equipment to assist the caterers in their operation.

(5) Seasons and Timing of Events. Events shall conform to the following schedule:

(i) Events shall be held only during the months of April through October (inclusive).

(ii) All events shall be completed by 11:00 p.m., and all guests shall vacate the premises by that time. Any cleanup activity shall be completed no later than 48 hours after an event. Alcohol service shall be concluded not later than 10:00 p.m. Any events held on Sundays shall conclude by 5:00 p.m. The Planning Commission may impose more restrictive days and hours of use for a given operation if appropriate to protect neighboring properties or nearby land uses.

(iv) Number of events: The Planning Commission shall set the maximum number of events per week between one (1) and three (3) events and is subject to annual review. The number of events shall be determined based on the location of the venue and potential impacts on neighboring properties and.

(6) Attendees. The maximum number of attendees shall be not more than 200, or such lesser number as may be specified by the Planning Commission, subject to the further limitation of the maximum capacity of the buildings as permitted by the Michigan Building Code and available parking. The Planning

Commission may also impose supplemental restrictions, such as a limit prohibiting more than one event with an attendance greater than a specified number of persons in any weekend, or limiting the number of events during a given time period.

(7) Amplified Music. Any speakers for amplified music or announcements shall be permitted only inside a fully enclosed building or structure. Amplified music shall comply with all Township noise ordinance requirements. In no event shall music, amplified or not, be reasonably detectable off the property.

(8) Parking. Off-street parking shall be provided as shown on the site plan approved pursuant to the special land use. The minimum number of spaces shall be as provided in Article XXIII, Table 23.1 “Minimum Parking Spaces Required”, for a banquet center. The Planning Commission may impose a maximum number of permitted vehicles, and shall require appropriate screening, fencing or other landscaping, and shall prohibit the parking of vehicles within a specified distance from the right-of-way line of adjacent streets and provide other regulations to assure that vehicles are arranged in a safe manner, consistent with neighboring lands and uses. Any temporary banners, sawhorses, cones or other devices used to mark parking areas and direct traffic will be installed no more than 48 hours before an event and removed no later than 48 hours after an event. No parking whatsoever shall occur on public roads, even if permitted by Road Commission regulations, and violation of this requirement shall constitute grounds for revocation of the special land use approval.

(9) Parking Surface. Barn event venue parking areas may have a grass surface if maintained in a dust and mud free condition. For more permanent parking, Article XXIII shall control, except that the Planning Commission may grant a parking modification with respect to the amount of parking area required to be paved, and allow (or require) parking on gravel, crushed concrete, grass, and similar areas, upon finding that a paved parking would result in unnecessary amounts of paved parking area for the particular needs of the proposed use and that adequate parking for the business on non-paved areas as clearly designated on the approved site plan is safe, sufficient and is compatible with adjacent or nearby properties. Dust and mud conditions shall, in all events, be controlled and avoided.

(10) External Lighting. Small lantern lights not over eight feet above ground may be used to supplement existing lights. Additional exterior lighting shall only be in compliance with the Zoning Ordinance and shall require the approval of the Zoning Administrator. No lighting shall shine onto adjacent properties. Supplemental exterior lighting shall only be used during scheduled events.

(11) Temporary Structures. Any tent or other temporary structure which is constructed or installed in addition to the existing buildings and structures, so as to accommodate an event, shall be installed no more than 48 hours before an event and shall be dismantled and removed no more than 48 hours after an event.

(12) Signage. One permanent sign shall be permitted in the same manner as allowed for permitted non-residential uses in the zoning district involved.

Temporary signage providing additional identification of the location and parking areas may be used only on the day of the scheduled event.

(13) Toilets and Lavatory Facilities. Toilets and lavatory facilities shall be provided in accordance with the Michigan Building Code and applicable health department regulations, including handicap accessibility when required, but in no event shall less than two separate toilets and lavatory facilities be provided. The applicant may use portable facilities which, if used, shall be located as shown on the approved site plan.

(14) Trash and Refuse. All trash and refuse management must comply with Article XXI Section 21.19, Refuse Management in All Zoning Districts.

(15) Responsible Party. The property owner shall be responsible for all operations at the barn event venue site. The applicant shall designate to the Township a responsible party, with cellular and other phone contact, who is one of the owners or residents of the property, as a contact in case there are problems during the course of an event. The contact person shall at all times be available on the property during an event or shall designate to the Township the person who shall be at the site, available by phone and responsible (in addition to the named property owner) during an event. As a condition of special land use approval, the property owner shall be responsible for compliance with all of the conditions of the special land use approval and this Ordinance, regardless of whether violations are actually committed by employees, contactors, guests or others.

(16) Setback Requirements. All buildings and structures on the site shall comply with the minimum setback requirements of the zoning district in which they are located, unless the Planning Commission imposes a greater setback requirement. An existing legal non-conforming building and structure shall not be used for the business if such building or structure does not meet the current minimum setback requirements.

(17) Traffic Control and Security. If necessary, to ensure that traffic entering or exiting the property moves promptly and safely into and out of the parking area, security personnel shall be supplied by the property owner to direct traffic on site. Also, security personnel shall be provided by the property owner to the extent necessary to ensure that good order and safety are maintained during all events.

(18) Auxiliary Structures. It is the intention of this section that significant additional buildings generally not be constructed to support the barn event venue. Auxiliary structures connected with the barn event venue, such as gazebos, pavilions and restroom facilities may be constructed as shown on the approved site plan. Auxiliary structures constructed to support the barn event venue shall not exceed a total area of 1,200 square feet.

(19) Noise. A barn event venue business, and all uses, events, programs and activities connected with the operation, shall not create, assist in creating, continue or permit the continuation of any excessive or unnecessary noise or loud disturbances.

(20) Compliance with all Laws, Regulations and Permits. All required federal, state, county and local permits for each use, event, program or activity shall be

secured and maintained by the applicant, including but not limited to the following:

- (i) Buildings, including but not limited to barns, shall not be used in the business until documentation is provided to the Township from a certified architect or engineer that the building so used is structurally sound and safe for the proposed activity. In addition, all buildings used in the business shall be inspected by and shall pass inspection by the Township building, electrical and other inspectors for all proposed uses of the building for the business.
  - (ii) Food provided for the business shall be prepared offsite by a licensed caterer in accordance with Barry-Eaton District Health Department requirements.
  - (iii) Alcoholic beverages shall not be provided unless the caterer secures and maintains an appropriate license from the Michigan Liquor Control Commission.
  - (iv) Barry County driveway permits are necessary for ingress and egress from the site.
  - (v) All buildings and structures shall be kept in a good, safe and sanitary condition and in compliance with all applicable building and construction codes.
- (21) Insurance. The landowner shall have (and keep in effect) liability insurance covering the business in an amount not less than \$1,000,000 adjusted every five (5) years pursuant to the Federal Consumer Price Index (or successor index). The applicant shall provide written proof of such insurance to the Township upon the Township's request.
- (22) Additional Requirements. The Planning Commission is authorized to impose additional conditions and limitations upon the operation of the business concerning traffic, traffic patterns, parking arrangements, frequency of events, noises and disturbances and other operational aspects based on experience with the operation based on annual compliance inspections and/or complaints.
- (23) Violations. Violation of the conditions of a special land use approved under this section shall constitute a violation of the Zoning Ordinance. Repeated or serious violations of the conditions of approval are grounds for revocation of the special land use, following notice and a public hearing by the Planning Commission. The requirements of this section shall be incorporated into the approval of the special land use and compliance herewith shall be a continued requirement for operation of the special land use. *[amended 3-28-2020]*

#### **Article XIX Section 19.71 – Greenhouse Special Event Venue**

(a) **Purpose and Intent**. The purpose of this section is to allow for productive and desirable ancillary use of greenhouses and retail greenhouses for hosting a limited number of special events unrelated to the regular and customary activities associated with greenhouses.

In order to preserve compatibility with the neighborhood and the road system, and in recognition of a lack of public water, sewer and other public services, the operation of greenhouse special event venues is permitted only on a seasonal basis, with limited days and hours of operation, and other appropriate requirements.

The use of a greenhouse for wedding receptions and similar gatherings is subject to special land use approval as an accessory use which is incidental and subordinate to the property's primary use: greenhouse.

(b) **Definition.** A Greenhouse Special Event Venue, as described in this section and referred to as a special land use in the Agriculture (A) and Agriculture-Residential (AR) zoning districts, is defined as follows: The use of an existing greenhouse building, originally constructed for greenhouse growing or retail uses, and made available as a venue for special events unrelated to the regular and customary activities associated with greenhouses, which are open on an invitation only basis such as weddings, receptions, birthday or anniversary parties, graduation open houses, or bridal or baby showers.

(c) **Application.** In addition to a site plan as required for special land uses under Article XIX, Section 19.2(a)(3) and other application materials required by this Ordinance, an application for a Greenhouse Special Event Venue shall include all of the following:

(1) A narrative describing the plan for the operation of the business, including types of events, catering, alcohol service, proposed days and hours of operation, supervision by responsible parties, and other information necessary or useful to demonstrate compliance with the intent and purposes of this special land use and the requirements imposed herein.

(2) A written report by a qualified engineer, architect or builder stating at least a preliminary conclusion that the building proposed is in, or can be brought into, compliance with all applicable building, electrical, mechanical and structural codes and requirements applicable to a place of public assembly.

(3) Confirmation from the Barry County Road Commission that a commercial driveway permit can be issued to provide access to the greenhouse special event venue and parking area.

(d) **Requirements.** In addition to the general requirements for special land use approval, the following specific requirements also apply to a Greenhouse Special Event Venue:

(1) A greenhouse special event venue is considered an ancillary use only: The use of a greenhouse as a special event venue must be subordinate to the principal and continuing use as an operating greenhouse.

(2) Number of events: The Planning Commission shall set the maximum number of special events per week between one (1) and three (3) events and is subject to annual review. The number of events shall be determined based on the location of the venue and potential impacts on neighboring properties.

(3) Existing Building. The building proposed as the venue shall have originally been constructed as a greenhouse and still used as such.

(4) Minimum Parcel Size. The event venue shall be located on a parcel of no less than 10 acres. The Planning Commission may modify the minimum acreage requirement for a particular use upon a finding that the use is compatible with adjacent or nearby properties and may be conducted in compliance with the other standards in this Ordinance on less than 10 acres. The size and capacity of the buildings, parking area, and sanitation facilities shall be capable of safely handling all of the events on the property.

(5) Operation by Occupants. The person who operates the greenhouse special event venue shall have a primary residence on or adjacent to the property with the greenhouse. This shall not prevent the use of caterers or others from performing functions under the supervision of the operator of the business. To assure continued compliance with this provision, notification of all transfers of property associated with a greenhouse special event venue special land use shall be given by the property owner to the Zoning Administrator at least 30 days prior to any such land transfer.

(6) Food and Beverage Service. Food and beverage service shall be provided by caterers, and not pursuant to a full-scale kitchen (or the equivalent) on the premises. Alcohol service is allowed by licensed caterers in compliance with the Michigan Liquor Control Code. This shall not prevent the installation of warming, storage, cooling or other equipment to assist the caterers in their operation.

(7) Seasons and Timing of Events. Events unrelated to the regular and customary activities associated with greenhouses shall conform to all of the following schedule requirements:

(i) Events shall be held only during the months of April through October (inclusive).

(ii) All events shall be completed by 11:00 p.m., and guests shall vacate the premises by that time. Any cleanup activity shall be completed no later than 48 hours after an event. Alcohol service shall be concluded not later than 10:00 p.m. Any events held on Sundays shall conclude by 5:00 p.m. The Planning Commission may impose more restrictive days and hours of operation if appropriate to protect neighboring properties or land uses.

(8) Attendees. The maximum number of attendees shall be not more than 200, or such lesser number as is specified by the Planning Commission, subject to the further limitation of the maximum capacity of the buildings as permitted by the Michigan Building Code and available parking. The Planning Commission may also impose supplemental restrictions, such as a limit prohibiting more than one event with an attendance greater than a specified number of persons in any weekend, or limiting the number of events in a weekend.

(9) Amplified Music. Any speakers for amplified music or announcements shall be permitted only inside a fully enclosed building or structure. Amplified music shall comply with all Township noise ordinance requirements. In no event shall music, amplified or not, be reasonably detectable off the property.

(10) Parking. Off-street parking shall be provided as shown on the approved site plan. The minimum number of spaces shall be as provided in Article XXIII, Table 23.1 “Minimum Parking Spaces Required”, for a banquet center. The Planning Commission may impose a maximum number of permitted vehicles, and shall require appropriate screening, fencing or other landscaping, and shall prohibit the parking of vehicles within a specified distance from the right-of-way line of adjacent streets and provide other regulations to assure that vehicles are arranged in a safe manner, consistent with neighboring lands and uses. Any temporary banners, sawhorses, cones or other devices used to mark parking areas and direct traffic will be installed no more than 48 hours before an event

and shall be removed no later than 48 hours after an event. No parking whatsoever shall occur on public roads, even if permitted by Road Commission regulations, and violation of this requirement shall constitute grounds for revocation of the special land use approval.

(11) Parking Surface. Venue parking areas may have a grass surface if maintained in a dust and mud free condition. For more permanent parking, Article XXIII shall control, except that the Planning Commission may grant a parking modification with respect to the amount of parking area required to be paved, and allow (or require) parking on gravel, crushed concrete, grass, and similar areas, upon a finding that paved parking would result in unnecessary amounts of paved parking area for the particular needs of the proposed use and that adequate parking for the business on non-paved areas as clearly designated on the site plan is safe, adequate and is compatible with adjacent or nearby properties. Dust and mud conditions shall, in all events, be controlled and avoided.

(12) External Lighting. Small lantern lights not over eight feet above ground may be used to supplement existing lights. Additional exterior lighting shall be in compliance with the Zoning Ordinance and shall require the approval of the Zoning Administrator. No lighting shall shine onto adjacent properties. Supplemental exterior lighting shall only be used during scheduled events.

(13) Temporary Structures. Any tent or other temporary structure which is constructed in addition to the existing buildings and structures, so as to accommodate an event, shall be installed no more than 48 hours before an event and shall be dismantled and removed no more than 48 hours after an event.

(14) Signage. No additional signage, other than that allowed for the principle use as a greenhouse, is permitted.

(15) Toilets and Lavatory Facilities. Toilets and lavatory facilities shall be provided in accordance with the Michigan Building Code and applicable health department regulations, including handicap accessibility when required, but in no event shall less than two separate toilets and lavatory facilities be provided. The applicant may use portable facilities which, if used, shall be located as shown on the approved site plan.

(16) Trash and Refuse. All trash and refuse management must comply with Article XXI Section 21.19, Refuse Management in All Zoning Districts.

(17) Responsible Party. The property owner shall be responsible for all operations at the site. The applicant shall designate to the Township a responsible party, with cellular and other phone contact, who is one of the owners or residents of the property, as a contact in case there are problems during the course of an event. The contact person shall at all times be available on the property during an event or shall designate to the Township the person who shall be at the site, available by phone and responsible (in addition to the named property owner) during an event. As a condition of special land use approval, the property owner shall be responsible for compliance with all of the conditions of the special land use approval and this Ordinance, regardless of

whether violations are actually committed by employees, contactors, guests or others.

(18) Setback Requirements. All buildings and structures on the site shall conform to the minimum setback requirements of the zoning district in which it is located, unless the Planning Commission imposes a greater setback requirement. An existing legal non-conforming building and structure shall not be used for the business if such building or structure does not meet the current minimum setback requirements.

(19) Traffic Control and Security. If necessary, to ensure that traffic entering or exiting the property moves promptly and safely into and out of the parking area, security personnel shall be supplied by the property owner to direct traffic. Also, security personnel shall be provided by the property owner to the extent necessary to ensure that good order and safety are maintained during all events.

(20) Auxiliary Structures. It is the intention of this section that significant additional buildings generally not be constructed to support the event venue. Auxiliary structures connected with the event venue, such as gazebos, pavilions and restroom facilities, may be constructed as shown on the approved site plan. Auxiliary structures constructed to support the event venue shall not exceed a total area of 1,200 square feet.

(21) Noise. A greenhouse special event venue business, and all uses, events, programs or activities connected with the business, shall not create, assist in creating, continue or permit the continuation of any excessive or unnecessarily loud disturbances.

(22) Compliance with Laws, Regulations and Permits. All required federal, state, county and local permits for each use, event, program or activity shall be secured and maintained by the applicant, including, but not limited to, the following:

(i) Buildings, including but not limited to the greenhouse, shall not be used in the business until documentation is provided to the Township from a certified architect or engineer that the building so used is structurally sound and safe for the proposed activity. In addition, all buildings used in the business shall be inspected by and shall pass inspection by the Township building, electrical and other inspectors for all proposed uses of the building for the business.

(ii) Food provided for the business shall be prepared offsite by a licensed caterer in accordance with the Barry-Eaton District Health Department requirements.

(iii) Alcoholic beverages shall not be provided unless the caterer secures and maintains an appropriate license from the Michigan Liquor Control Commission.

(iv) Barry County driveway permits are necessary for ingress and egress from the site.

(v) All buildings and structures shall be kept in good condition and repair at all times and in compliance with all applicable building and construction codes.

(23) Additional Requirements. The Planning Commission is authorized to impose additional conditions and limitations upon the operation of the business concerning traffic, traffic patterns, parking arrangements, frequency of events,



noises and disturbances and other operational aspects based on experience with the operation, annual compliance inspections and/or complaints.

(24) Violations. A violation of any of the conditions of a special land use approval under this section shall constitute a violation of the Zoning Ordinance. Repeated or serious violations of the conditions of approval are grounds for revocation of the special land use approval, following notice and a public hearing by the Planning Commission. The requirements of this section shall be incorporated into the approval of the special land use and compliance herewith shall be a continued requirement for operation of the special land use.

(25) Insurance. The landowner shall have (and keep in effect) liability insurance covering the business in an amount not less than \$1,000,000 adjusted every five (5) years pursuant to the Federal Consumer Price Index (or successor index). The applicant shall provide written proof of such insurance to the Township upon the Township's request. *[amended 3-28-2020]*

**Sections 19.72 – 19.99 *[Reserved]***