

ORDINANCE NO. 49Q

BAINBRIDGE TOWNSHIP

Berrien County, Michigan

ZONING ORDINANCE

Adopted July 9, 2018
Published July 12, 2018
Effective July 23, 2018

Prepared By

Bainbridge Township Planning Commission

And

Bainbridge Township Board of Trustees

ORDINANCE NUMBER 49
BAINBRIDGE TOWNSHIP ZONING ORDINANCE

INDEX

ARTICLE I	ESTABLISHMENT OF ZONING DISTRICTS AND PROVISION FOR OFFICIAL ZONING MAP	Page 2
ARTICLE II	DISTRICT BOUNDARY LINES	Page 3
ARTICLE III	APPLICATION OF REGULATIONS	Page 4
ARTICLE IV	NONCONFORMING LOTS, USES AND STRUCTURES	Page 5-10
ARTICLE V	SCHEDULE OF DISTRICT REGULATIONS	Page 11-28
	<ul style="list-style-type: none">• 5.01 District Regulations• 5.02 Residential Agriculture District• 5.03 Single Family District• 5.04 Multiple Family District• 5.05 Mobile Home District• 5.06 Commercial District• 5.07 Commercial Agriculture District• 5.08 Industrial District• 5.09 Agriculture District• 5.10 Set Backs and Lot Size• 5.11 Building Floor Size• 5.12 Additional Regulations Ag District	
ARTICLE VI	SUPPLEMENTARY DISTRICT REGULATIONS	Page 29-39
	<ul style="list-style-type: none">• 6.01 Visibility at Intersections• 6.02 Accessory Buildings• 6.03 One Dwelling Upon a Lot of Record• 6.04 Temporary Occupancy while Building• 6.05 Exceptions to Height• 6.06 Structure to Have Access• 6.07 Animals and Poultry• 6.08 Rummage Sales• 6.09 Swimming Pools• 6.10 Lake Front Setbacks• 6.11 Temporary Dwelling Structures• 6.12 Fences• 6.13 Gates• 6.14 Off-Site Roadside Stand	
ARTICLE VII	SIGNS	Page 40-41
ARTICLE VIII	HOME OCCUPATIONS	Page 42-43
ARTICLE IX	OFF-STREET PARKING AND LOADING REGULATIONS	Page 44-48
ARTICLE X	SPECIAL LAND USES	Page 49-54
ARTICLE XI	SITE PLAN AND SCALED DRAWING REQUIREMENTS	Page 55-58
ARTICLE XII	ADMINISTRATION, ENFORCEMENT AND VIOLATIONS	Page 59-61
ARTICLE XIII	APPEALS	Page 62-67
ARTICLE XIV	SCHEDULE OF FEES AND EXPENSES	Page 68
ARTICLE XV	AMENDMENTS	Page 69-71
ARTICLE XVI	GENERAL PROVISIONS	Page 72

ARTICLE XVII	PLANNED UNIT DEVELOPMENT	Page 73-80
ARTICLE XVIII	PRIVATE ROADS	Page 81-86
ARTICLE XIX	TELECOMMUNICATION TOWERS	Page 87-92
ARTICLE XX	LAND DIVISION AND CONDOMINIUM REGULATIONS	Page 93-101
ARTICLE XXI	EXCAVATION	Page 102-108
ARTICLE XXII	POWER GENERATION FACILITIES	Page 109-112
ARTICLE XXIII	CONDITIONAL REZONING	Page 113-117
ARTICLE XXIV	EARTH CHANGE	Page 118-121
ARTICLE XXV	WIND ENERGY CONVERSION SYSTEM	Page 122-128
ARTICLE XXVI	DEFINITIONS	Page 129-145
ARTICLE XXVII	ZONING MAP	Page 146
ARTICLE XXVIII	REPEALS OF CONFLICTING, SEVERABILITY ORDINANCES, SEVERABILITY ADOPTION AND EFFECTIVE DATE	Page 147-148

ZONING ORDINANCE

TOWNSHIP OF BAINBRIDGE BERRIEN COUNTY, MICHIGAN Ordinance No. 49Q

Approved Date: _____

Effective Date: _____

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWNSHIP OF BAINBRIDGE, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE TOWNSHIP RURAL ZONING ACT, ACT 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith AND TO PROVIDE PENALTIES FOR VIOLATIONS HEREOF.

WHEREAS, Act 184, P.A. 1943 as amended, empowers the Township to enact a zoning ordinance and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Township Board of Bainbridge Township deems it necessary for the purpose of promoting and protecting the health, safety, morals and general welfare of the people of the Township of Bainbridge to enact such an ordinance; and

WHEREAS, the Township Board, pursuant to the provisions of Michigan Zoning Enabling Act, Act 110 of 2006, as amended, has appointed a Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein; and

WHEREAS, the Planning Commission has divided the Township of Bainbridge, hereinafter referred to as "the Township", into districts and has prepared regulations pertaining to such districts and has prepared regulations pertaining to such districts in accordance with a basic plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the public health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the Township, and

WHEREAS, the Planning Commission has given due notice of public hearing relating to zoning districts, regulations, and restrictions, and has held such public hearing; and

WHEREAS, all requirements of Michigan Zoning Enabling Act, Act 110 of 2006, as amended, with regard to the preparation of this Ordinance 49Q and subsequent action of the Township Board have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP OF BAINBRIDGE, BERRIEN COUNTY, MICHIGAN, AS FOLLOWS:

ARTICLE I

Establishment of Zoning Districts and Provision for Official Zoning Map

Section 1.01 – Official Zoning Map

- A. The Township is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- B. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and shall bear the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map referred to in Article I of Zoning Ordinance Number 49Q of the Township of Bainbridge, Berrien County, Michigan," together with the date of adoption of this Ordinance.
- C. If in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within ten (10) days after the amendment has been approved by the Township Board, with an entry on the Official Zoning Map as follows: "On (date), by official action of the Township Board, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Township Supervisor and attested by the Township Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.
- D. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in Article XII (12).
- E. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Township Assessor shall be the final authority as to the current zoning status of land and water areas, building, and other structures in the Township.

Section 1.02 – Replacement of Official Zoning Map

- A. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Township Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and shall bear the seal of the Township under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Zoning Ordinance 49Q of the Township of Bainbridge, Berrien County, Michigan."
- B. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE II

Rules for Interpretation of District Boundaries

Section 2.01 – District Boundary Lines

- A. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed as following such center lines;
 2. Boundaries indicated as approximately following property, parcel, or lot lines shall be construed as following such lines;
 3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;
 4. Boundaries indicated as following Township section lines shall be construed as following such section lines;
 5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
 6. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
 7. Boundaries indicated as parallel to or extensions of features indicated in items 1 through 6 above shall be so construed;
 8. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
 9. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by items 1 through 7 above, the Board of Appeals shall interpret the district boundaries; and
 10. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit, as a Special Land Use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

ARTICLE III

Application of District Regulations

Section 3.01 – Application of Regulations

- A. A Zoning Permit must be issued to comply with the regulations set forth by this Ordinance within each district and shall be minimum regulations and shall apply uniformly to each class or kind of structure or land within a zoning district, and particularly, except as hereinafter provided:
1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
 2. No building or other structure shall hereafter be erected or altered to:
 - a. Exceed the height or bulk;
 - b. Accommodate or house a greater number of families;
 - c. Occupy a greater percentage of lot area; or
 - d. Have narrower or smaller rear yards, or other open spaces than herein required; or be erected or altered in any other manner contrary to the provisions of this Ordinance.
 3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
 4. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
 5. Essential services as hereinafter defined in the “Definitions” Section shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention to exempt such essential services from the application of this Ordinance.

ARTICLE IV

Nonconforming Lots, Uses, and Structures

Section 4.01 – Intent

- A. Within the districts established by the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) , or any subsequent amendments thereto, there exist lots, structures, uses of land, uses of land and structures, and characteristics of use which were lawful before Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of Ordinance 49Q or future amendments, It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their continuation. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. Upon application, the Zoning Board of Appeals may permit the rebuilding of a nonconforming residential structure destroyed by fire or other acts of God provided however, that the rebuilding will:
1. Be entirely contained within the prior building footprint of the nonconforming residential structure;
 - The rebuilding will not expand any nonconformity; and
 3. That such rebuilding would not interfere with the ability of the fire department to access the building or site for fire protection services.
- C. Nonconforming uses are declared by the Bainbridge Township Zoning Ordinance, (August 26, 2002), or any subsequent amendments thereto, to be incompatible with permitted uses in the districts involved. A nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto, by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- D. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has commenced preparatory to rebuilding, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 4.02 – Nonconforming Lots of Record

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of P.A. 87 of 1997 The Land Division Act, as amended (March 31, 1997) notwithstanding limitations imposed by other provisions of this Ordinance, provided erection of such dwellings and buildings is in accordance with all other applicable Township, County, State or Federal laws, rules or regulations. Such lot must be in

Section 4.02 – Nonconforming Lots of Record (Continued)

separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in obtained only through the issuance of a variance by the Zoning Board of Appeals in accordance with Article XIII (13).

- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of P.A. 87 of 1997 The Land Division Act, as amended (March 31, 1997) and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, except as provided in Paragraph C, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance. The burden of proof establishing ownership of two or more lots subject to the requirements of this section shall be the records of the Berrien County Land Description Office at the adoption of P.A. 87 of 1997 The Land Division Act, as amended (March 31, 1997)
- C. Upon application by a property owner of two, or more, adjoining lots or parcels, where one lot meets the minimum road frontage requirement of the zoning district in which the property is located but the other lot fails to meet the minimum road frontage requirements in the following situations:
 - 1. One Acre Agriculture Designated Lot Split: Where a parcel of land was existing on or before 1975 that was divided pursuant to the provisions of the past Bainbridge Township 1975 Zoning Ordinance creating a lot used for construction of a new residential dwelling, one (1) acre or larger; that created the lot frontage distance for one of the parcels that does not conform to the requirements of this Ordinance, or;
 - 2. Parcel Divided Prior to the Land Division Act: Where a parcel of land was existing on or before adoption of P.A. 87 of 1997 The Land Division Act, as amended (March 31, 1997), that was split and recorded with the Berrien County Register of Deeds, that created a lot frontage distance for one of the parcels that does not conform to the requirements of this Ordinance, or
 - 3. Existing Parcel with Inadequate Road Frontage: Where a parcel exists and in the determination of the Zoning Board of Appeals, that the total frontage distance is inadequate to allow the division from the parent parcel of one, not less than two (2) acre lot to be used for construction or dividing out an existing single family dwelling,
- D. The Zoning Board of Appeals may vary the minimum road frontage requirement on the nonconforming lot provided that:
 - 1. The division of the property was completed under the one (1) acre rule of the ~~current~~ ~~or~~ past Bainbridge Township 1975 Zoning Ordinance which allowed for the dividing of a parent property specifically for the purpose separating the homestead from remaining farmland or to divide a property to allow a second home to be constructed from land originally part of the parent property; this provision shall be valid and allowed until June 30, 2005 at which time it shall expire, and not be permitted after June 30, 2005.

Section 4.02 – Nonconforming Lots of Record (Continued)

2. The property not conforming with the minimum road frontage requirements meets or exceeds the minimum lot size requirement of the district in which the property is located; the Zoning Board of Appeals, may require the placement of the residential building to conform with front, side and rear yard setback requirements of the district in which the property is located including sufficient land area to provide for a future sixty-six (66) foot road right-of-way to provide for future access to the rear portion of the property should future subdivision of the property be considered; and
3. Require the property owner to record a memorandum with the Berrien County Register of Deeds defining the location of the future right-of-way and the location of the residential building footprint location.

Section 4.03 – Nonconforming Uses of Land (Or Land with Minor Structures Only)

- A. Where at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002), or any subsequent amendments thereto, a lawful use of land exists which would not be permitted by the regulations of this Ordinance, and where such use involves no individual structure with a replacement cost exceeding One Thousand (1,000) Dollars, the use may be continued so long as it remains otherwise lawful, provided:
 1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002), or any subsequent amendments thereto;
 2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto.
 3. If any such nonconforming use of land ceases for any reason for a period of more than one six (6) months any subsequent use of such land shall conform to the regulations specified by the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto for the district in which such land is located;
 4. No additional structure not conforming to the requirements specified by the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto shall be erected in connection with such nonconforming use of land.
 5. The burden of proof concerning the initial date of abandonment of a nonconforming use and period of discontinuance shall be solely the responsibility of the property owner.

Section 4.04 – Nonconforming Structures

- A. Where a lawful structure exists at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
 2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
 3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 4.05 – Nonconforming Uses of Structures or of Structures and Premises in Combination

- A. If lawful use involving individual structures with a replacement cost of One Thousand (1,000) Dollars or more, or of structure and premises in combination, exists at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No existing structure devoted to a use not permitted by the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
 2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto, but no such use shall be extended to occupy any additional land outside such building;
 3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises may, as a Special Land Use be changed to another nonconforming use provided the Planning Commission, either by general rule or by making findings in the specific case, shall find the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
 4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not hereafter be resumed;

Section 4.05 – Nonconforming Uses of Structures or of Structures and Premises in Combination (continued)

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months (except when circumstances beyond the control of the owner impede access to the premises), the structure, or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located. If the structure is defined as a mobile home, (a vehicular, portable structure, which is built on a chassis), then it shall be removed within six (six) months; and
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost, as determined by the Township Assessor, at the time of destruction.

Section 4.06 – Repairs and Maintenance

- A. Except as provided by Section 4.04, A.2, and Paragraph B, below, on any nonconforming use structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the current replacement cost, as determined by the Township Assessor, of the nonconforming structure or nonconforming portion of the structure as the case may be, provided the cubic content existing when it became nonconforming shall not be increased.
- B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the Zoning Administrator to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Section 4.07 – Uses Under Special Exception Provisions are not Nonconforming Uses

- A. Any use, which is approved by the Planning Commission after the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto as a Special Land Use, in a district under the terms of this Ordinance in accordance with Article X (10), shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use. The Planning Commission may approve as a Special Land Use a use existing prior to the effective date of effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto, subject to the limitations and conditions of this Ordinance as though such existing use were a newly initiated use, in which case the use would thereafter have the status of a conforming use as provided for above.

Section 4.08 – Determination/Certificate of Nonconformity

- A. The burden of proof to establish that the occupancy or use or combination thereof, (including Home Occupations, Special Land Use and Off -Site Signs) of any nonconforming lot, building, or structure or combination thereof, existed at the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto rests with the property owner, tenant, or any party having interest in the real estate subject to the nonconformity.
- B. Upon the effective date of adoption of the Bainbridge Township Zoning Ordinance (August 26, 2002) or any subsequent amendments thereto, any property owner, lessee, tenant, or other party having interest in any nonconforming lot, building, structure or any combination thereof, may make application for a determination of nonconformity with the Zoning Administrator. Upon receipt of an application, the Zoning Administrator shall make an inspection of the property and make a determination as to the location, extent and specific nature of all existing nonconformity and issue a certificate of nonconformity for the subject property as of the effective date of adoption of the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto.

ARTICLE V

Schedule of District Regulations Adopted

Section 5.01 – District Regulations

- A. District regulations shall be as set forth in the “Schedule of District Regulations” contained in this Article and in “Supplementary District Regulations” contained in Article VI (6), which is hereby adopted by reference and declared to be a part of this Ordinance.
- B. Where two lots are adjoining, a landowner may separate land from one lot and attach the land to the adjoining lot so long as the remaining lot meets all the requirements of this ordinance.

SECTION 5.02 – SCHEDULE OF DISTRICT REGULATIONS

R-AG, Residential Agricultural

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>R-AG RESIDENTIAL – AGRICULTURAL DISTRICT</p> <p>The intent of this district is to provide for a rural residential agricultural-oriented environment for families typically with children. To this end uses are basically limited to single-family dwellings and small-scale agricultural activities not incompatible with residential uses.</p>	<ol style="list-style-type: none"> 1. Single-family dwellings subject to yard, height and lot size requirements for this district. 2. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of 6.04. 	<ol style="list-style-type: none"> 1. Private garage. 2. Garden house, tool house, children play house, green house, boat house, pump house and pool house. 3. Swimming pool 6.09. 4. Automobile parking for the domestic use of occupants of the dwelling. 5. All accessory buildings 6.02. 6. Roadside Stands 6.14. A. 7. Animals 6.07 A and C. 8. Small Wind Energy Conversion System 25.03. 9. Farm Labor Housing 6.03 C. 	<ol style="list-style-type: none"> 1. House of worship, parish houses convents, and/or monastery. 2. Schools and Day Care. 3. Public recreation uses such as parks, playgrounds, golf courses, driving ranges, ball fields, stadiums, community centers, athletic and recreation clubs 4. Governmental buildings, libraries, museums, public utility buildings, telephone exchange buildings, electric power transformer stations, fire station, gas regulator station. 5. Hospitals, clinics, hospice facilities and nursing homes. 6. Cemeteries. 7. Home Occupations. 8.0. 8. Excavating Operations. 21.0. 9. Bed and Breakfast Home Occupation. 8.05. 10. Planned Unit/Cluster Development 17.0. 11. Condominium 20.0. 12. Telecommunication Towers 19.0. 13. Stables of horses for hire, boarding, riding and training academies. 14. Kennels. 15. Boat Liveries 16. Microbrewery, distillery, winery or tasting facility. 17. Guest Houses 6.03 B. 18. Private Road 18.0. 19. Earth Change 24.0.

SECTION 5.03 – SCHEDULE OF DISTRICT REGULATIONS

R-1, Single Family Residential

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT</p> <p>To provide for a suitable residential environment for families typically with children. To this end, uses are basically limited to single-family typically with children. To this end, uses are basically limited to single-family dwellings together with certain other uses such as schools, parks and playgrounds which provide a neighborhood environment. In keeping with the intent, development is regulated to a relatively low density. Commercial and other uses tending to be incompatible with the intent of this district are prohibited.</p>	<ol style="list-style-type: none"> 1. Single-family dwellings subject to the yard, height and lot size requirements of this district. 2. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of 6.04. 	<ol style="list-style-type: none"> 1. Private garage. 2. Garden house, tool house, children play house, green house, boat house, pump house and pool house. 3. Swimming pool 6.09. 4. Automobile parking for the domestic use of occupants of the dwelling. 5. All accessory buildings 6.02. 6. Roadside Stand 6.14 A. 7. Animals 6.07 A and C. 8. Small Wind Energy Conversion System 25.03 9. Farm Labor Housing 6.03 C 	<ol style="list-style-type: none"> 1. House of worship, parish houses, convents, and/or monastery. 2. Schools, and Day Care 3. Public recreation uses such as parks, playgrounds, golf courses, driving ranges, ball fields, stadiums, community centers, athletic and recreation clubs. 4. Governmental buildings, libraries, museums, public utility buildings, telephone exchange buildings, electric power transformer stations, fire station, gas regulator station. 5. Hospitals, clinics, hospice facilities and nursing homes. 6. Cemeteries. 7. Home Occupations. 8.0. 8. Bed and Breakfast Home Occupation 8.0. 9. Planned Unit/Cluster Development. 17.00. 10. Condominium. 20.00. 11. Boat Liveries. 12. Guest Houses 6.03 B. 13. Private Roads 18.0.

SECTION 5.04 – SCHEDULE OF DISTRICT REGULATIONS

R-2, Multiple-Family Residential District

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT</p> <p>Intent is primarily the same as the R1-Single-Family District, but permitting a relatively higher density, diversification and variety of the community's housing stock through certain special land uses.</p> <p>Multi-unit dwellings not exceeding four (4) individual units per each structure.</p>	<ol style="list-style-type: none"> 1. Single-family dwellings subject to the yard, height and lot size requirements of this district. 2. Multi-Family dwellings i.e., duplexes, apartment complex up to four (4) units each structure. 3. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of 6.04. 	<ol style="list-style-type: none"> 1. Private garage. 2. Garden house, tool house, children playhouse, green house, boathouse, pump house and pool house. 3. Swimming pool 6.09. 4. Automobile parking for the domestic use of occupants of the dwelling. 5. All accessory buildings 6.02. 6. Animals 6.07 A. 7. Small Wind Energy Conversion System 25.03. 8. Farm Labor Housing 6.03 C. 	<ol style="list-style-type: none"> 1. House of worship, parish houses, convents and/or monastery. 2. Schools and Day Care. 3. Public recreation uses such as parks, playgrounds, golf courses, driving ranges, ball fields, stadiums, community centers, athletic and recreation clubs. 4. Governmental buildings, libraries, museums, public utility buildings, telephone exchange buildings, electric power transformer stations, fire station, gas regulator station. 5. Hospitals, clinics, hospice facilities and nursing homes. 6. Cemeteries. 7. Home Occupation shall be limited to single-family dwellings only 8.0. 8. Planned Unit/Cluster Development. 17.0. 9. Condominium. 20.00. 10. Multi-Family dwelling complexes with over four (4) units in each structure. 11. Guest Houses 6.03 B. 12. Bed and Breakfast Home Occupation 8.05. 13. Private Road 18.0.

SECTION 5.05 – SCHEDULE OF DISTRICT REGULATIONS

RMH, Residential Mobile Home District

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>RMH, RESIDENTIAL MOBILE HOME DISTRICT</p> <p>To make provisions for mobile homes on subdivided lots in mobile home subdivisions, and in state-licensed mobile home parks in an appropriate, safe, sanitary, and attractive manner.</p>	<ol style="list-style-type: none"> 1. Residential mobile homes located within a mobile home subdivision which has been expressly established for the sole purpose of selling lots on which mobile homes are to be used and occupied for living purposes. 2. Residential mobile homes located in state licensed mobile home parks. 3. Residential mobile home condominiums established in compliance with P.A. 59 of 1978, the Condominium Act, P.A. 87 OF 1997 The Land Division Act and P.A. 419 of 1976, the Mobile Home Commission Act. <p>All mobile homes located within Bainbridge Township for permanent occupancy shall be situated on a permanent foundation, consisting of a minimum of four (4) inch thick concrete slab and anchored in compliance with R125.1605-Rule; 605, R125.1606-Rule 606, R125.1607-Rule 607 and R125.1608-Ruel 608 of the Michigan Administrative Code. Mobile home subdivisions and parks shall be limited to the use and occupancy of mobile homes and shall be used for no other purpose. Mobile home subdivisions shall be established only after the owner(s) of the land to be platted for such use has complied fully with all applicable requirements P.A. 87 of 1997 The Land Division Act as amended and all applicable provisions of Bainbridge Township's codes and ordinances.</p>	<ol style="list-style-type: none"> 1. Permanent patios, porches, carports and expandable living units may be attached to a mobile home provided such attachments are prefabricated by a mobile home manufacturer or other supplier for the express purpose for which they are intended, or are designed by the owner or an architect to be compatible in design with the mobile home to which they are to be attached, and so finished in appearance as to blend in with the mobile home to which they are to be attached so as to present a neat, orderly appearance when completed. Any such attachments shall be first approved by the Township Building Inspector who shall issue a permit therefor. 2. Swimming pool 6.09. 3. Automobile parking for domestic use of occupants of the dwelling. 4. All accessory buildings 6.02. 5. Animals in accordance with 6.07 A. 6. Small Wind Energy Conversion System 25.03. 	<p>Mobile home parks shall be established in full compliance with all applicable requirements of the State Mobile Home Commission Act, Act 419 of 1976, as amended. Further mobile home parks shall be established only after the issuance of a Special Land Use Permit by the Planning Commission after review and approval of preliminary and construction plans as required under R125.1904 – Rule 904, R125.19-4A – Rule 904a, R125.1905 – Rule 905 and R125.1950 – Rule 950 of the Michigan Administrative Code.</p> <ol style="list-style-type: none"> 1. Mobile home parks, for mobile home dwellings constructed in conformance with the standards of the Federal Department of Housing and urban development, manufactured housing construction and safety standards law (1974 U.S.C. 5401 ET seq.) and rules promulgated thereto and customary accessory buildings subject to the requirements as established and regulated by Act 419 of the Public Acts of 1976, as amended. 2. Private Road Section 18.0.

SECTION 5.05 – SCHEDULE OF DISTRICT REGULATIONS

RMH, Residential Mobile Home District

DISTRICT AND INTENT	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>Separate garages and accessory buildings such as tool and storage sheds may be constructed on the lot or mobile home site within a park on which the mobile home is located provided a building permit is first secured and all applicable ordinances are observed in the construction thereof. All mobile homes shall be equipped with skirting of a material, design, and finish which is compatible with the mobile home and the aesthetic appeal of the mobile home subdivision or Mobile Home Park. All skirting shall be constructed and installed in compliance with R125.1604, Rule 605 of the Michigan Administrative Code.</p>	<p>a. <u>Utilities</u> All mobile home sites shall be connected to a public sanitary sewer system where such system is available and accessible as defined by the Michigan Public Health Code, Section 14.15 (12751). Electrical and telephone distribution lines shall be placed underground.</p> <p>b. <u>Internal Roads</u> All roads in every mobile home park shall be hard surfaced in compliance with the Standards of the American Association of State Highway and Transportation Officials, 1974 Edition. All such roads shall have a minimum right-of-way of twenty (20) feet and minimum pavement width of thirteen (13) feet for one way roads, two way roads shall have a minimum right-of-way of thirty-six (36) feet and minimum pavement width of twenty-one (21) feet for two way roads. The above minimum road widths do not include any portion thereof utilized for or allowed to be utilized by off-street parking. Any bays or areas of streets or right-of-way allowing off-street parking or sidewalks shall be in addition to the above specified widths. All roads shall be provided with adequate storm drainage (Michigan Department of Public Health Rule 41).</p> <p>c. <u>Park Land Area</u> A mobile home park shall be constructed on a tract of land of no less than ten (10) acres.</p> <p>d. <u>Density</u> The tract proposed shall have no more than a maximum of six (6) mobile home sites per gross acre.</p> <p>e. <u>Mobile Home Site Size</u> The mobile home park shall be developed with sites having 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated and maintained as open space, but in no case shall the open space requirement be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.</p> <p>All appurtenances and utilities, such as sewer, water and electricity hookups, shall be placed on the Mobile home site so that the mobile home when located on the site shall not occupy the rear fifteen (15) feet of the site. The rear fifteen feet of the site shall be unobstructed or unencumbered by any buildings or any accessories.</p>

SECTION 5.05 – SCHEDULE OF DISTRICT REGULATIONS

RMH, Residential Mobile Home District

USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)

- f. Setback
No mobile home, permanent park building or other structure shall be located closer than forty-two (42) feet to the right-of-way line of a public road that is not an internal park road.
- g. Parking
Parking shall be provided in conformance with R125.1925 – Rule 925 of the Michigan Administrative Code. No unlicensed motor vehicle of any type shall be parked within this district at any time except that they may be stored within a covered building.
- h. Screening
All mobile home parks shall be screened from adjoining districts by a landscaped buffer strip which is a minimum of fifteen (15) feet in width, extends around the entire perimeter of the park and meets the following standards:
 - 1. Location and width of plantings
 - a. Number of Rows.
Two or more rows of trees or three or more rows of trees and shrubs.
 - b. Roads and Driveways.
 - 1. A landscaped buffer strip shall not be closer than 30 feet from the edge of a roadway.
 - 2. At road intersections the landscaped buffer strip shall be positioned to avoid visibility hazards.
 - c. Utility Lines.
Where the landscaped buffer strip will be located, under or immediately adjacent to power, telephone, and similar above – ground facilities – species whose mature height will not interfere with the facility shall be used.
 - 2. Spacing in Rows and Between the Rows
 - a. Between the Rows.
 - 1. Between shrub rows – 7 feet.
 - 2. Between rows of spruce, pine, cedar, or small broad-leaved trees – 10 feet.
 - 3. Between rows of large broad-leaved trees – 13 feet.
 - 4. Spacing shall be wide enough to accommodate the equipment that will be used to control competing vegetation.
 - b. Within the Rows
 - 1. Shrubs – 3 to 10 feet (depending on species).
 - 2. Spruce, pine, cedar, or small broad-leaved trees – 7 to 13 feet (depending on species).
 - 3. Large broad-leaved trees – 10 to 13 feet (depending on species).
 - c. Stagger Space in Adjacent Rows.
Wherever possible, trees and shrubs in one row shall be staggered so as to be planted in the openings of the adjoining row(s).

SECTION 5.05 – SCHEDULE OF DISTRICT REGULATIONS

RMH, Residential Mobile Home District

USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)

3. Species Arrangement, Selection, Size and Replacement

- a. Composition of Rows.
Fifty percent or more of the rows shall be of coniferous species unless soil limitations prevent their use.
- b. Species Selections.
 1. The Berrien County Soil Survey shall be referred to determine the soils series and the adapted tree and shrub species by soil type.
 2. Only one species shall be used in any given row except where a change in soil type dictates a change in species.
 3. A variety of species shall be used in the landscaped buffer strip to insure that the strip will not be killed or severely damaged by insects, disease, or climatic conditions.
- c. Size of Plantings
 1. Shrubs and conifers (spruce, pine and cedar) shall be a minimum of 30 inches tall.
 2. Small and large broad-leaved trees shall be a minimum of six feet tall.
- d. Replacement and Protection of Trees and Shrubs.
 1. Dead and/or withered trees and shrubs shall be replaced within a period not to exceed eight (8) months.
 2. Hay or straw mulch shall not be used for weed and grass control around shrubs and trees because this type of mulch harbors rodents that can harm the plantings.

4. Prohibited Trees

The following trees are not permitted as they split easily, their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests.

COMMON NAME

Box elder
Red Maple
Silver Maple
Horse Chestnut
Hickories
Catalpa
Hawthorns
Ginkgo
Black Walnut
Mulberry Poplars
Willows
American elm
Siberian elm
Slippery elm; red elm
Chokecherry
Black locust

HORTICULTURAL NAME

Acer negundo
Rubrum
Saccharine
Aesculus hippocastanum
Carya Species
Catalpa Species
Crataegus Species
Ginkgo Biloba
Juglans nigra
Morus Species
Populus Species
Salix Species
Ulmus Americana
Pumila, Rubra
Prunus Virginiana
Robinia Pseudoacacia

5. Administrative Variances

An administrative variance, to waive or alter the requirements of the landscape buffer strip, may be granted by the Planning Commission, if existing site characteristics, or circumstances exist which would make it unreasonable for the Park owner or developer to construct the landscape buffer strip in accordance with the above standards.

SECTION 5.05 – SCHEDULE OF DISTRICT REGULATIONS

RMH, Residential Mobile Home District

USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)

Existing site characteristics or circumstances would include but would not be limited to the following situations:

1. The proposed park is adjacent to an existing mobile park.
2. The proposed park is adjacent to a use which currently has an environmental buffer strip.
3. The proposed park has natural vegetative growth which would adequately serve as a buffer.

a. Commercial Sales

Mobile homes may be located on lots and sold therefrom as a convenience for the mobile home park, if the park owner/operator is a licensed mobile home dealer, but not with the intent or purpose of using the park for regular commercial sales of mobile homes. Tenants are permitted to sell their homes on-site in conformance with R125.2004 – Rule 1004 of the Michigan Administrative Code. Commercial sales of convenience items or services to accommodate only those persons residing within the park shall be permitted providing such sales or services are located within a service building. No advertising signs relating to such sales or services shall be permitted.

b. Signs

1. On-site signs
 - a. One Mobile Home Park sign not exceeding sixteen (16) square feet in area, in Residential Mobile Home districts only.
 - b. One sign not to exceed four (4) square feet in area, advertising only the premises on which erected.
2. Signs on parking lots shall comply with Section 7.04., Signs on Parking Lots in Any district.

c. Height

1. Maximum building height in this district is limited to one story except service buildings which may be two stories.

d. Notification of Board of Education

Notice of any public hearing held regarding the construction or expansion of a mobile home park shall be given in accordance with the procedures of Section 15.02, D. and E. to the board of education of the school district in which the mobile home park is to be, or is, located.

SECTION 5.06 – SCHEDULE OF DISTRICT REGULATION

C. COMMERCIAL DISTRICT

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION (See Article X)
<p>C, COMMERCIAL DISTRICT</p> <p>To encourage and facilitate the development and maintenance of sound and efficient shopping, business and service areas, among such necessary regulations being the exclusion of certain uses and activities which tend to disrupt the efficient functioning of commercial areas, and which function better outside such areas.</p>	<ol style="list-style-type: none"> 1. Mercantile establishments for the sale of goods at retail or wholesale. 2. Personal service establishments, such as barber and beauty shops, shoe repair shops, laundry and dry cleaning shops. 3. Professional service establishments such as offices of doctors, dentists, accountants, brokers and realtors. 4. Funeral homes, clinics, medical centers, nursing homes, convalescent homes and hospice facilities. 5. Hotels, motels, lodging houses, boarding houses, tourist homes, and bed and breakfast. 6. Retail shops which make or fabricate merchandise for sale of same upon the premises. 7. Farm Markets 8. Restaurants, delicatessens and other dispensaries of food at retail. 9. Banks and savings and loan associations. 10. Theaters, night clubs, bowling alleys and skating rinks. 	<ol style="list-style-type: none"> 1. A single-family dwelling unit may be occupied as an integral part of commercial building 2. Private garage. 3. Garden house, tool house, children playhouse, green house, boathouse, pump house, and pool house. 4. Swimming pool 6.09. 5. Automobile parking for the domestic use of occupants of the dwelling. 6. All accessory buildings 6.02. 7. Roadside Stands 6.14 A. 8. Animals 6.07 A. 9. Small Wind Energy Conversion System 25.03. 10. Farm Labor Housing 6.03 C. 11. Semi Trailer Storage 6.02 A,2. 12. Fences 6.12 C. 	<ol style="list-style-type: none"> 1. Outdoor sales permitted for specified duration. 2. Outdoor recreation such as trampolines and miniature golf, driving ranges, subject to such operating and special regulations as may be imposed in the public interest; overnight campgrounds for camping trailers, tents and motor homes; motor vehicle race tracks. 3. Circus, fair or carnival provided such use and occupancy: <ol style="list-style-type: none"> a. Is temporary and/or seasonal only. b. Is not detrimental to adjacent surrounding property. c. Is not disturbing to the general peace and tranquility. d. Will not create undue traffic hazard and congestion. 4. Permits for such use may be granted for periods not to exceed eight (8) days consecutively and may be renewable for not more than eight (8) days. 5. Public parking garage or parking lot for paid parking. 6. Used car, mobile home, motor home and travel trailer or recreational vehicle sales, service or rental. 7. Shops for the manufacture of small tools, dies, gauges, molds, patterns, models or similar light manufacturing uses such as assembly of electronic components. 8. Junk yards or salvage yards. 9. Office of veterinarian and animal clinics. 10. Planned Unit/Cluster Development. 17.0

SECTION 5.06 – SCHEDULE OF DISTRICT REGULATION

C. COMMERCIAL DISTRICT

CONTINUED

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION (See Article X)
<p>C, COMMERCIAL DISTRICT</p> <p>To encourage and facilitate the development and maintenance of sound and efficient shopping, business and service areas, among such necessary regulations being the exclusion of certain uses and activities which tend to disrupt the efficient functioning of commercial areas, and which function better outside such areas.</p>	<p>11. Showrooms and workshops of plumbers, electricians, painters and printers and contractors.</p> <p>12. Automobile service garages and filling stations provided all gasoline storage tanks must be in compliance with all state regulations; automotive parts and accessory shops; bicycle and motorcycle.</p> <p>13. Private clubs and organizations operated not for profit.</p> <p>14. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of 6.04.</p>	<p>.</p>	<p>11. Excavation Operations. 21.0.</p> <p>12. Condominium. 20.0.</p> <p>13. Telecommunication Towers. 19.0.</p> <p>14. Stables of horses for hire, boarding, training and riding academies.</p> <p>15. Kennels.</p> <p>16. Large Wind Energy Conversion Systems. 25.0.</p> <p>17. Microbrewery, distillery, winery or tasting facility</p> <p>18. Guest Houses 6.03 B.</p> <p>19. Off-Site Sign 7.06.</p> <p>20. Private Road 18.0.</p> <p>21. Earth Change 24.0.</p> <p>22. Bed and Breakfast Home Occupation 8.05.</p> <p>23. Day Care.</p> <p>24. Warehouse.</p> <p>25. Storage Units.</p> <p>26. Firewood Sales.</p>

SECTION 5.07 – SCHEDULE OF DISTRICT REGULATION

CA- Commercial Agricultural District

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>C.A COMMERCIAL AGRICULTURAL DISTRICT</p> <p>The purpose of this district is to supply agricultural goods and services at convenient locations to meet the frequent and recurring needs of persons involved in agricultural pursuits.</p>	<ol style="list-style-type: none"> 1. Tractor sales and service. 2. Agricultural equipment sales and service. 3. Generally recognized farming, by the Michigan Right to Farm Act, P.A. 93 of 1981, as amended Right to Farm Act, including livestock and poultry raising, dairy, horticulture and forestry except a farm operated wholly or in part for the disposal of garbage, sewage, rubbish, offal and wastes from rendering plants. 4. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of 6.04. 	<ol style="list-style-type: none"> 1. A single-family dwelling unit may be occupied as an integral part of a commercial building. 2. Private garage. 3. Garden house, tool house, children playhouse, green house, boathouse, pump house, and pool house. 4. Swimming pool. 6.09. 5. Automobile parking for the domestic use of occupants of the dwelling. 6. All accessory buildings. 6.02. 7. Roadside stands. 6.14 A. 8. Farm Labor Housing. 6.03 C. 9. Animals 6.07 A. 10. Small Energy Conversion System. 25.03 11. Fences. 6.12 C. 12. Semi Trailer for Storage. 6.02 A,2. 	<ol style="list-style-type: none"> 1. Regulated chemical sales. and fertilizer. 2. Commercial cold storage. 3. Receiving stations for fruit or other farm products. 4. Airplane landing fields and appurtenances. 5. Office of a veterinarian and animal clinic. 6. Planned Unit/Cluster Dev. 17.0. 7. Excavation Operations. 21.0. 8. Condominium. 20.0. 9. Telecommunication Towers. 19. 10. Stables of horses for hire boarding, training and riding academies. 11. Kennels. 12. Large Wind Energy Conversion Systems. 25.0. 13. Microbrewery, distillery, winery or tasting facility. 14. Guest Houses 6.03 B. 15. Farm Market 6.14 B. 16. Off-site Sign 7.06. 17. Bed and Breakfast Home Occupation 8.05. 18. Private Road Section 18.0. 19. Earth Change Section 24.0. 20. Firewood Sales.

SECTION 5.08 – SCHEDULE OF DISTRICT REGULATION

I, Industrial District

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>M. INDUSTRIAL DISTRICT</p> <p>To encourage and facilitate the development of industrial enterprises in a setting conducive to public health, economic stability and growth, protection from blight, deterioration, and non-industrial encroachment, and efficient traffic movement including employee and truck traffic.</p>	<ol style="list-style-type: none"> Storage of materials or equipment, excluding wastes or junk, enclosed within building or a substantial fence, pursuant to 6.12. Where any Industrial District abuts a Residential District, shall comply with 6.12. Generally recognized industrial warehousing, storage, manufacturing, or fabrication uses subject to the above limitations, excluding uses requiring a Special Land Use Permit. 	<ol style="list-style-type: none"> Enclosed storage for goods processed on the premises. Living quarters of a watchman or caretaker employed on the premises. Animals 6.07 A. Semi Trailer for storage 6.02 A,2. Fences 6.12 C and D. Small Wind Energy Conversion System 25.03. All accessory buildings in accordance with 6.02. 	<ol style="list-style-type: none"> The following uses may be permitted only upon conclusive demonstration through specific plans that the proposed use shall not be obnoxious, hazardous or detrimental to the public health, safety and welfare. No such use shall be located closer than one thousand (1,000) feet to a residential district: junk, scrap paper or rag baling or handling; poultry killing, dressing or live storage; slaughter houses; ammonia, bleaching powder or chlorine manufacture or refining; boiler works, forge works, aluminum, brass, copper, iron or steel foundry; brick, tile or terra-cotta manufacture; celluloid manufacture or treatment; creosote treatment or manufacture; disinfectant or insecticide manufacture; distillation of bones, coal tar or wood; dye manufacture; electroplating; fat rendering; fertilizer manufacture; lime, cement or plaster of paris manufacture; molten bath plating; oil cloth or linoleum manufacture; plastic manufacture or articles therefrom; raw hides or skins or the storage, curing or tanning thereof; rock crushing; rolling mills; rubber manufacture; slaughtering of animals or fowl; smelting of iron; soap manufacture; stockyards, sulfuric, nitric or hydrochloric acid manufacture; tallow, grease or lard manufacture or refining; tar distillation or manufacture of dyes; tar roofing or tar waterproofing manufacture; yeast manufacture, food processing employing more than ten (10) people and concrete ready-mix plants. Power Generating Facility 22.0. Excavating Operations 21.0. Telecommunication Towers. 19.0. Large Wind Energy Conversion System. 25.0. A sexually oriented business as defined and pursuant to all requirements contained in the Bainbridge Township Sexually Oriented Business Ordinance Number 53. Off-Site Sign 7.06. Private Road 18.0. Earth Change 24.0.

SECTION 5.09 – SCHEDULE OF DISTRICT REGULATION
AG, Agricultural District

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>AG, AGRICULTURAL DISTRICT</p> <p>To conserve and enhance the low density and agricultural use of substantial portions of the Township that do now and for a substantial period of time should have such character. By conserving such character, the Township and other public agencies will realize economies in public expenditures by minimizing scattered demand for urban types and levels of services, utilities and facilities in otherwise predominantly rural areas encourage the preservation of prime agricultural land for agricultural productivity and protect the Township's most vital economic activity.</p>	<ol style="list-style-type: none"> Generally recognized farming, as recognized by the Michigan Right to Farm Act, P.A. 93 of 1981, as amended, including livestock and poultry raising, dairy, horticulture and forestry use of land and structures except a farm operated wholly or in part for the disposal of garbage, sewerage, rubbish, offal and wastes from rendering plants. Single-family dwellings subject to the regulations of this district. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record and abandon an existing older home, the property owner and family may continue to live in the existing home subject to the provisions of Section 6.04 	<ol style="list-style-type: none"> Garden house, tool house, children's playhouse, green house, boathouse, pump house and pool house Private Garage Swimming pool. 6.09 Automobile parking for the domestic use of occupants of the dwelling. All accessory buildings. 6.02. Roadside stands. 6.14 A. Animals in accordance with Section 6.07, A, B. and C. Small Wind Energy Conversion System .25.03. Farm Labor Housing 6.03C. Semi Trailer for Storage. 6.02 A,2 	<ol style="list-style-type: none"> Houses of worship, parish houses, convents. and/or monastery. Schools and Day Care Public recreation uses such as parks, playgrounds, golf courses, driving ranges, ball fields, stadiums, community centers, athletic and recreation clubs. Governmental buildings, libraries, museums, public utility buildings, telephone exchange buildings, electric power generator and transformer stations and substation, fire stations, gas regulator stations. Hospitals, clinics, hospice facilities and nursing homes. Cemeteries. Home occupation.8.0. Excavation Operations. 21.0. Bed and Breakfast Home Occupation 8.05. Planned Unit/Cluster Development. 17.0. Condominium. 20.0. Telecommunication Towers 19.0. Airplane landing fields and appurtenances. Stables of horses for hire, boarding, riding and training academies. Kennels. Office of a veterinarian and animal clinic. Boat Liveries.

SECTION 5.09 – SCHEDULE OF DISTRICT REGULATION
AG, Agricultural District

CONTINUED

DISTRICT AND INTENT	PERMITTED PRINCIPLE USES	PERMITTED ACCESSORY USES	USES REQUIRING PLANNING COMMISSION SPECIAL LAND USE PERMIT (See Article X)
<p>AG, AGRICULTURAL DISTRICT</p> <p>To conserve and enhance the low density and agricultural use of substantial portions of the Township that do now and for a substantial period of time should have such character. By conserving such character, the Township and other public agencies will realize economies in public expenditures by minimizing scattered demand for urban types and levels of services, utilities and facilities in otherwise predominantly rural areas encourage the preservation of prime agricultural land for agricultural productivity and protect the Township's most vital economic activity.</p>			<p>18. Land disposal or dispersal of human waste septage from onsite systems, or sludge from municipal waste treatment plants.</p> <p>19. Showrooms and workshops of plumbers, electricians, painters, printers. contractors, warehousing and storage units.</p> <p>20. Large Wind Energy Conversion System. 25.0.</p> <p>21. Microbrewery, distillery, winery or tasting facility.</p> <p>22. Guest Houses 6.03B.</p> <p>23. Farm Market 6.14 B.</p> <p>24. Off-Site Sign 7.06 A,2.</p> <p>25. Private Road 18.0.</p> <p>26. Earth Change 24.0.</p> <p>27. Firewood Sales.</p> <p>28. Event Venue. 6.15</p> <p>29. Small Owner/Operator Mechanic Shops</p>

Section 5.10 – Schedule of District Regulation

Yard, Height, and Lot Size Requirements for Principal (a) and Accessory Uses

DISTRICT		MINIMUM YARD SETBACK IN FEET			MAXIMUM BUILDING HEIGHT		MINIMUM LOT SIZE	
		FRONT YARD	SIDE YARD	REAR YARD*	IN STORIES	IN FEET	SQUARE FEET	WIDTH IN FEET AT ROAD
R-AG,	RESIDENTIAL-AGRICULTURAL (b)	25	15	15	2-1/2	40	217,800 (5 ACRES)	235
R-1	SINGLE-FAMILY RESIDENTIAL (b)	40	10	10	2	30	21,000	120
R-2	MULTIPLE FAMILY RESIDENTIAL (b)	40	10	10	2	30	13,000	100
	Except two-family and Multiple-family residential Uses by Special Land Use Permit	40	10	10	2-1/2	40	13,000 per dwelling unit	120
RMH	RESIDENTIAL MOBILE HOME (b) (For Mobile Home Park see Section 5.05, 1.f.)	40	10	10	1	-	13,000	100
C	COMMERCIAL (b)	40	(a) 50	50	2	40		
C-A	COMMERCIAL AGRICULTURAL (b)	40	50	50	2	30	217,800 (5 acres)	300
M	INDUSTRIAL (b.c)	40	50	50	2	40		
AG	AGRICULTURAL (b, 5.12)	25	15	15	2-1/2	40	217,800 (5 acres)	235

- (a) No building or sign shall be closer than twenty-five (25) feet to any residential district boundary.
(b) See Article XVII (17) on Planned Unit Development. And Article XX (20) on Condominium.
(c) No industrial activity, building, sign or storage shall be closer than one thousand (1,000) feet to a residential district.

SECTION 5.11 - SCHEDULE OF DISTRICT REGULATIONS

The Minimum Size of Dwellings Shall Be As Follows:

TYPE OF BUILDING	SQUARE FEET FLOOR AREA FIRST FLOOR (See definition of floor area)	SQUARE FEET TOTAL FLOOR AREA	SQUARE FEET ADDITIONAL FLOOR AREA FOR STORAGE AND/OR UTILITY
SINGLE-FAMILY DWELLING			
1 story in height	1,000	1,000	-
1-1/2 stories in height	768	1,000	-
2 stories in height	728	1,456	-
TWO-FAMILY DWELLING			
Per dwelling unit	-	900	100
MULTI-FAMILY DWELLING			
Per efficiency dwelling unit	-		100
Per one-bedroom dwelling unit	-		100
Per two or more bedroom dwelling unit	-		200

SECTION 5.12 – SCHEDULE OF DISTRICT REGULATIONS

A. Additional regulations for Agriculture District (AG)

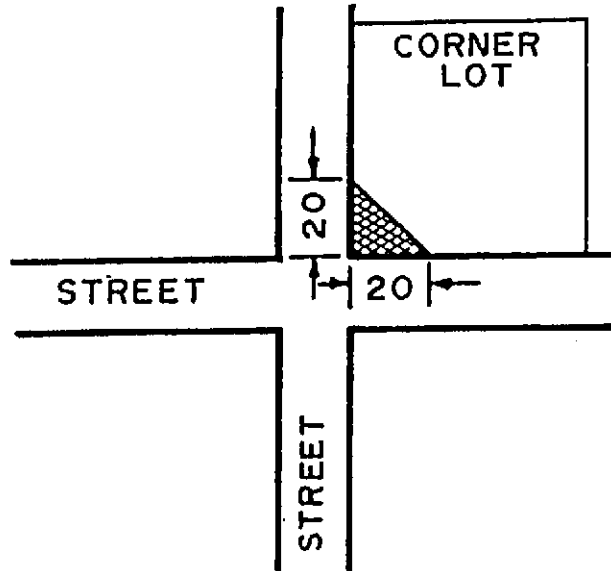
1. One lot of at least two (2) acres with a minimum of one hundred and fifty (150) foot width at the road may be split from an existing lot of record existing at the effective date of adoption the Bainbridge Township Zoning Ordinance, (August 26, 2002) or any subsequent amendments thereto, as long as the remaining lot is a minimum of five (5) acres or more with (235) two hundred thirty-five feet frontage. All other lots split from an existing lot of record must follow the five acre (5) minimum lot size and frontage.
2. The height of a sign or building shall not exceed fifty (50) percent of the horizontal distance to the nearest residential district boundary.
3. All lots except those in platted subdivisions and Planned Unit/Cluster Developments shall meet all requirements of this Ordinance and shall in addition have frontage on a road equal to the minimum width in feet as provided herein.
4. Building or structure for the use of seasonal farm labor, shall be located a minimum of fifty (50) feet from the right-of-way line of a public road or any abutting residential district.

ARTICLE VI

Supplementary District Regulations

Section 6.01 – Visibility at Intersections

- A. On any corner lot in any district no fence, accessory structure, plant, shrub or similar object over three (3) feet in height shall hereafter be placed, erected, planted or allowed to grow in the area bounded by the street lines of such corner lot and a line joining points along the street lines for a distance of twenty (20) feet from the point of the intersection.



Section 6.02 – Accessory Buildings

- A. An Accessory Building or Structure: A structure detached from a principal building, on the same lot and customarily incidental and subordinate in use to the permitted use of the principal building or use.
1. Mobile Homes shall not be used as Accessory Buildings.
 2. Semi-Trailers or Shipping Containers shall only be permitted as an Accessory Building in Ag-Agricultural, CA-Commercial Agricultural, C-Commercial, and I-Industrial Districts as enclosed storage for goods or products produced relevant to the operation.
- B. In no case will it be permitted to erect a garage or other accessory building in any required front yard in platted subdivisions. The required front yard is considered to be the area measured from the innermost measurement of the road right-of-way to the outer most portion of the structure including the eave, and/or roof structure. The front yard requirements are set forth in Section 5.10. Garages or other accessory buildings may be built anywhere on buildable lots provided all set back requirements are met for the affected district in R-1 Single Family Residential, RMH Residential Mobile Home and R-2 Multiple Family Residential. District accessory buildings may not cover more than 30 percent of the total lot area or exceeding the size of the principle dwelling.

Section 6.02 – Accessory Buildings (Continued)

- C. The garage or accessory building must comply with all other yard, height and lot size requirements of Section 5.10.
- D. The Structure may be attached to and be a part of the dwelling subject to the requirements of Section 5.10. All garages and other accessory buildings attached to the dwelling shall be considered a part of the dwelling in determining yard requirements.
- E. Detached accessory buildings are permitted subject to the mandatory requirements yard, height, and lot size requirements of Section 5.10.
 - 1. A non-permanent storage shed no larger than one hundred thirty (130) square feet may be located no closer than two (2) feet from any side or rear lot line.
- F. All accessory buildings housing livestock shall be at least one hundred (100) feet from property line of the parcel.

Section 6.03 – One Dwelling Structure Upon a Lot of Record

- A. Every single-family, two-family and multiple dwelling structure shall be located upon a lot of record, in accordance with Article V (5), Schedule Of District Regulations, being a premises or parcel of real estate the description of the boundaries of which is on record at the office of the Register of Deeds of Berrien County, Michigan, and no more than one such structure shall be erected upon a lot of record.
- B. Guest Houses shall be approved by Special Land Use Permit, allowed in R-AG Residential Agricultural, R-1 Single Family Residential, R-2 Multiple Family Residential, C Commercial, C-AG Commercial Agricultural, and AG Agricultural. A Guest House may not be rented or leased out.
- C. Farm labor housing or structures located upon premises, which are licensed by the Michigan Department of Agriculture Department, which are designated for and occupied by farm labor personnel may be located upon the same lot of record as the main dwelling structure on the farm premises, allowed in R-AG Residential Agricultural, R-1 Single Family Residential, R-2 Multiple Family Residential, C Commercial, C-AG Commercial Agricultural and AG Agricultural.
 - 1. Any building or structure employed for the use of farm labor, provided however such uses shall be located a minimum of fifty (50) feet from the right-of-way of a public road or any abutting residential property line or residential zoning district boundary.
 - 2. Any building or structure used for the housing of farm laborers and their families, who are employed by the owner or lessor of the housing units, or lessee of the housing units, may only be occupied by farm laborers and their families while working for the owner or lessor or the lessee in a farm operation. Farm labor housing units may not be occupied or rented to other than farm laborers employed by the owner of the housing units.

Section 6.04 – Temporary Occupancy of Existing Residential Dwelling while the Dwelling is Constructed

- A. In the event a property owner in Bainbridge Township desires to build a new home on the same lot of record as an existing older home, the property owner and family may continue to occupy the existing home during the term of construction of the new dwelling subject to the following provisions:
1. The existing home and lot of record must be in R-AG Residential Agricultural, R-1, Single Family Residential, R-2 Multiple Family Residential, C Commercial, C-AG Commercial Agricultural, AG Agricultural and must comply with all minimum size, yard setback and other district standards in which the property is located as set forth in Section 5.10 and 5.11.
 2. Construction of the new home shall commence within thirty (30) days of the issuing of a Building Permit, by the Building Inspector.
 3. Construction shall be actively pursued to assure completion of the new dwelling within one-year after the issuance of the Building Permit for the new dwelling. A Building Permit shall be deemed abandoned, if active construction ceases for a period of not less than six (6) months as determined by the Building Inspector. Active construction, for the terms of this Ordinance shall mean incremental progress toward completion of the building according to the terms of the approved permit, by tradesmen or the owner actively working on-site no less than three consecutive days each seven (7) day period. Extension of a current Building Permit shall be issued by the Building Inspector as permitted by the Michigan Construction Code.
 4. The abandoned foundation, septic wastewater disposal system, drywells and any other underground construction shall be filled and covered to a minimum depth of twelve (12) inches and be closed in compliance with all applicable construction code and any other Township, County, State or Federal laws, rules or regulations where applicable.
 5. A Demolition Permit shall be issued on the same day the Building Inspector issues the Occupancy Permit to the new home.
 - a. The old existing home must be removed within ninety (90) days of the issuing of the Demolition Permit.
 - b. If the old existing home is not removed and the basement or foundation is not filled and covered as directed by the Building Inspector, there will be a Five Hundred (500) Dollars per day fine incurred by the property owner. Said Five Hundred (500) Dollars per day fine shall commence on the ninety first (91) day following the issuing of the Demolition Permit and continue to be charged on a daily basis until the home is removed and all requirements of this Section are complied with.
 - c. Any fine incurred, which is not paid shall be added to the tax bill of the property owner.

Section 6.04 – Temporary Occupancy of Existing Residential Dwelling While the Dwelling is Constructed (Continued)

- B. The creation of a lot of record as described in paragraph A above on a premises or parcel of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, shall conform to the Michigan Land Division Act, Act 288 of 1967, as amended, the Bainbridge Township Land Division Ordinance and this Ordinance. All parent parcels for land divisions are to be considered the land description in force at the time of enactment of the Michigan Land Division Act, Act 288 of 1967, adopted December 1, 1969, as amended and not the effective date of this Ordinance 49.

Section 6.05 – Exceptions to Height Regulations

- A. The height limitations contained in Section 5.10 do not apply to spires, belfries, cupolas, antennas, water tanks, silos, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- B. No outdoor storage container for produce shall occupy a front, side or rear yard setback area, and may not be any closer than twenty-five (25) feet from any property line.

Section 6.06 – Structure to Have Access

- A. Every building hereafter erected or moved shall be on a lot adjacent to a public road or with access to a private road, and all structures shall be as located on the lot as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- B. Driveways exceeding three hundred (300) feet in length measured from the edge of the road surface located within the right-of-way and the closest edge of the garage, car port or other parking structure or the closest edge of the parking pad, must have a minimum drivable surface width of no less than twelve (12) feet over a base of six (6) inch process road gravel, slag or crushed stone or other compatible material not less than sixteen (16) feet in width.

Section 6.07 – Animals and Poultry

- A. The keeping of customary household pets such as cats, dogs, household fish and household birds is expressly permitted in any zoning district.
- B. In AG, Agricultural, the incidental use of livestock normally found in an agriculture setting, is permitted as long as the property is maintained in accordance with the Michigan Department of Agriculture Generally Accepted Agricultural Management standards GAAMP and the Michigan Right to Farm Act, P.A. 93 of 1981, as amended
 - 1. The accumulation of refuse or manure shall not be closer than one hundred (100) feet from any property line of the parcel if not otherwise regulated by the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices GAAMP.

Section 6.07 – Animals and Poultry (Continued)

2. All agricultural animals and poultry must be confined in appropriate fencing for agricultural animals and poultry within the property to insure compliance with the Michigan Department of Agriculture, Generally Accepted Agricultural Management Practices, GAAMP.
- C. Livestock normally found in an agriculture setting, may be housed on a zoning lot in the R-1, Single Family Residential, R-AG, Residential Agricultural and AG, Agricultural Districts by the property owner for personal recreation, leisure time activities or hobby purposes, in accordance with the following standards:
 1. The zoning lot shall be not less than three (3) acres in area,
 2. The maximum number of animals on any zoning lot shall conform to the following schedule:
 - a. Two (2) animals on a three (3) acre zoning lot,
 - b. Three (3) animals on a four (4) acre zoning lot,
 - c. Four (4) animals on a five (5) acre zoning lot.
 - d. One (1) additional animal per acre on a parcel larger than five (5) acres.
 3. Any piles of refuse or manure shall be located at least one hundred (100) feet from any property line of the parcel of land so used.
 - a. All accessory buildings housing these animals shall be located at least one hundred (100) feet from any property line of said parcel and shall be located at least one hundred fifty (150) feet from any existing dwelling unit located on a separate parcel which is owned by persons other than the parcel where such animals are kept, if not otherwise regulated by the Michigan Department of Agriculture, generally accepted agricultural management standards.

Section 6.08 – Auction House and Rummage Sales

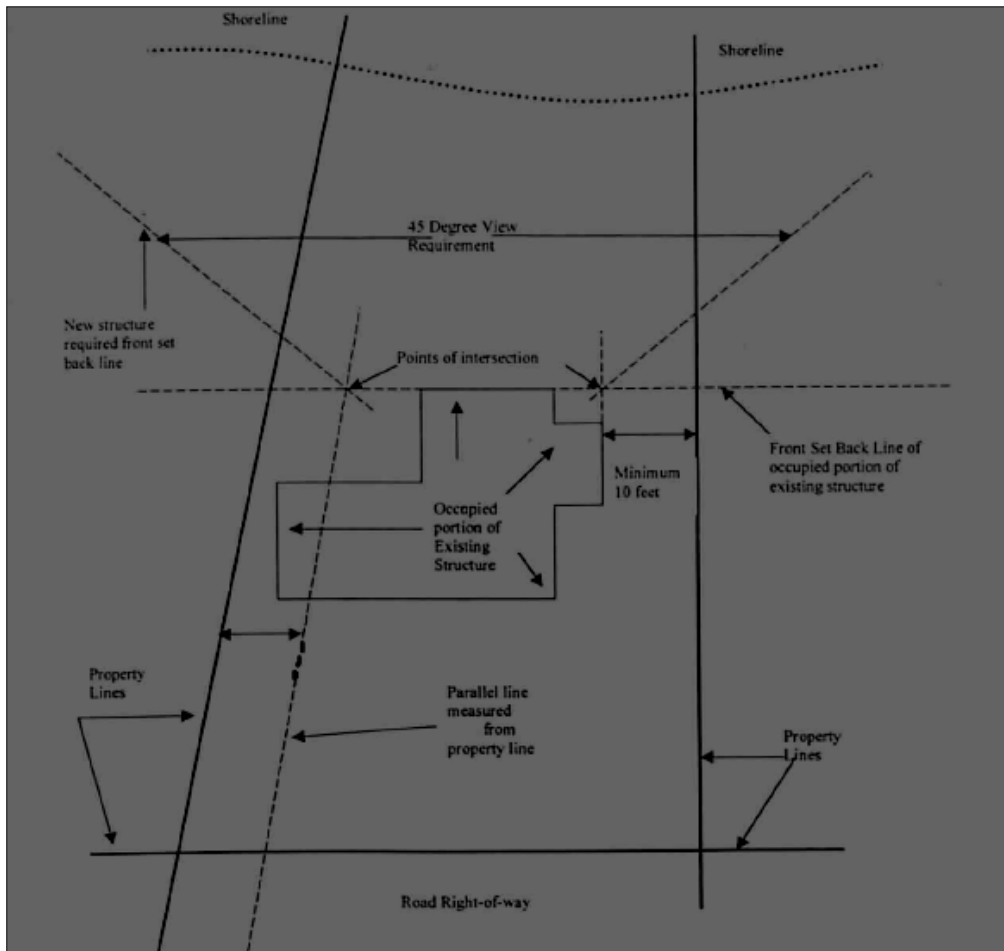
- A. A private Auction, Estate Sale, Garage Sale and Rummage Sale may be conducted for no longer than seven (7) days in any calendar year per household.

Section 6.09 – Swimming Pools

- A. Swimming pools which are more than twenty-four inches (24) deep and/or in excess of five thousand (5,000) gallons capacity, regardless if they are built in ground or above ground upon any lot or parcel of land in the Township must first secure a Building Permit therefor from the Building Inspector.
- B. In granting such permit the Building Inspector shall consider, among other things, the availability of water and adequate drainage. No permit for such use shall be granted unless the plans provide for the construction of a suitable fence or enclosure around the pool of at least four (4) feet in height with a gate or gates that may be locked. The construction of the fence or enclosure shall be a prerequisite to the use of any such swimming pool. The purpose of this provision is to provide for the safety and protection of small children.
- C. The location of a swimming pool on any lot or parcel of land must comply with the yard requirements of the respective district in which it is situated.
- D. After determination by the Building Inspector that all applicable requirements of this Ordinance and the Township Building Code including provisions regarding plans and permits have been met; the Building Inspector may issue the necessary permit for the construction, installation, enlargement or alteration of a swimming pool.

Section 6.10 – Lake Front Setbacks

- A. The front yards of all lake front lots shall be determined by the distance from the ordinary high water mark, if it has been established, or from the water's edge to the building or structure to be erected upon the lot. On all lake front lots in improved areas, no building or structure, except a boat house, shall be constructed or erected with a water side setback less than the average setback of existing similar buildings or structures within two hundred (200) feet on each side of the property. Provided, however, in no event shall any building or structure be constructed or erected so as to obstruct the view of the occupants of existing dwellings measured at an angle of forty-five (45) degrees from the nearest lake front corner of such existing dwellings facing the water front.



Section 6.10 – Lake Front Setbacks (Continued)

- B. In unimproved areas yard requirements for water front properties shall be the same as specified in Sections 5.10 and 6.02, but in no instance shall any building or structure, except a boat house, be constructed or erected within twenty (20) feet of the water line.

Section 6.11 – Temporary Dwelling Structures

- A. No building, mobile home, garage, cellar, basement or other structure which does not conform to the provisions of this Ordinance relative to permanent dwellings shall be erected, altered or moved upon any premises and used for dwelling purposes except under the following applicable limitations:
1. Notwithstanding any other provisions of this Ordinance, the Planning Commission may approve, through the issuance of a Temporary Medical Hardship Permit the use of a mobile home on the same lot as a permitted principal use single-family dwelling for occupancy defined in item 2 below, of the principal use property owners upon a finding of a demonstrated medical hardship on the part of an occupant of the proposed mobile home or an occupant of the principal use single-family dwelling. The Planning Commission may require in this regard one or more medical certificates in support of the alleged medical hardship. A Temporary Medical Hardship Permit for a period of one (1) year shall be obtained from the Zoning Administrator after approval of such hardship permit by the Planning Commission. Subsequent renewals, each for no more than one (1) year, may be granted by the Zoning Administrator on his finding that the medical hardship continues to exist. Permits issued hereunder are Temporary Medical Hardship Permits and shall not be renewed after a finding by the Zoning Administrator that the hardship no longer exists. Issuance of a permit hereunder shall not establish a nonconforming prior existing use beyond the expiration of the permit. Upon conclusion of the medical hardship, or admission to permanent long-term residential care as opposed to rehabilitative temporary care or other permanent care, the mobile home must be removed within one hundred eighty (180) days of the expiration of the Temporary Medical Hardship Permit. Such mobile home shall meet all requirements of the RMH-Residential Mobile Home District as though located in a mobile home subdivision and on an individual lot.
 2. Temporary Medical Hardship must be a demonstrated medical hardship that temporarily renders one unable to do certain things they once could on their own, such as undertake off site travel unassisted shopping, feeding, and clothing oneself, or personal care assistance.
 3. One medical hardship is allowed per principal use single family dwelling.
 4. In the case of recreational vehicles providing temporary housing of guests or visitors on the premises, such use shall be permitted for a period of time not to exceed thirty (30) days in any twelve (12) consecutive month period, provided the occupants of the recreational vehicle shall have unrestricted use of the sewage disposal and water supply facilities of the principal dwelling.

Section 6.11 – Temporary Dwelling Structures (Continued)

5. Use of any building, mobile home, garage, basement or other structure for temporary occupancy shall not be adverse to health, safety or the public welfare.
6. The location of each such building, garage, cellar, basement or other structure shall conform to the regulations governing the yard requirements for dwellings, or similar conformable structures in the district in which it is situated, conforming to Section 5.10 of this Ordinance.
7. A Special Land Use Permit must be approved by the Planning Commission with a one (1) year term for any Temporary Hardship Permits other than a Temporary Medical Hardship Permit. A permit under this Section may be revoked if construction of the permanent dwelling is not commenced within thirty (30) day after issuance of a Temporary Hardship Permit. Mobile homes used as temporary housing under this Section shall have Domestic Water Disposal System approved by the Berrien County Health Department, proper drainage and be connected to a pressure water system.
8. In the event of a natural disaster such as fire, wind, etc., so damages a residence that it may not be occupied for a temporary basis, and it is established due to the nature of the property it is necessary to remain on the premises while repairs are accomplished, the Zoning Administrator is hereby authorized to grant an Emergency Permit for a period not to exceed ninety (90) days to occupy a motor home, recreational vehicle, fifth wheel trailer, or travel trailer as temporary emergency housing. An approval by the Planning Commission may be required for any extension beyond the initial ninety (90) day duration as deemed necessary by the Zoning Administrator.

Section 6.12 – Fences

- A. In all districts, no fence shall be constructed within the right away of any public road.
- B. Within platted subdivisions, no fence of more than four (4) feet in height or more than fifty (50) percent solid materials shall be constructed in front of the principal structure on any lot. Any fence constructed between the principal structure and the rear property line may be solid material and shall not exceed six (6) feet in height. Fences shall not contain barbed wire, electric current, or charge of electricity.
- C. In C, Commercial, I, Industrial, and CA, Commercial Agricultural Districts, fences constructed between the public right of way and the nearest structure shall not exceed ten (10) feet in height or more than fifty (50) percent solid materials. A Building Permit is required prior to start of construction of any fence in excess of six (6) feet in height and may be issued upon satisfactory review of site plan and construction methods.
- D. Where any Industrial district abuts a residential district along a common lot or property line, a substantial fence of not less than five (5) nor more than seven (7) feet shall be constructed, by the occupant in the industrial district and no building, storage, or industrial activity shall be located within fifty (50) feet of the residential district property line.

Section 6.12 – Fences (Continued)

- E. Where allowed in any zoning district, facilities for the storage of oil, gasoline or chemicals, fences shall be constructed in conformity with regulations of the State Fire Marshall.

Section 6.13 – Gates

- A. It shall be unlawful for a person, firm, corporation, association or partnership to establish, maintain or operate, on a Private Road, any structure, gate, or other device for the purpose of impeding access to, egress from, or use by a motor vehicle on a private road. A Private Road as used herein shall mean a private road as defined in Article XVIII (18) of this Ordinance.

Section 6.14 – Off-Site Roadside Stand

- A. Roadside Stands allowed in R-Ag Residential Agricultural, R-1 Single Family Residential, C Commercial, CA Commercial Agricultural, and AG Agricultural. A structure not to exceed 600 square feet, used or intended to be use solely by the householder, owner or tenant of the parcel and is considered part of a farm operation, on which such structure is located for the sale of fresh, seasonal farm products the majority of which are raised or produced on the parcel.
- B. Farm Market allowed by Special Land Use Permit in AG Agricultural and CA Commercial Agricultural. A “Farm Market” is a place or an area where transactions between a farm market operator and customers take place. At least fifty percent (50%) of the retail space used to display products offered for sale as a farm market (measured as an average over the farm market’s marketing season or up to a five-year time frame) must be produced on and by the affiliated farm. Farm products may be processed more extensively into a form that adds value and makes them more marketable for direct customer sales in accordance with Michigan laws, and then sold at the affiliated farm market, as long as allowed by local, state and federal regulations and at least fifty percent (50%) of processed products’ main ‘namesake’ ingredient is produced on and by the affiliated farm. A farm market may operate seasonally or year-round, where at least fifty percent (50%) of gross sales dollars of products sold are produced on and by the affiliated farm. Farm markets may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions, when allowed by applicable local, state, and federal regulations.

Section 6.15 – Event Venue

- A. Allowed in existing farm operations, AG Agricultural, by Special Land Use Permit, that will not create any adverse impact on agricultural viability or the rural character of the surrounding property.
- B. May operate seasonal (April thru October), from Friday through Sunday only. Hours of operation may not begin before noon on any given day and must end by 10:00 P.M. on Thursday Friday and Saturday and 8:00 P.M. on Sunday.
- C. A minimum of ten (10) acres and any structure must be a minimum of three hundred (300) feet from any residence and fifty (50) feet from any property line.
- D. Any amplified music must be in a commercial grade tent or structure. Sound level may not exceed sixty (60) decibels at any property line.
- E. Maximum occupancy of two-hundred fifty (250) people.

ARTICLE VII

Sign Regulations

Section 7.01– General Signs

- A. There shall be no flashing or intermittent illumination on any sign, nor interference with clear driver vision along any highway, street, road or at any intersection of two (2) or more streets, roads or highways. There shall be no moving signs or sign components other than elements of clocks or thermometers. All illuminated signs shall be so placed as to prevent the rays and illumination therefrom from being cast upon neighboring residences within a residential district and shall be located not less than one hundred (100) feet from such residential district.
- B. The color saturation and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
- C. The placement, frequency, size, height and design of signs shall not deteriorate the scenic environment or contribute to general traffic hazards.
- D. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
- E. The surface area of a sign shall be computed as including the entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.
- F. The Township Board may establish a charge for the removal of any such sign in violation of the terms of this Section reflecting actual cost and expenses incurred by the Township in the removal and disposal of such signs.

Section 7.02 – Nonconforming Signs and Billboards

- A. All signs and billboards erected or constructed after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance. Any sign or billboard erected or constructed prior to the adoption of this Ordinance and not conforming to the requirements of this Ordinance shall be deemed a nonconforming structure and shall be subject to the provisions of Section 4.04.
 - 1. A sign, which is deemed to be nonconforming, may not be enlarged or altered in a way which increases its nonconformity.
 - 2. Should a sign which is deemed to be nonconforming be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Section 7.02 – Nonconforming Signs and Billboards (Continued)

3. Should a sign which is deemed to be nonconforming be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 7.03 – Signs in Residential Districts and Residential Mobile Home Districts

- A. In subdivision, residential and residential mobile home districts, one (1) sign having an area of not more than thirty-two (32) square feet and having an overall height of not more than twelve (12) feet above the grade.

Section 7.04 – Signs on Parking Lots in Any District

- A. One sign shall be permitted at each point of ingress and egress. Each such sign shall not exceed ten (10) square feet in area, shall not extend more than ten (10) feet in height above grade and shall be entirely located on the parking lot.

Section 7.05 – Signs in Each Districts

- A. Signs are permitted as follows:
 1. In R-1 Single Family Residential, R-2, Multiple Family Residential and RMH, Residential Mobile Home Park, one on-site sign not exceeding sixteen (16) square feet in area or two (2) signs totally no more than twenty (20) square feet in area. Said sign may be mounted on the building or on a freestanding post or posts which shall be placed in accordance with existing setback regulations.
 2. In AG, Agricultural District only, no more than two (2) onsite signs, neither of which shall exceed thirty-two (32) square feet in area, with total construction of to be no more than twelve (12) foot in height as measured, level from the road bed, shall be permitted.
 3. In C, Commercial, C-AG, Commercial Agricultural, and I, Industrial Districts, the total of all on-site signs shall not exceed a total area of one (1) square foot for each ten (10) square feet of wall surface area facing the front lot line.
 4. Off-site signs will be allowed only in AG, Agricultural, C-AG, Commercial Agricultural, C Commercial and I, Industrial Districts and only by Special Land Use Permit issued by the Planning Commission and shall be nor more than thirty-two (32) square feet.

ARTICLE VIII

Home Occupations

Section 8.01 – Definition

- A. Home Occupation is a use conducted in either the principle residential dwelling or an accessory building that is clearly incidental and secondary to the residential occupancy of the residentially zoned property and that does not change the residential character of the residentially zoned property.

Section 8.02 – General

- A. No person other than members of the family residing on the premises shall be engaged in such occupation unless waived by the Planning Commission as a condition of the Special Land Use Permit.
- B. The use of the dwelling unit, for the Home Occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the Home Occupation.
- C. No exterior alterations, other than a permitted sign and those alterations required by law to ensure the safety of the structure and guests shall be allowed.
- D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such Home Occupation other than one (1) sign not to sixteen (16) square feet and which shall have a ratio between height and width not greater than one (1) to three (3). Said sign may be mounted on the building or on a freestanding post or posts which shall be placed in accordance with existing setback regulations.
- E. No traffic shall be generated by such Home Occupation in greater volumes than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of such Home Occupation shall be met off the street and other than in a required front yard.
- F. No equipment or process shall be used in such Home Occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

Section 8.03 – Special Land Use – Principle Residential Dwelling

- A. Home Occupations shall be allowed only in principle use single-family dwellings, in R-Ag, Residential Agriculture, R-1, Single Family Residential, R-2, Multiple Family Residential and Ag, Agriculture Districts and only by Planning Commission Special Land Use Permit in conformance with Section 8.02.

Section 8.04 – Special Land Use – Accessory Building

- A. No Home Occupation shall be conducted in any accessory building except in the AG, Agricultural and R-AG, Residential Agricultural Districts, and only by Planning Commission Special Land Use Permit in conformance with Section 8.02 and the following:
1. Where one (1) accessory building containing no more than twenty-five (25) percent of the floor area of the principle permitted residential dwelling unit may be utilized for a Home Occupation

Section 8.05 – Special Land Use – Bed and Breakfast

- A. For the terms of this Ordinance all Bed and Breakfast operations shall be considered Home Occupations, allowed in R-AG Residential Agricultural, R-1 Single Family Residential, R-2 Multiple Family Residential, AG Agricultural, C Commercial subject to Special Land Use Permit as set forth in this Article and Article X (10), and the Bed and Breakfast operation, shall be subordinate and incidental to the main residential use of the building. A Bed and Breakfast operation shall be subject to the following regulations and restrictions:
1. Individual guests are prohibited from staying at the residence for more than fourteen (14) consecutive days in any one (1) year period.
 2. Bed and Breakfast operation guest rooms shall not use more than fifty (50) percent of the floor area of the principle residential structure nor contain more than five (5) guest rooms. Common areas such as the kitchen are not included in this calculation.
 3. The only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging at the facility.
 4. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.
2. Bed and Breakfast operation must conform to all Township, County and State requirements.

ARTICLE IX

Off-Street Parking and Loading Regulations

Section 9.01 – Parking and Storage of Unlicensed and Commercial Vehicles and Trailers

- A. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residential district property other than in completely enclosed building. In residential districts it shall be illegal to garage or park more than one (1) commercial vehicle larger than a regularly manufactured pickup or panel truck of one (1) ton capacity per lot; said commercial vehicle must be owned and operated by a member of the family residing on said lot or parcel.

Section 9.02 – Required Off-Street Parking, General

- A. For the purposes of this Article, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley, and so that any automobile may be parked and un-parked without moving another automobile. Each parking space shall comprise a net area of at least ten (10) feet by twenty (20) feet.
- B. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided.
- C. Off-street parking required in conjunction with all land and building uses shall be provided as herein prescribed:
1. The minimum number of off-street parking spaces shall be determined in accordance with Section 9.03. For uses not specifically mentioned therein, off-street parking requirements shall be established by the Planning Commission.
 2. Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building shall not be reduced to an amount less than would hereinafter be required for such building or use.
 3. Two (2) or more buildings or uses may collectively provided the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. However, in cases of dual functioning of off-street parking where operating hours do not overlap, the Planning Commission may grant a Special Land Use Permit based on the peak hour demand.

Section 9.02 – Required Off-Street Parking, General (Continued)

4. Required off-street parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited. Off-street parking, whether public or private, for nonresidential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot, without crossing any major street.

Section 9.03 – Table of Required Off-Street Parking Spaces

USE	SPACES	PER UNIT OF MEASUREMENT (Rounded Off to Nearest Unit)
Multiple residential	1	Bedroom
Other residential, including dwelling units, in all other types of buildings	2	Dwelling unit
Hospitals, homes for aged, convalescent homes	2	Each bed
Tourist homes, motels	1.2	Each rooming dwelling unit
Theaters, Auditoriums, Events Venues. Private Clubs, Dance Halls and Assembly Halls without fixed seats.	1	4 seats
Houses of worship, mortuaries	1	4 seats; or 28 square feet of usable floor area of auditorium, whichever is greater
High schools	1	Per teacher, employee and Administrator; plus 1 space per 10 students; or 28 square feet of useable floor area of largest auditorium or other public assembly room, whichever is greater
Elementary, Junior High Schools	1	Per teacher, employee, administrator; or 28 square feet of usable floor area of largest auditorium or other public assembly room, whichever is greater
Banks, business offices	1	200 square feet of useable floor area, plus 1 parking space for each employee
Office of architects, attorneys, accountants, real estate offices, insurance offices	1	500 square feet of useable floor area, plus 1 parking space for each employee

Section 9.03 – Table of Required Off-Street Parking Spaces (Continued)

Professional office of dentists and physicians	4 3 2 1	First dentist or physician Second dentist or physician Third dentist or physician Each additional dentist or physician
Stadiums and sports arenas	1	4 seats; or 12 feet of benches
Bowling alleys	5	Lane
Non-residential swimming pools	1	30 square feet of water area surface
Establishments for sale and consumption on the premises of beverages, food or refreshment	2	100 square feet of useable floor area
Hotel, rooming house	1	Each rooming unit
Retail stores, except as otherwise specified herein	1	150 square feet of useable floor area
Furniture and appliance retail stores; household equipment repair shops; showroom of a plumber, decorator, electrical or similar trade; clothing and shoe repair; cleaners and laundry; motor vehicles sales room	1	500 square feet of useable floor area exclusive of useable floor area occupied in processing or manufacturing, for which requirements see industrial establishments below
Beauty parlor or barber shops	2	Barber or beauty shop chair
Industrial establishments, including manufacturing, research and testing laboratories; creameries, bottling works; printing, plumbing, or electrical workshops; telephone exchange buildings	1	Employees computed on the basis of greatest number of persons employed at any one period during the day or night

Section 9.04 – Off-Street Parking Lot Layout, Construction and Maintenance

- A. Wherever a parking lot is built as required for off-street parking, such parking lot shall be laid out, constructed and maintained in accordance with the following requirements:
1. Adequate ingress and egress shall be provided to the parking lot by means of clearly limited and defined drives.
 2. Parking spaces in non-residential districts will be set back from abutting residential districts as follows:
 - a. Ten (10) feet from each side lot line.
 - b. A front lot line setback equal to the adjoining residential required setback, or if no adjoining residential district exists, the setback will be equal to the setback requirements of the district in which the lot is located.
 - c. Ten (10) feet from the rear lot line.
 3. The land between the front setback line and the lot line in a parking lot is, for the purpose of this Ordinance, called a buffer strip. There shall be bumper stops or wheel chocks provided so as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be no less than five (5) feet in width and used only for the purpose of plant materials, fencing or sidewalks.
 4. Where buffer strips are not required (side and rear set back line), bumper stops or wheel chocks shall be provided and located so as to prevent any vehicle from projecting over the lot line. The Planning Commission may require a minimum of a five (5) foot buffer strip along a side or rear setback that adjoins a residential district lot if such lot is occupied with a home at the time of submission of the site plan.
 5. Where the parking lot boundary adjoins property zoned for residential use, a fence, not more than four (4) foot in height and no more than fifty (50) percent solid shall be provided but shall not extend into the required front open space of the abutting residential lot. The Planning Commission may require a six (6) foot solid fence to visually screen the parking lot from an adjoining residential district lot.
 6. The parking lot shall be drained to eliminate surface water pursuant to the requirements of the Berrien County Drain Commission.
 7. The surface of the parking lot, including drives and aisles, except buffer strips, shall be constructed of asphalt, concrete or gravel.
 8. Parking structures may be built to satisfy off-street parking regulations when located in other than residential districts subject to the area, height, bulk and placement regulations of such district in which located.
 9. A plan for all new off-street parking lots shall be required specifying the landscaping to be installed in the buffer strip, including the placement and

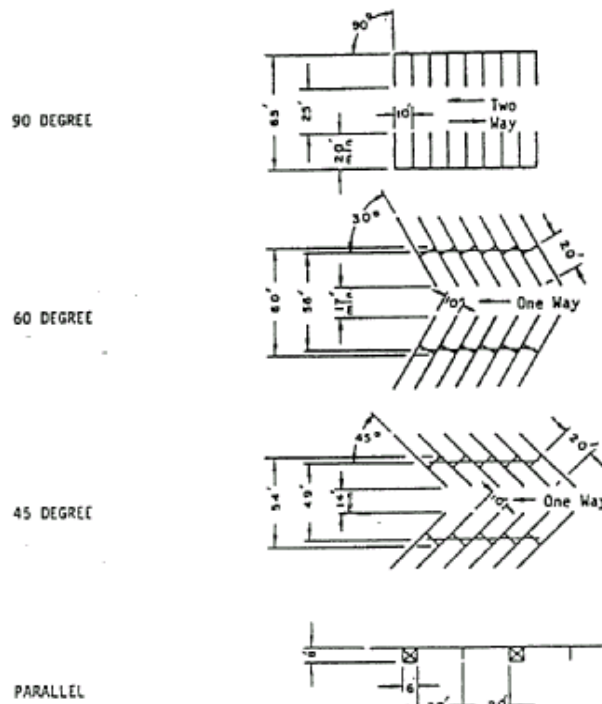
Section 9.04 – Off-Street Parking Lot Layout, Construction and Maintenance (Continued)

specifications of landscape materials and shall be subject to approval by the Planning Commission. If seasonal weather conditions present practical difficulties in the installation or completion of the buffer strips, completion of the buffer strips may be deferred for not more than six (6) months. In reviewing and approving plans for the landscaping and improvement of required buffer strips, the Planning Commission shall be guided by the following criteria:

- a. The buffer strip shall include landscape materials of shrubs and trees, which will result in substantial screening of the parking lot and vehicles from the abutting residential districts.
- b. The owner of the premises upon which the buffer strip is located shall maintain such landscaping in good condition so as to present a neat and orderly appearance - free from refuse and debris. All diseased and dead material shall be replaced within one (1) year or the next appropriate planting period, whichever comes first.

Section 9.05 – Off-Street Loading and Unloading

- A. On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use or highways, streets or alleys.



ARTICLE X

Special Land Uses

Section 10.01 – Purpose

- A. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the surrounding area, public services, facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.
- B. This Article hereby requires the Planning Commission, to issue Special Land Use Permits provided:
 - 1. The proposed use is one listed as a special land use for the district in which said use is proposed to be located; and
 - 2. The Planning Commission insures before approving a Special Land Use Permit request that both:
 - a. The standards of the district in which the special land use is to be located are fulfilled; and
 - b. The standards or other requirements of this Article are fully complied with.

Section 10.02 – Application Procedures

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for one or more Special Land Use Permits provided for in this Ordinance in the zoning district in which the land is situated.
- B. **Application:** Applications for Special Land Use Permits shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** An application for a Special Land Use Permit shall be presented to the Zoning Administrator and accompanied by, but not limited to, the following documents and information:
 - 1. A Special Land Use Permit application form which has been completed in full by the applicant.

Section 10.02 – Application Procedures (Continued)

2. A site plan in conformance with Article XI (11) of this Ordinance.
 3. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C.1, and other standards imposed by this Ordinance affecting the special use under consideration.
- C. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 10.03 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Special Land Use Permit to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Special Land Use Permit the Planning Commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given not less than fifteen (15) days by mail or personal delivery to the owners of property for which Special Land Use Permit approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Notice of the public hearing shall also be published not less than fifteen (15) days before the date of the public hearing on the application, in a newspaper of general distribution in the Township.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Each notice given under this section shall:

1. Describe the nature of the request;
2. Indicate the property which is the subject of the request;
3. State when, where and at what time the public hearing on the request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

Section 10.04 – Review and Approval

- A. **Review:** The review of an application and site plan requesting a Special Land Use Permit shall be made by the Planning Commission in accord with the procedures and standards specified in this Article. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a Special Land Use Permit shall be approved by the Planning Commission if they comply in all respects with the requirements of this Ordinance and other applicable Township, County, State or Federal laws, rules or regulations. Approval and issuance of a Special Land Use Permit shall signify prior approval of the application and site plan therefore, including any modification and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved, and any statements of conditions and modifications shall become part of the Special Land Use Permit and shall be enforceable as such. The decision to approve or deny a request for a Special Land Use Permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with this Ordinance, and any condition imposed with approval. Once a Special Land Use Permit is issued, all site development and use of land on the property affected shall be consistent with the approved Special Land Use Permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Planning Commission and is documented as such.
- B. **Appeals:** Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Use Permits may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).
- C. **Conditions and Guarantees:** Prior to approval of a Special Land Use Permit application and required site plan, the Planning Commission shall insure that the standards specified in this Section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Land Use Permit under consideration.
1. **General Standards:** The Planning Commission shall review the particular circumstances of the special land use request under consideration in terms of the following standards and approve a Special Land Use Permit only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.
- a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.

Section 10.04 – Review and Approval (Continued)

- d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of available capacity.
 - h. The special land use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted Bainbridge Township Master Plan.
2. **Conditions:** The Planning Commission may impose reasonable conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this Section and any other applicable Township ordinances and regulations. Such conditions shall be considered an integral part of the Special Land Use Permit and approved site plan and shall be enforced by the Zoning Administrator. The conditions may include conditions necessary to insure that, public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
3. **Performance Guarantee:** In authorizing a Special Land Use Permit, the Planning Commission may require that a cash deposit, certificate check, or irrevocable bank letter of credit be furnished by the developer to insure compliance with an approved site plan and the Special Land Use Permit requirements. Such guarantee shall be deposited with the Township Clerk at the time of the issuance of the Special Land Use Permit. In fixing the amount of such performance guarantee, the Planning Commission shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area including, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Michigan Zoning

Section 10.04 – Review and Approval (Continued)

Enabling Act, Act 110 of 2006, as amended. The Planning Commission and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this Section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the Special Land Use Permit.

D. Decision:

1. **Issuance of a Special Land Use Permit:** Upon approval by the Planning Commission, the Zoning Administrator shall issue a Special Land Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Land Use Permit and take any enforcement action necessary in the event of a violation of the Special Land Use Permit.
2. **Effective Date:** The Special Land Use Permit shall become effective when the application has been approved by the Planning Commission.
 - a. A Building Permit shall not be issued until approval of such Special Land Use Permit by the Planning Commission.
 - b. Until a Building Permit has been granted pursuant to the Special Land Use Permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Special Land Use Permit.
 - c. Land subject to a Special Land Use Permit may not be used or occupied for purposes of such special land use until after a Certificate of Occupancy for same has been issued pursuant to the provisions of this Ordinance.
3. **Permit Validity:**
 - a. A Special Land Use Permit is transferable to a subsequent owner provided that all terms and conditions of the permit are met by any subsequent owner.
 - b. In instances where development authorized by a Special Land Use Permit has not commenced within one (1) year (365 days) from the date of issuance or the last date of review authorized by this subsection, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the Special Land Use Permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the Special Land Use Permit

Section 10.04 – Review and Approval (Continued)

shall remain valid, subject to periodic review in accord with the provisions of this subsection.

4. **Requirement for Compliance -- Penalties:** It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a Special Land Use Permit, and approved site plan therefore, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be violation of this Ordinance and subject to the penalties and remedies provided in Article XII (12) and the continuance thereof is declared to be a nuisance.
5. **Once Granted a Special Land Use Permit the Use is a Permitted Use:** Any use for which a Special Land Use Permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:
 - a. Such permit was issued in conformity with the provisions of this Ordinance;
 - b. Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Land Use Permit shall have been explicitly granted;
 - c. Such permit authorized a use which is subsequently built, operated and maintained in compliance with this Ordinance, the Special Land Use Permit and all conditions established with its approval; and
 - d. The Special Land Use Permit requirements are met.
6. **Specific Requirements:** The foregoing general requirements are basic and apply to all special uses. Specific requirements listed in the District Regulations, Article IV (5) and General Provisions Article XVI (16) relating to particular special uses are in addition to, and shall be required, in all applicable situations.

ARTICLE XI

Site Plan and Scaled Drawing Requirements

Section 11.01 – Intent

- A. The intent of requiring site plan or scaled drawing submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this Ordinance.
- B. It is further the intent to assist township officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in Bainbridge Township.

Section 11.02 – When Required

- A. **Variance or Special Land Use – Except for Single-Family, Two-Family:** A site plan shall be prepared and submitted in accordance with Sections 11.03 A. and 11.04 with any application for:
 - 1. Variance or Special Land Use Permit, other than for a Special Land Use Permit for a Home Occupation;
 - 2. With any application for Rezoning, other than Rezoning for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use;
 - 3. With any application for a Zoning Compliance Permit or Building Permit, other than for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto; and
 - 4. With any application for a Planned Unit Development or Condominium.
- B. **Rezoning – Single-Family, Two-Family:** A scaled drawing shall be prepared for the sole purpose of constructing a single-family, two-family or agricultural permitted principal use or accessory use thereto and submitted in accordance with Sections 11.03 B. and 11.04 with any application for:
 - 1. Rezoning
 - 2. Zoning Compliance Permit
 - 3. Building Permit
 - 4. Variance

Section 11.03 – Contents

- A. A required site plan shall be drawn at a scale of one (1) inch equals one hundred (100) feet and shall contain the following information:
1. The boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner, quarter corner or point on a recorded plat, an arrow pointing north, and the individual lot areas and dimensions of the land included in the site plan.
 2. Existing and proposed topography, drainage systems, and structures, with topographic contour intervals of not more than two (2) feet.
 3. The shape, size and location of all structures on the lot including yard dimensions, height, floor area and ground coverage ratios and the finished ground and basement floor grades.
 4. Natural features such as wood lots, trees of more than one (1) foot in diameter, streams and lakes or ponds, and man-made features such as exiting roads and structures, with indication as to which features are to be retained and which removed or altered. Adjacent properties and their uses shall be identified.
 5. Proposed streets, driveways, parking spaces, curb cuts, loading spaces and sidewalks, with indication of direction of travel for one-way streets and drives and the inside radius of all curves. The width of streets, driveways and sidewalks, and the total number and layout of parking spaces shall be shown.
 6. The size and location of all existing and proposed public and private utilities and required landscaping.
 7. A vicinity sketch showing location of the site in relation to the surrounding street system.
 8. A legal description of the land and lots included in the site plan.
 9. Any other information necessary to establish compliance with this and any other ordinances.
 10. The availability of adequate utility capacity.
 11. The name, signature, title and mailing address of the person who prepared the site plan. A site plan for any development shall be prepared by a registered architect, engineer, professional community planner or land surveyor.
- B. A required scaled drawing shall be drawn at a scale appropriate to the dimensions of development and shall contain the following information:
1. A legal description of the land involved.
 2. A vicinity sketch showing location of the site in relation to the surrounding street system.

Section 11.03 – Contents (Continued)

3. The size and location of all structures proposed for and presently located on the site.
4. The boundary lines of the parcel of land involved including dimensions and an arrow pointing north.
5. Proposed streets and driveways. The width of streets and driveways shall be shown.
6. Any other information necessary to establish compliance with this and any other ordinances.
7. The name, signature and mailing address of the person who prepared the scaled drawing.

Section 11.04 – Review Process and Approval

- A. Any required site plan or scaled drawing shall be submitted, of original quality, to the Zoning Administrator along with a cover letter signed by the owner of the land and/or prospective developer providing a general explanation and background information on the proposed development.
- B. The Zoning Administrator shall examine the site plan or scaled drawing as to proper form and content and particularly as to compliance with all applicable requirements of this Ordinance.
- C. If the proposed development does not require the issuance of a Special Land Use Permit by the Planning Commission, Variance by the Board of Appeals or a Rezoning of land by the Township Board, within thirty (30) days after receipt the Zoning Administrator shall notify in writing the proposer of the development of the approval or disapproval of the site plan or scaled drawing. If the site plan or scaled drawing is disapproved, the reasons therefore shall be given. Such disapproval shall be limited to inadequacy or defect in form or content and/or noncompliance with identified applicable provisions of this Ordinance. The Zoning Administrator may, at his discretion, request consultation with the Planning Commission prior to his approval or disapproval of the site plan.
- D. If the proposed development requires issuance of a Special Land Use Permit, the Zoning Administrator shall transmit his findings as described in paragraph C. above, to the Planning Commission along with a copy of the site plan and covering letter. The proposer of the development shall be notified of the status of his requested site plan approval.
- E. If the proposed development requires a rezoning of land, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Township Board which shall follow the amendment procedure as provided in Article XV (15). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.

Section 11.04 – Review Process and Approval (Continued)

- F. If the proposed development requires a Variance, the Zoning Administrator shall transmit his findings as described in paragraph C., above, to the Board of Appeals which shall follow the Variance procedure as provided in Article XIII (13). The site plan or scaled drawing and cover letter shall accompany the Zoning Administrator's findings. The proposer of the development shall be notified of the status of his requested site plan or scaled drawing for approval.
- G. The decision rejecting, approving, or conditionally approving a site plan shall be based upon the requirements contained in Section 11.03, A. The decision rejecting, approving or conditionally approving a scaled drawing shall be based upon the requirements contained in Section 11.03, B.
- H. A site plan or scaled drawing shall be approved if it contains the information required by this Ordinance and is in compliance with this Ordinance and the conditions imposed thereunder, other applicable Township, County, State or Federal laws, rules or regulations.
- I. The site plan or scale drawing as approved shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan or scaled drawing, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and approving body.
- J. Upon approval of a site plan, the secretary of the approving body shall, within five (5) days, file with the Zoning Administrator a copy of the approved site plan or scaled drawing.

ARTICLE XII

Administration Enforcement and Violations

Section 12.01 – Administration and Enforcement

- A. An administrative official who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this Ordinance. He may be provided with the assistance of other such persons as the Township Board may direct.
- B. If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 12.02 – Duties and Limitations of the Building Inspector

- A. The Building Inspector shall have the authority to grant Building Permits and Certificates of Occupancy, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Inspector to approve any plans or issue a Building Permit for any excavation or construction or use until he has inspected such plans in detail and found them in compliance with this Ordinance. To this end, the Building Inspector shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy where required by Article XI (11), be accompanied by a site plan prepared in accordance with specifications of Article XI (11).
- B. If the proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this Ordinance and in conformance with the provisions of the Township Building Code, the Building Inspector shall issue a Building Permit. If an application for such permit is not approved, the Building Inspector shall state in writing on an appropriate denial form the cause for such disapproval.
- C. The Building Inspector may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where basic clarification is desired before proceeding with further technical work; and the Building Inspector may on such preliminary submittal indicate tentative denial or tentative approval.
- D. Issuance of a Building Permit shall in no case be construed as waiving any provisions of this Ordinance. The Building Inspector is under no circumstances permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land. The Building Inspector is under no circumstances permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.

Section 12.02 – Duties and Limitations of the Building Inspector (Continued)

- E. The Building Inspector shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, County, State or Federal laws, rules or regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of said permit, are not cause for refusal to issue a permit.

Section 12.03 – Duties and Limitations of the Zoning Administrator

- A. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, until the Zoning Administrator has issued for such work a Zoning Permit and the Building Inspector has issued a Building Permit including a certification of his opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- B. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined such change to be in compliance with applicable provisions of this Ordinance.
- C. When the Zoning Administrator receives an application for a Zoning Permit which requires a Planning Commission Special Land Use Permit or other approval he shall so inform the applicant.

Section 12.04 – Complaints Regarding Violations

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis there of, shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate and take action thereon as provided by this Ordinance and make answer to the complainant.

Section 12.05 – Penalties for Violations

- A. Violation of the provisions of this Ordinance or failure to comply with any of its requirements, shall constitute a civil infraction in accordance with the Bainbridge Township Violations Bureau.
- B. Violation of conditions and safeguards established in connection with the granting of Variance, or Use Permits, shall constitute the revoking of the permit.
- C. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- D. Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation of this Ordinance.

Section 12.06 – Appeals

- A. Any person, firm corporation or department, board or bureau of the Township aggrieved by the decision of the Zoning Administrator for the issuance of a Zoning Permit, may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).
- B. Any person, firm corporation or department, board of bureau of the Township aggrieved by the decision of the Building Inspector for the issuance of a Building Permit, may seek review by the Construction Board of Appeals in a manner prescribed in the Michigan Construction Code.

ARTICLE XIII

Appeals

Section 13.01 –Zoning Board of Appeals; Establishment and Procedure

- A. Zoning Board of Appeals is hereby established which shall consist of five (5) members to be appointed in accordance with Michigan Zoning Enabling Act, Act 110 of 2006, as amended. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission and his term of office on the Zoning Board of Appeals shall be concurrent with his term of office as a member of the Planning Commission. The second member of the Zoning Board of Appeals may be a member of the Township Board appointed annually for a term of one (1) year by the Township Board. An elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals. The additional member(s) of the Zoning Board of Appeals shall be appointed for terms of three (3) years by the Township Board from among the electors residing in the unincorporated area of the Township. An additional member shall not serve simultaneously as an elected officer of the Township or as an employee of the Township Board or as a member or employee of the Township Zoning Board of Appeals. Members of the Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A successor shall be appointed by the Township Board at the next regular meeting subsequent to a vacancy on the Zoning Board of Appeals. Vacancies shall be filled for the remainder of the term.
- B. The Zoning Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Zoning Board of Appeals may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- C. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, filed in the office of the Township Clerk.

Section 13.02 – Board of Appeals; Powers and Duties

- A. **Appellate Jurisdiction:** The Zoning Board of Appeals shall have the powers and duties to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance.
- B. **Appeals; Filing:** Appeals to the Zoning Board of Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the Township affected by any decision of the Zoning Administrator. Such appeals shall be taken within a reasonable time of the aggrieved action, not to exceed sixty (60) days, by filing with the Zoning Administrator and with the Zoning Board of Appeals a Notice of Appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

Section 13.02 – Board of Appeals; Powers and Duties (Continued)

- C. **Board of Appeals has Powers of Zoning Administrator on Appeals; Reversing Decision of Zoning Administrator:**
1. In exercising the above mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Zoning Administrator from whom the appeal is taken under appellate jurisdiction.
 2. The concurring vote of three (3) members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in the application of this Ordinance.
- D. **Stay of Proceedings:** An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Zoning Board of Appeals after the Notice of Appeals is filed with him, that by reason of facts stated in the Notice of Appeal, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

Section 13.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject whereas in specific cases such variance from the terms of this Ordinance as shall not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship to the applicant.
- B. **Application:** A written application for a Variance shall be submitted through the Zoning Administrator, to the Zoning Board of Appeals. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** An application for a Variance shall be presented to the Zoning Administrator and accompanied by, but not limited to, the following documents and information:
1. A description of the special conditions and circumstances for which a Variance is required;
 2. An explanation of why the Variance, if granted, is unique to the applicant's property;
 3. An explanation that the requested Variance is not required due to an action of the applicant;

Section 13.03 – Application Procedure (Continued)

4. An explanation that the Variance requested is the minimum variance required by the applicant;
 5. A site plan in conformance with Article XI (11).
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 13.04 – Processing

- A. **Copy of Application Board of Appeals:** The Zoning Administrator shall forward a copy of the application for the Variance to the Chairman of the Zoning Board of Appeals within forty five (45) days of receiving the request.
- B. **Hearings:** The Zoning Board of Appeals shall fix a reasonable time for a hearing, not to exceed forty-five (45) days from the filing of the Notice of Appeal. Notice of the hearing shall be given not less than fifteen (15) days by mail or personal delivery to the owners of property for which Notice of Appeal approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Notice of the public hearing shall also be published not less than fifteen (15) days before the date of the public hearing on the application, in a newspaper of general distribution in Bainbridge Township. Any party may appear in person, by agent or by attorney.

If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. Each notice given under this section shall:

1. Describe the nature of the request;
2. Indicate the property which is subject of the request;
3. State when, where and at what time the public hearing on the request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

Section 13.05 – Review and Approval

- A. **Review:** No variance application may be approved unless the Zoning Board of Appeals find, based upon the evidence presented to it in each specific case, that:
1. That the requested variance is consistent and in harmony with the stated general purpose and intent of this Ordinance; and
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- B. In order to determine that practical difficulties or particular hardships exists, the Zoning Board of Appeals must find evidence of each of the following:
1. The practical difficulties are due to unique circumstances and are not generally applicable to other similarly situated property; and
 2. The Variance, if granted, will not alter the essential character of the surrounding property.
- C. The Zoning Board of Appeals in making its determination of whether practical difficulties exist, must take into consideration the extent to which evidence has been submitted substantiating the following facts:
1. That the special conditions and circumstances do not result from the actions of the applicant or any person presently having an interest in the property;
 2. That granting the Variance requested will not be detrimental to the public welfare, injurious to other property or improvements, and have no adverse affect upon adjacent properties; and
 3. That special conditions, unique characteristics, and/or extraordinary circumstances exist which are peculiar to the land, structure or building involved, which are not applicable to other lands, structures or buildings in the same district; and would result in practical difficulties upon the property owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out; and
 4. That the Variance is the minimum variance which will make possible reasonable use of the land, building, or structure
- D. In granting any Variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Variance is granted, Ordinance and punishable under Article XII (12) of this Ordinance.
- E. Under no circumstances shall the Zoning Board of Appeals grant a Variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 13.05 – Review and Approval (Continued)

- F. Under no circumstances shall a nonconforming use of neighboring land, structure or other building, or other nonconforming condition in any other districts be the grounds for consideration of the issuance of a Variance by the Zoning Board of Appeals.
- G. **Decision:** Upon approval by the Zoning Board of Appeals, it shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Variance and take any enforcement action necessary in the event of a violation of the Variance.
 - 1. A Building Permit shall not be issued until approval of such Variance by the Zoning Board of Appeals.
 - 2. Until a Building Permit has been granted pursuant to the approved Variance, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such Variance.
 - 3. Land subject to a Variance may not be used or occupied for purposes until after a Certificate of Occupancy for same has been issued pursuant to the provisions of this Ordinance.

Section 13.06 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit and/or Building Permit in conformity with the application as approved in this Article.

Section 13.07 – Duties of Zoning Administrator, Board of Appeals, Township Board, Planning Commission and Courts on Matters of Appeal

- A. It is the intent of this Ordinance that all questions under appellate jurisdiction shall be presented to the Zoning Board of Appeals only on appeal from the decision of the Zoning Administrator or Planning Commission on Special Land Use Permits. Requests of Variances, constituting matters under original jurisdiction of the Zoning Board of Appeals, shall be filed with the Zoning Board of Appeals via the Zoning Administrator and shall not be construed as an appeal from the decision of the Zoning Administrator. Recourse from the decision of the Zoning Board of Appeals shall be to the courts as provided by the laws of the State of Michigan.
- B. It is further the intent of this Ordinance that the duties of the Township Board in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Ordinance. Under this Ordinance, the Township Board shall have only the duties of:
 - 1. Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law;

Section 13.07 – Duties of Zoning Administrator, Board of Appeals, Township Board, Planning Commission and Courts on Matters of Appeal (Continued)

2. Establishing a schedule of fees and charges as stated in Article XIV (14);
3. Appointing members to the Zoning Board of Appeals;
4. Appointing Planning Commission members; and
5. Appointing the Zoning Administrator.

ARTICLE XIV

Schedule of Fees, Charges, and Expenses

Section 14.01 – Schedule Established by Township Board

- A. The Township Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for Permits and Certificates of Occupancy, Appeals, requests for Special Land Uses, Variances and Rezoning Applications and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be amended only by the Township Board.
- B. Until all applicable fees, charges and expenses have been paid in full; no action shall be taken on any application or appeal.

ARTICLE XV

Amendments

Section 15.01 – Intent

- A. Amendment to this Ordinance may be initiated by the Township Board on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing an application therefor with the Township Board. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance and recommend the same to the Township Board for adoption.

Section 15.02 – Amendment Procedure

- A. **Filing of Applications:** All petitions for amendments to this Ordinance shall be in writing, signed and filed with the Township Clerk for presentation to the Township Board. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- B. **Required Information:** All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
1. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 2. The nature and effect of the proposed amendment.
 3. If the proposed amendment would require a change in the Zoning Map, a site plan or scaled drawing prepared in accordance with Article XI (11), a legal description of such land, the present zoning classification of the land, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 4. If the proposed amendment would require a change in the Zoning Map, the names and addresses of the owners, according to the current tax roll, or all land within three hundred (300) feet of the perimeter of the area to be changed by the proposed amendment. Each application for Rezoning shall be accompanied by a payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
 5. The alleged error in this Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same.
 6. The changed or changing conditions in the area or in the Township which makes the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.

Section 15.02 – Amendment Procedure (Continued)

7. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- C. **Filing:** The Township Board, upon receipt of the petition to amend, after having it examined and approved as to form and content by the Township Clerk, shall refer the same to the Township Planning Commission for study and report.
- D. **Public Hearing:** Before submitting its recommendations on the petition to amend, the Planning Commission shall hold a public hearing, notice of which shall be given by publication in a newspaper of general circulation within Bainbridge Township, to be printed not less than fifteen (15) days before the date of such hearing. In addition, the following procedures shall be required:
 1. Not less than fifteen (15) days notice of the time and place of such hearing shall be given by mail to such electric, gas, pipeline and telephone public utility company which registers its name and mailing address with the Township Planning Commission for the purpose of receiving such notice, and to each railroad operating within the district or zone affected that registers its name and mailing address with the Township for the purpose of receiving of the notice. An affidavit of mailing shall be maintained.
 2. If an individual property is proposed for Rezoning, the Planning Commission shall give a notice of public hearing thereof to the owner of the property in question, to all persons to whom any real property within three (300) hundred feet of the perimeter of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet. Such notice shall be given not less than fifteen (15) days prior to the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "Occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission prior to the hearing.
 3. All notices of public hearing shall state the time, date, place and purpose of such public hearing. Notices of public hearing shall also include the places and times at which the tentative text and any maps of the Ordinance may be examined.
- E. **Adoption:** Following the public hearing, the Planning Commission shall submit the proposed amendment to the County Planning Commission for approval.
 1. The approval of the County Planning Commission shall be conclusively presumed unless the County Planning Commission within thirty (30) days of receipt notifies the Township Clerk of its disapproval.
 2. The Township Planning Commission shall then refer the proposed amendment to the Township Board along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefor.
 3. A public hearing conducted by the Township Board shall not be necessary unless a request is made in writing by a property owner.

Section 15.02 – Amendment Procedure (Continued)

4. Thereafter at any regular meeting or at any special meeting called therefor the Township Board may adopt and enact the proposed amendment, in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.
5. Upon enactment of the amendment said amendment including only the section(s) of this Ordinance amended or added to shall be published in a newspaper of general circulation within the Township within ten (10) days after enactment.
6. Within seven (7) days after publication the amendment to this Ordinance shall be filed in the Official Ordinance Book of the Township with a certification of the Township Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, such change shall be made on the map in accordance with the provisions of Article I (1) of this Ordinance within ten (10) days after enactment of the amendment.

Section 15.03 - Comprehensive Review

- A. The Planning Commission shall from time to time, at intervals of not more than one (1) year, examine the provisions of this Ordinance and the locations of district boundary lines and shall submit a written report to the Township Board recommending changes and amendments, if any, which are desirable in the interest of the public health, safety and general welfare.

ARTICLE XVI

General Provisions

Section 16.01 – Provisions of Ordinance are Minimum Requirements

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall prevail.

ARTICLE XVII

Planned Unit Development

Section 17.01 – Intent

- A. The intent of this Article is to provide a degree of flexibility with regard to the use, area, height, bulk and placement regulations for relatively large-scale developments which qualify as Planned Unit Developments. A Planned Unit Development shall incorporate features and benefits to the community and to the property which would not be possible to achieve through the use of conventional development patterns or design. These may include, but are not limited to, housing developments, shopping centers, industrial districts, office districts and medical and educational campuses.
- B. It is the intent to allow a Planned Unit Development in R-AG Residential Agricultural, R-1, Single Family Residential, R-2 Multiple Family Residential, C Commercial, C-AG Commercial Agricultural and AG Agricultural, subject to Special Land Use Permit as set forth in this Article and Article X (10).
- C. The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building on one (1) lot. These requirements would in certain large developments have results which would less serve the public health, safety and welfare if a portion of the open space requirement for individual dwellings were consolidated into playgrounds or community parks.
- D. A development may be of such large size as to justify permitting certain incidental uses not normally permitted in the zoning district. Permitting these uses as Special Land Uses can in certain cases increase convenience, are compatible with the overall character of the district and not be injurious to adjoining properties. As an example, a large office building or multiple developments might include a coffee shop, food store or barber shop primarily intended for occupants or residents of the premises.
- E. Subject to the foregoing statement of intent and the limitations and requirements of this Article, the Planning Commission may, upon application, approve special land uses and exceptions in reference to the use, area, height, bulk and placement regulations of the Zoning Ordinance.
- F. The physical development of the area must start within one (1) year of the date of approval. The failure to start the development shall invalidate the plan and the sponsor shall then be required to resubmit the preliminary plan for review and approval as in the first instance. Provided, however, that the Township Board, upon review of the Planning Commission, may extend such period of time up to one (1) year.

Section 17.02 – Definition

- A. **Planned Unit Development:** A Planned Unit Development must constitute a land area of at least five (5) acres to be occupied by principal building(s) located on a lot of record in accordance with Article V, Schedule of District Regulations. The development shall be designed as an entity intended to be substantially completed within three (3) years if less than fifty (50) acres and five (5) years if more than fifty (50) acres.

Section 17.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for a Planned Unit Development provided for in this Article in the zoning district in which the land is situated. No Planned Unit Development shall be erected or platted in the Township without first having the applicant secure all permits as described in this Article.
- B. **Application:** An application and site plan shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee and deposit to escrow in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable while any unused escrow deposit will be returned to the applicant upon final disposition of the application.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. Application signed by owner and/or prospective developer holding an equitable interest in the property in question indicating:
 - a. Legal description, showing location and acreage of property
 - b. Existing zoning classifications
 - c. General description of proposed development and estimated timetable of construction
 2. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Article X (10), Section 10.04, C and other standards imposed by this Ordinance affecting the special land use under consideration. Such statement shall describe in detail any and all modifications or deviations from the requirements of the underlying zoning district requested as a part of the Planned Unit Development application.
 3. A site plan prepared in accordance with Article XI (11) and in addition:
 - a. On the site plan there shall be the proposed schedule of: usable floor areas and land areas by category of use, building ground coverage, square feet net lot area and preserved open space per dwelling unit, number of parking spaces and such other information necessary to satisfy the intent and requirements of this Article.
 - b. A declaration of restrictions to be placed on a property when subdivided to assure the planned character and uses will be preserved and protected.
 4. Land Division and Private Road Application.

Section 17.03 – Application Procedure (Continued)

- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 17.04 - Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Planned Unit Development to the Planning Commission within thirty (30) days of receiving a complete application request.
- B. **Review and Hearing:** The Planning Commission shall conduct a preliminary review of the proposed Planned Unit Development and may provide comment and ask questions seeking further information but shall not render any judgment in support or opposition until the required public hearing has been completed. In no event shall any comments made by Planning Commission members at such preliminary review be regarded as final or definitive and in no instance shall the Township be bound by any such comments. After a preliminary review of the site plan and an application for a Planned Unit Development, the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 17.05 – Review and Approval

- A. All procedures for review and approval will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. The Planning Commission shall review the application and site plan and, pursuant to Subparagraph D hereof, prepare a determination on whether or not the proposed development best serves the intent of this Ordinance and the public health, safety and welfare with respect to the requested special land use and exception. The determination shall be based on findings of fact on the following:
1. Does the proposal constitute a bonafide Planned Unit Development?
 2. Is the public health, safety and welfare served by the proposal?
 3. Have the following considerations been evaluated: location, density of population, adequacy of school, park, and other public facilities, traffic volumes and circulation, compatibility with existing development, adequate provision for light and air and accessibility for fire and police protection?
 4. Is the proposal compatible with objectives of the General Development Plan or specific elements thereof which have been officially adopted by the Planning Commission?
 5. Is adequate provision made for dedication of land for streets, floodplains and parks?

Section 17.05 – Review and Approval (Continued)

6. Are the exceptions from district regulations within the limitations of this Ordinance?
 7. What other conditions should be required for issuance of a Special Land Use Permit or exceptions in regard to use, area, height, bulk or placement?
- C. The Planning Commission may, upon an affirmative finding on items 1 through 7 above approve such Special Land Uses and exceptions for such Planned Unit Development subject to the following limitations pertaining to alternative types of Planned Unit Development forms, in addition to those standards established in Section 10.04:
1. **Residential District Planned Unit Development** - All Planned Unit Developments in the R-AG Residential Agricultural, R-1 Single Family Residential, R-2 Multiple Family Residential, districts shall be subject to the following limitations:
 - a. A maximum of five (5) percent of the total developed area may be utilized for uses permitted in the C, Commercial District.
 - b. No business use or any building devoted primarily to a commercial use shall be built or established prior to the residential buildings or uses for which it is developed or intended to serve.
 - c. The minimum area, dimensions and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by no more than twenty (20) percent greater than that which would ordinarily result under the district regulations. To define the number of dwellings permitted under the district regulations as a use by right, the Planning Commission may require the developer to prepare a yield plan based on a feasible development in conformance with the standards of the underlying zoning district. Land accruing from reduction in lot requirements shall be laid out, developed and perpetually dedicated and reserved for open space, recreational and conservation purposes. Provisions for reservation and maintenance of such land shall be included as part of the Special Land Use Permit authorizing the Planned Unit Development.
 - d. A minimum of twenty (20) percent of the land developed in any Residential Planned Unit Development shall be reserved for common open space and noncommercial recreational facilities for the residents and users of the area being developed. Provisions for reservation and maintenance of such land shall be included as part of the Special Land Use Permit authorizing the Planned Unit Development.
 - e. Under no circumstances shall industrial uses be permitted within a Residential District Planned Unit Development.
 2. **Commercial District Planned Unit Development:** All Planned Unit Developments in commercially zoned districts shall be subject to the following limitations:

Section 17.05 – Review and Approval (Continued)

- a. The use, area, height, bulk and placement regulations of the district may be varied to allow for a variety of architectural design.
 - b. Notwithstanding any other provisions of this Section, every lot abutting the perimeter of a Commercial Planned Unit Development shall maintain all yard requirements of Section 5.10 for commercial zoning districts.
 - c. A maximum of fifteen (15) percent of the total developed area may be utilized for multiple-family residential use.
 - d. A maximum of five (5) percent of the total developed area may be utilized for industrial uses which are deemed compatible with the commercial and/or residential character of the Planned Unit Development.
 - e. A minimum of fifteen (15) percent of the land developed in any Commercial Planned Unit Development shall be reserved and utilized for common open space and noncommercial recreational facilities for the uses of the area being developed. Provisions of reservation and maintenance of such land shall be included as part of the Special Land Use Permit authorizing the Planned Unit Development.
3. **Industrial District Planned Unit Development:** All Planned Unit Developments in industrially zoned districts shall be subject to the following limitations:
 - a. The use, area, height, bulk and placement regulations of the district may be varied to allow for a variety of architectural design.
 - b. Notwithstanding any other provisions of this Section, every lot along the perimeter of the Industrial Planned Unit Development shall maintain all yard requirements of Section 5.10 for industrial districts.
 - c. A maximum of ten (10) percent of the total developed area may be utilized for uses that are permitted in the C, Commercial District.
 - d. A minimum of five (5) percent of the land developed in any Industrial Planned Unit Development shall be utilized for common open space and noncommercial recreational facilities for the users of the area being developed. Provisions for reservation and maintenance of such land shall be included as part of the Special Land Use Permit authorizing the Planned Unit Development.
4. **Cluster/Open Space Planned Residential Developments.**

In the R-AG and AG zoning districts, an applicant may propose a cluster/open space Planned Unit Residential Development which shall be subject to the following process:

 - a. The information identified in Section 17.03 will be required. Where perceived conflicts exist, the requirements of this subsection will be applied.

Section 17.05 – Review and Approval (Continued)

- b. The developer will be required to submit an existing features site analysis identifying the site's special natural features to be preserved as open space. The analysis will contain (1) the location of constraining features, such as wetlands, watercourses, 100 year floodplains, rights-of-way and easements and, (2) location of significant features such as tree lines, woodlands, scenic views, watershed divides, drainage ways, existing roads and structures. A general soils map of the site based upon the USDA Soils Inventory of Berrien County shall also be submitted. As an option, the Planning Commission may conduct an on-site visit to walk the site and become familiar with the setting and special features.
- c. The developer will then be required to submit a conceptual preliminary plan that describes initial thoughts about the overall layout of the proposed development, including location for house sites, greenways, and roads as well as conservation areas. The Planning Commission may confer with the applicant and may provide comment or ask questions seeking further information concerning the proposed development but shall not render any judgment in support or opposition until a final development plan has been submitted and the required public hearing has been completed. Provided, however, that in no event shall any comments made by Planning Commission members at such conceptual review meeting be regarded as final or definitive and in no instance shall the Township be bound by any such comments.
- d. The conceptual preliminary plan shall be developed according to the following five step process:
 - 1. All potential open space/conservation areas which shall be identified as (a) Primary and (b) Secondary. Primary areas will consist of special features, such as wetlands, floodplains, and soils susceptible to slumping and considered not buildable. Secondary areas shall comprise of a minimum of fifty (50%) percent of the remaining area of the site and include the most noteworthy natural, scenic and cultural resources. A minimum of fifty (50%) percent of the land must be designated Open Space/Primary area, whether Primary or Secondary areas. No development of homes or roads or related facilities shall be permitted in Primary or Secondary open space/conservation areas.
 - 2. The developer shall calculate the number of units that would be allowed on the site considering the minimum lot size of Five (5) acres. This determination shall be based upon the following formula:
 - a.
$$\frac{\text{The total acreage minus all primary conservation areas} = \text{net buildable area}}{\text{Net buildable area divided by five (5)}} = \text{maximum number of allowed lots.}$$

Section 17.05 – Review and Approval (Continued)

- b. The number of allowable building lots may be increased within a cluster/open space design by twenty-five (25%) percent, if public water and sewer facilities are required as a condition of approval. This 'density bonus' calculation may be used as the basis for identifying the number and location of houses or structures proposed for the site. The 'density bonus' will also allow lot size to decrease to a minimum of four (4) acres.
 - c. Street and lot layout shall be identified. Streets shall be designed to provide access to each house or structure in the most reasonable and economical fashion possible. Streets shall avoid, impacting primary open space/conservation features. Streets shall be designed to minimize the amount of area devoted to road surface while providing access to all houses or structures and to maximize the views of open space from lot.
 - d. Lot lines shall be drawn between building footprints, meeting the required lot sizes and setbacks as identified in this Ordinance. The area of each lot must be a minimum of two (2) acres with at least one hundred sixty (160') feet of road frontage, except as adjusted to conform to the density bonuses identified in Section 17.05,2, b, above. Lot boundaries may not extend through or into Primary or Open Space areas.
- 3. Prior to acceptance of the Planned Unit Development application for processing by the Planning Commission in accord with Section 17.04, the applicant shall submit a preliminary engineering certification that the approximate layout of proposed streets, house lots, and open space lands complies with the Township's zoning, lot split, street and drainage ordinances.
- 4. Maintenance of Common Open Space: common open space within the development will be maintained by the developer or homeowners association, unless the Township accepts such responsibility.
- 5. The Township may also request the developer to dedicate some portion of the site as public open space. To facilitate such a dedication, the developer may increase the number of proposed units by one for each two acres of open space dedicated for public use.

D. Approval of Outline Development Plan

1. Within a maximum of sixty (60) days after the receiving of a complete application and the outline development plan, the Planning Commission shall give notice of a public hearing in accordance with Article X (10) to be held on the plan before the Planning Commission. After the hearing, the Planning Commission shall approve, disapprove or approve with modifications the outline development plan pursuant to the findings of fact required by Section 17.05, B, and subject to the submission of a final development plan as required by this Article.
2. Although the outline development plan is approved or approved subject to conditions or modifications, no building permits may be issued on land within the Planned Unit Residential Development until the final development plans for the total project area have been approved by the Planning Commission under the procedures required by this Article.
3. Concurrent Application: An application for a Planned Unit Residential Development may be processed, noticed and heard by the Planning Commission concurrently with an application for a proposed subdivision or re-subdivision, or site condominium of the same property in accordance with Article XX (20) of this Ordinance and the Michigan Land Division Act., Act 288 of 1967, as amended.

Section 17.06 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Planned Unit Development may seek review by the Township Board of Appeals in the manner prescribed in Article XIII (13).

Section 17.07 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved in this Article and Article X (10).

ARTICLE XVIII

Private Roads

Section 18.01 – Intent

- A. The intent of this Article is to provide minimum standards and specifications for Private Roads constructed in the Township. It is recognized that such standards are necessary because of the need for road services adequate to provide year around access by fire, police, and like emergency vehicles. It is further recognized that if roads are not constructed in accordance with certain minimum standards, such roads frequently become impassable, and vehicles which do try to use them during such periods of impassability are likely to become stuck; find it impossible to gain access to the persons or structures located on the roadway; block the roadway and otherwise pose a threat to the health, safety and welfare of the residents located along the roadway, as well as to those other residents who would find use of the roadway essential.
- B. No person shall sell or convey an interest in any lot, including by purchase agreement, in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a street or road which has not been accepted as public, or said street or road abuts a private road as defined in this Article, unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the Board of County Road Commissioners.
- C. Any contract or agreement of sale entered into in violation of this Article shall be voidable at the option of the purchaser, Land Division Act 288 of 1967, as amended.
- D. It is the intent to allow Private Roads in any district subject to Special Land Use Permit as set forth in this Article and Article X (10).

Section 18.02 – Definition

- A. **Private Road:** A privately owned and maintained road which has not been accepted by the public for ownership and maintenance; which persons, in addition to the owners of the property underlying said road, have a lawful right to use for ingress and egress, whether as invitees, by common custom, or otherwise. This definition does not include a private driveway which serves one (1) one-family, or one (1) two-family residence.
- B. **Road:** A thoroughfare which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, land, boulevard, highway, street, and other thoroughfare, except an alley or private driveway.

Section 18.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for a Private Road provided for in this Article. No Private Road shall be constructed within the Township without first having acquired all permits as described in this Article.
- B. **Application:** An application and site plan or scaled drawing shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. A drawing of all cul-de-sacs to be located along said private roadway, which shall meet standards established by the Berrien County Road Commission and this Ordinance,
 2. Legal description, showing location and acreage of property;
 3. A soil erosion permit from the Berrien County Drain Commissioner;
 4. An overall development plan for all contiguous land in which the persons has an interest of any nature;
 5. A site plan in conformance with Article XI (11);
 6. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C and other standards imposed by this Ordinance affecting the special land use under consideration; and
 7. A maintenance agreement, easement agreement, and deed restrictions which provide for the perpetual private (non-public) maintenance of the Private Road and easement to a necessary and reasonable standard to serve the several interests involved shall be provided. These documents shall contain the following provisions:
 - a. A method of initiating and financing and apportioning costs of maintenance and improvements of such road and/or easements in order to keep the road in a reasonably good and usable condition. (See Act 139 of 1972, MSA 195 (41) (46), MCL 247.391-346.)
 - b. A notice that no public funds of the Township are to be used to build, repairs, or maintain the Private Road.
 - c. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.

Section 18.03 – Application Procedure (Continued)

- d. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, emergency vehicles and others bound to or returning from any of the properties having a right to use the road.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 18.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for a Private Road to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Private Road the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 18.05 – Review and Approval

- A. The Planning Commission shall review the application and site plan for a Private Road and prepare a report on whether or not the proposed development best serves the intent of this Ordinance and the public health, safety and welfare with respect to the requested Special Land Use and exception. The report shall include findings on the following:
 - 1. Does the proposal constitute a bon a fide Private Road?
 - 2. Is the public health, safety and welfare better served by the proposal?
 - 3. Have the following considerations been evaluated: location, traffic volumes and circulation compatibility with existing development?
 - 4. Is the proposal compatible with objectives of the General Development Plan or specific elements thereof which have been officially adopted by the Planning Commission?
 - 5. Are the minimum design standards in conformance with the Berrien County Road Commission roadway standards for gravel roads?
 - 6. Is a fourteen (14) foot minimum clearance over and above and for the entire width of the roadway maintained?
 - 7. Does the dead-end or cul-de-sacs have a sixty-seven (67) foot radius right of way and a forty (40) foot diameter road surface?

Section 18.05 – Review and Approval (Continued)

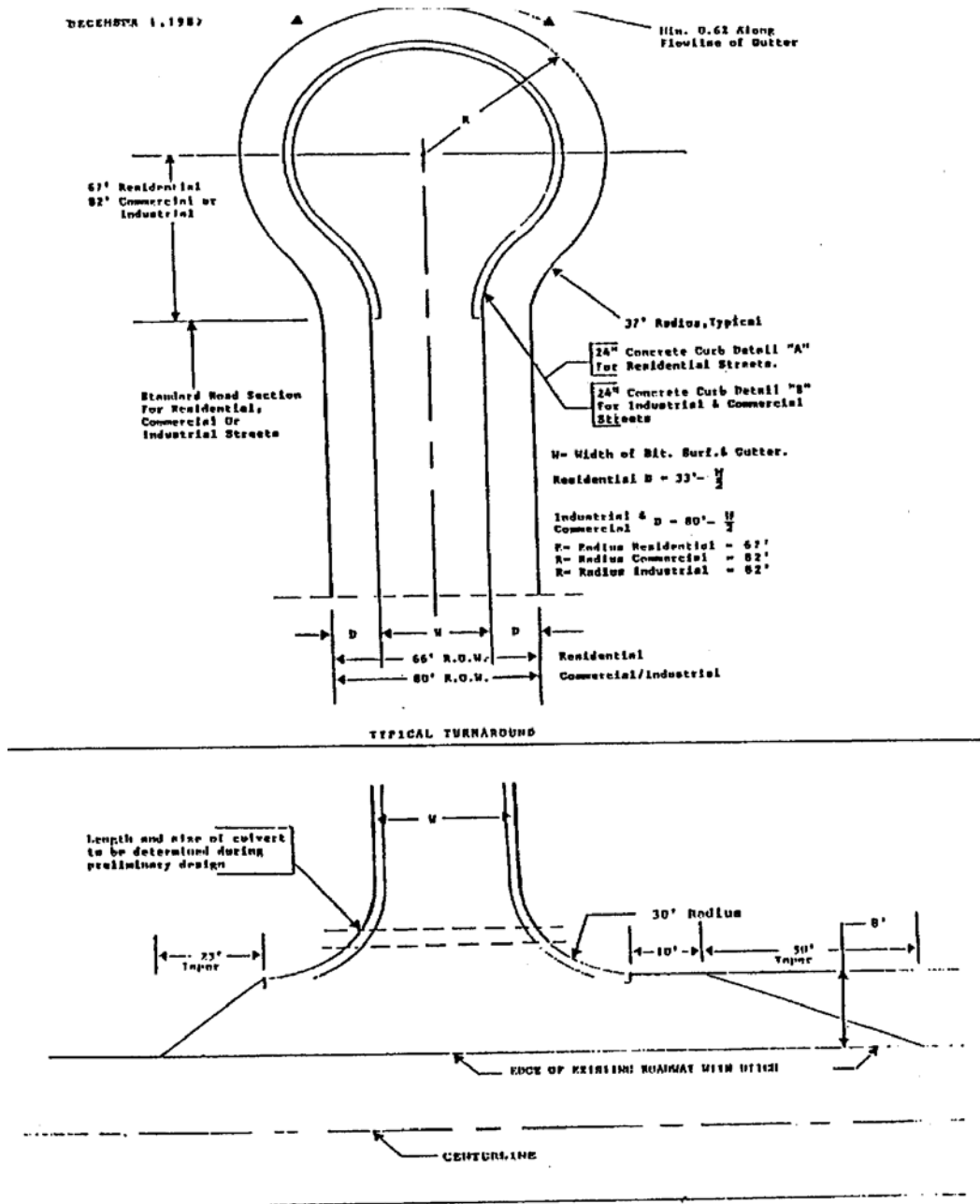
8. Is the proposed private road located within a corridor of land designed as a road right-of-way no less than sixty-six (66) feet in width?
 9. Does the proposed Private Road meet the standards established in Section 10.04, C. 1 and 2?
- B. The Planning Commission may, upon an affirmative finding on items 1 through 9 above approve such special land uses and exceptions for a Private Road subject to the those standards established in Section 10.04 and the following:
1. A legal description designated road right-of-ways shall be recorded with the Berrien County Register of Deed, upon approval by the Planning Commission and prior to the issuance of the Special Land Use Permit by the Zoning Administrator.
 2. Submission of construction plans and specifications for the construction of the road, if any.
 3. All Private Roads shall be named with said name to be approved by the Township Board so as not to be the same as, or similar to, another road in the Township.
 4. Road signs shall be erected at the expense of the applicant and maintained by those adjacent property owners whose properties are served by the private road.
 5. Said signs shall meet Berrien County Road Commission standards.
 6. All Private Road names shall end in “Lane”.

Section 18.06 – Extending Existing Private Roads

- A. In those cases where the applicant seeks to extend an existing Private Road, such extension shall be permitted only if the existing Private Road is brought up to the standards as set forth in this Article. All of such standards shall be deemed to apply to the existing roadway and the proposed extension.
- B. The Planning Commission shall consider the extension of the Private Road as an amendment to the original application and shall process the amendment pursuant to the procedures in this Article.
- C. In addition to the application requirements of Section 18.02, C, the applicant shall provide the following:
1. That the owner consents to the extension of the roadway pursuant to the application;

Section 18.06 – Extending Existing Private Roads (Continued)

2. Applicant shall obtain consent from all persons who, to the knowledge of the applicant, own any interest in the existing Private Road or have a right of access to their property thereby, which consent shall be in writing and shall be filed with the Township contemporaneously with the filing of the application for permit hereunder; and
3. That the consenting parties agree to the upgrading of the existing roadway right-away if required, to the Private Road construction standards as set forth in this Article.



Section 18.07 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Private Road may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 18.08 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).

ARTICLE XIX

Telecommunication Towers

Section 19.01 – Intent

- A. The intent of this Article is to provide a procedure for the application, siting, regulation, construction and operation of towers, structures and related facilities that utilize the radio frequency spectrum for the purpose of transmitting, re-broadcasting or receiving radio signals. To provide for the issuance of a Special Land Use Permit for all Telecommunication Towers within the Township.
- B. It is the intent to allow Telecommunication Tower in AG, Agricultural, R-Ag, Residential Agricultural C, Commercial, C-Ag, Commercial Agricultural and I, Industrial Districts, subject to Special Land Use Permit as set forth in this Article and Article X (10).

Section 19.02 – Definitions

- A. **Telecommunication Tower:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building(s) and private and commercial mobile radio facilities. Not included within this definition are: Citizen Band radio facilities, short-wave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes, and governmental facilities which are subject to State or Federal law or regulations which pre-empt municipal regulatory authority.
- B. **Colocation:** The location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reducing the overall number of structures required to support wireless communication antennas within the community.
- C. **Feasibility of Colocation:** Colocation shall be deemed to be “feasible” for purpose of this Article where all of the following are met:
 - 1. The wireless communication provider entity under consideration for colocation will undertake to pay market rent or other market compensation for colocation.
 - 2. The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility is able to provide structural support.
 - 3. The colocation being considered is technologically reasonable, e.g., the location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.
 - 4. The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Article VI (6), Section 6.05 of this Ordinance.

Section 19.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for a Telecommunication Tower provided for in this Article in the zoning district in which the land is situated. No Telecommunication Tower shall be erected in the Township without first having acquired all permits as described in this Section.
- B. **Application:** An application and site plan shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. A statement describing the efforts by the applicant utilized to determine the feasibility of colocation. If colocation is unavailable or not practical, the applicant shall provide a statement which identifies the facts, characteristics and/or circumstances which render colocation unavailable or technically not practical for the coverage area and capacity needs. Any such documentation must be verified by a registered Michigan Professional Engineer.
 2. An engineering drawing of the tower design signed by a registered Michigan Professional Engineer specializing in structural engineering verifying that the tower design meets all wind load and soil load bearing requirements for the intended site.
 3. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance in a reasonably prudent standard.
 4. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be filed with the Township Clerk. This information shall be continuously updated by the applicant during all times the facility is on the premises.
 5. A map showing the location, name and address of the owner(s) and/or operators of any other Telecommunication Tower within the Township and any other tower within a five-mile (5) radius of the proposed site, identifying any other colocation utilized on each tower.
 6. A copy of the proposed lease or license.
 7. A land division application is required if the proposed Telecommunication Tower.
 - a. If a lease for more than one (1) year (365 days) including; and
 - b. Provision to lease the property is included in the lease.

Section 19.03 – Application Procedure (Continued)

8. A Land Division application is not required for the proposed Telecommunication Tower:
 - a. If the lease specifies space only and the property owner retains all ownership of land or provides for the leasing of the entire property; and
 - b. If a license to construct giving no property rights exists.
9. A site plan in conformance with Article XI (11).
10. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Article X (10) and other standards imposed by this Ordinance affecting the special land use under consideration.

- B. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 19.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Telecommunication Tower to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** An application for Telecommunication Tower the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 19.05 – Review and Approval

- A. All procedures for review will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. The Planning Commission may approve such Special Land Uses and exceptions for such Telecommunication Tower subject to the following limitations:
1. The proposed site shall meet all front, side and rear yard setback minimum requirements where not specifically addressed herein and any minimum road frontage requirements that may be established.
 2. The base of the Tower and accessory structures shall be fenced at a minimum with a six (6) foot high chain link fence.
 3. Any such site which is approved shall maintain an access road or driveway.

Section 19.05 – Review and Approval (Continued)

4. Accessory structures are limited to uses associated with the operation of the Tower and may not be located any closer to any property line than standard setback requirements of the district in which the property is located.
5. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
6. All buffer yard requirements within this Ordinance shall be otherwise satisfied.
7. The division of property for the purpose of locating a wireless communication facility is prohibited unless all requirements and conditions of this Ordinance are met.
8. The Tower construction plans shall be certified by a registered structural engineer licensed in the State of Michigan.
9. The applicant shall provide written verification that the antenna mounts and structure have been reviewed and approved by a registered Michigan Professional Engineer and that the installation is in compliance with all applicable codes.
10. All Towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
11. No part of any Tower or antenna shall be located or maintained, permanently or temporarily, on or upon any required setback area for the district in which the antenna or Tower is to be located.
12. Metal Towers shall be constructed of, or treated with, corrosive-resistant material.
13. Antenna and metal Towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations, codes and standards.
14. All signals and remote control conductors of low energy extending substantially horizontally above or below the ground between a tower or antenna and a structure, or between Towers, shall meet all applicable local statutes, regulations, codes and standards.
15. Towers shall be located and designed so that they do not interfere with telephone, radio, and television reception in nearby residential areas.
16. Height of the Tower shall not exceed three hundred (300) feet from grade.
17. Towers shall be artificially lighted only to the extent required by the FAA.
18. Existing on-site vegetation shall be maintained.

Section 19.05 – Review and Approval (Continued)

19. Identification is required for emergency purposes and shall be displayed or erected on the property.
20. The paint scheme shall minimize the off-site visibility of the antenna and Tower.
21. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive standards are adopted in the future, the antenna shall be made to conform to said regulation within thirty (30) days or the Special Land Use approval will be subject to revocation by the Township Board. All costs for testing and verification of compliance shall be borne by the operator of the antenna.
22. There shall be no employees located on the site. Occasional or temporary repair service activities are excluded from this restriction.
23. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.
24. The site and Tower shall be maintained in compliance with all applicable Township, County, State or Federal laws, rules or regulations.
25. The Township may require landscaping or other improvements to the site so as to minimize the aesthetic or other damage the tower causes to the surrounding properties.

Section 19.06 – Issuance, Revocation or Suspension of Permit

- A. A permit may be revoked upon finding by the Township Board that the applicant operates in any manner inconsistent with the terms of the approved permit to statements in the application or by amendment thereto or fails to comply with any special requirements or conditions which the Township may order set forth in the permit to protect the health, welfare and safety in the general circumstances of the situation.

Section 19.07 – Notification of Intent to Revoke Permit

- A. The applicant shall be given notice, mailed or personally served, at least five (5) days prior to the date of the meeting of the Township at which revocation is considered, and shall be granted the opportunity to be heard in person or by counsel. Said notice shall specify the date, time and place of the meeting and the reason or reasons why the revocation is under consideration and of the applicant's right to be heard either in person or by counsel. Revocation of a permit shall not exempt the applicant from punishment for violation of this Ordinance as provided herein.
- B. **Removal Required.** If any Telecommunication Tower remains non-functional or inoperative for a continuous period of one (1) year, the permit holder shall remove said system at his/her/their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property. If removal of towers and appurtenant facilities is required and the permit holder, or

Section 19.07 – Notification of Intent to Revoke Permit (Continued)

successors, fails to remove the towers and appurtenant facilities from the property within thirty (30) days from the date of notification by the Zoning Administrator, Bainbridge Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder. To assure removal of an obsolete, inoperable or abandoned facility, the Township may require of the applicant a financial guarantee.

Section 19.08 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Telecommunication Tower may seek review by the Township Board of Appeals in the manner prescribed in Article XIII (13).

Section 19.09 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).

ARTICLE XX

LAND DIVISION (SUBDIVISION) AND CONDOMINIUM REGULATIONS

Section 20.01 – Intent

- A. After the date of adoption of P.A. 87 of 1997 The Land Division Act, as amended (March 31, 1997), it shall be unlawful for any property owner to divide and record the division of land within the Township pursuant to the Michigan Land Division Act, Act 288 of 1967, as amended or the Michigan Condominium Act, Act 59 of 1978, as amended, except as regulated by the Bainbridge Land Division Ordinance, without first having received approval of the Planning Commission and Township Board as set forth herein.
- B. The regulations set forth in this Article shall apply to all land within the Township regardless of zoning district designation and are necessary to assure that proprietors of any plat intended for recording with the Berrien County Register of Deeds for the sale or transfer of real estate complies with the terms of this Ordinance and all other applicable Township, County, State or Federal laws, rules or regulations.

Section 20.02 – Definition

- A. **Condominium Building Site:** The condominium unit and contiguous limited common area or element. The condominium building site is the functional equivalent of a lot as defined in the Land Division Act. When lot is used as a reference in this Ordinance the regulation shall also refer to condominium building site.
- B. **Condominium Project:** A plan or project consisting of not less than two condominium units if established and approved for recording with the Berrien County Register of Deeds in conformance with The Michigan Condominium Act, Act 59 of 1978, as amended.
- C. **Condominium Plan:** The drawings and information prepared in compliance with the Zoning Ordinance which display the proposed site layout according to Section 20.04.
- D. It is the intent of the article to allow Condominium Building site in R-AG, Residential Agricultural, R-1, Single Family Residential, R-2 Multiple Family Residential, C Commercial, C-AG Commercial Agricultural and AG Agricultural districts subject to Special Land Use Permit as set forth in Article X (10)

Section 20.03 – Preliminary Application

- A. **Applicant:** A proprietor of a parcel of land who wishes to record the division of the property pursuant to the, Michigan Land Division Act, Act 288 of 1967, as amended or the Michigan Condominium Act, Act 59 of 1978, as amended.
No Condominium shall be erected in the Township without first having acquired all permits as described in this Article.
- B. **Application:** Applications for Condominiums shall be submitted through the Zoning Administrator, to the Planning Commission. Preliminary application shall be accompanied by the preliminary payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the cost of processing the application. No part of any fee shall be refundable.

Section 20.03 – Preliminary Application (Continued)

- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. A scaled drawing prepared in accordance with the requirements of Article XI (11), Section 11.03 B.
 2. A legal description showing location and acreage of property.
 3. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Article X (10), Section 10.04 C,1 and other standards imposed by this Ordinance affecting the special use under consideration.
 4. An application providing sufficient information for the Zoning Administrator and Planning Commission to:
 - a. Determine the gross area proposed for division and recording;
 - b. Identify the number of lots or units proposed to be developed;
 - c. Determine the location and dimension of proposed streets and roads, lot frontages, or unit sizes;
 - d. Location of proposed utilities, including water, wastewater sewers, storm water sewers and drainage ways, and the location of private utilities including, cable-TV, telephone, natural gas, etc.; and
 - e. Relationship of any natural features including lakes, ponds, floodplains, wetlands, wood lots, etc. to the proposed lots or units.
- D. **Planning Commission Review of Application:** The Zoning Administrator, upon receipt of the application and scaled drawing, shall review the application and scaled drawing. If the application and scaled drawing contain sufficient information to allow the Zoning Administrator and the Planning Commission to determine whether the proposed land division or condominium plat complies with this Ordinance and any other applicable Township, County, State or Federal regulations., shall submit the application and scaled drawing to the Planning Commission for review.
- E. **Pre-Application Meeting:** The Zoning Administrator, Planning Commission Chair, and the Township Supervisor, upon the request of an applicant will schedule a preliminary review session to discuss the proposed application, and to provide guidance concerning zoning compliance and information requirements for the review process. This meeting is strongly advised as the information required for the review process will vary from proposal to proposal due to the unique land and development attributes of each submission.
- F. **Preliminary Approval by Planning Commission:** The Planning Commission at a regular or special meeting shall review and consider action to approve, table or deny the application. The intent of the preliminary review and approval is to indicate to the applicant that the proposal is consistent with the Township Master Plan and the proposed development complies with the terms of this Ordinance, before the applicant expends large sums of money for engineering and surveying.

Section 20.03 – Preliminary Application (Continued)

1. The standards for review shall include:
 - a. Does the proposed land division of condominium conform to the Master Plan Future Land Use Map of the Township?
 - b. Does the proposed land division or condominium comply with the gross density and individual lot or unit size requirements (including minimum lot size, and lot frontage requirements) of the zoning district in which the property is located or which the applicant seeks rezoning?
2. Upon positive findings, the Planning Commission may issue a preliminary plan approval. The preliminary plan approval shall consist of a letter signed by the Zoning Administrator containing all findings and any conditions deemed appropriate by the Planning Commission plus a copy of the scaled drawing or drawing signed by the Chair of the Planning Commission evidencing the approval. A preliminary approval shall remain valid for a period of one (1) year from the date of issuance.
3. A duplicate copy of the drawing shall also be signed and retained by the Zoning Administrator. There shall be no changes made to an approved and signed scaled drawing unless approved by the Planning Commission. In case of discrepancies, the copy of the approved plan on file with the Township shall be deemed to be correct.

Section 20.04 – Final Application

- A. **Submission Documents:** Upon submission of final drawings, a written request for approval of such drawing for recording a land division plat or a condominium plat with the Berrien County Register of Deeds and payment of final fee, the applicant shall file with the Zoning Administrator, the following:
1. A survey, prepared, signed and sealed by a Michigan Registered Surveyor containing all information required for the recording of real estate pursuant to the Michigan Land Division Act, Act 288 of 1967, as amended or Michigan Condominium Act, Act 59 of 1978, as amended;
 2. A plat map prepared, signed and sealed by a Michigan Registered Surveyor, showing lot or unit layout in sufficient form as to legally describe each lot or unit for recording purposes;
 3. A copy of any engineering drawings required for the installation of any public infrastructure to be accepted by the County Drain Commissioner, County Road Commission, or any water or sewer system dedicated to the Township or other public utility provider;
 4. Evidence of approval of the plans by the Berrien County Drain Commissioner, Berrien County Road Commission, and, if applicable, the County Health Department Michigan, Department of Environmental Quality or the Michigan Department of Public Health;

Section 20.04 – Final Application (Continued)

5. A copy of any deed restriction; codes covenants and restrictions; or condominium regulations intended to be recorded with the Berrien County Register of Deeds applicable to the development; and
 6. A copy of any drawing for any development located within a common or limited common element of a condominium, specifically private roads, parking and other underground infrastructure.
- B. **Independent Review:** Prior to the review of any submission, the Zoning Administrator shall refer the documents to the Township Engineer or in the case where the Township Engineer represents the applicant, to an independent engineer for the purpose of conducting a review of the proposal. The intent of this review is to secure a third-part independent review of the proposal to determine compliance with Township and other Township, County, State or Federal requirements. The written review shall be distributed by the Zoning Administrator to all Planning Commission members in advance of the meeting at which the matter is scheduled for action. All costs of the Engineer shall be borne by the applicant.
- C. **Planning Commission Review:** Upon receipt of the independent review the Planning Commission shall review the final submission documents and shall hold a hearing on the site plan and special land use request in accordance with Article X (10).
1. The standards for review shall include:
 - a. Does the proposed Land Division or Condominium conform to the Master Plan Future Land Use Map of the Township?
 - b. Does the proposed Land Division or Condominium comply with the gross density and individual lot or unit size requirements (including minimum lot size, and lot frontage requirements) of the zoning district in which the property is located or which the applicant seek rezoning?
 - c. Has the applicant received evidence that the proposed development is in full compliance with all provision of the Michigan Land Division Act, Act 288 of 1967, as amended or the Michigan Condominium Act, Act 59 of 1978, as amended.
 - d. Has the applicant secured all approvals and permits required for construction of any infrastructure that shall be deeded to a public agency?
 2. Upon positive findings, the Planning Commission may recommend to the Township Board that they issue a final plan approval. The final plan approval recommendation shall consist of a letter signed by the Zoning Administrator, containing all findings and any conditions deemed appropriate by the Planning Commission plus a copy of each drawing signed by the Chair of the Planning Commission evidencing the recommended approval by the Township Board.

Section 20.04 – Final Application (Continued)

3. A duplicate copy of each drawing shall also be signed and retained by the Zoning Administrator. There shall be no changes made to an approved and signed scaled drawing unless approved by the Planning Commission. In case of discrepancies, the copy of the approved plan on file with the Township shall be deemed to be correct.
- D. **Township Board Approval:** Upon receipt of the Planning Commission recommendation, the Township Board shall review the Planning Commission recommendation and may consider an action to approve, table or deny the applicants request. The Zoning Administrator shall communicate in writing the action of the Township Board to the applicant. The Township Board approval, if granted, shall be conditioned. A condition of the approval shall require the construction of all roads and streets pursuant to the approved drawings, construction of all other infrastructure and acceptance of same by the public and private agencies as set forth in the approved drawings.

Section 20.05 – Township Board Acceptance of Land Division or Condominium Development

- A. **On-Site Inspection:** The proprietor of any Land Division or Condominium project shall request the Township Boards acceptance of the final development pursuant to the following procedures:
1. After completion of all improvements to the development, the proprietor shall request a final inspection of the development in writing to the Zoning Administrator. The Zoning Administrator shall schedule an on-site meeting including the Township Engineer (or the third-party independent engineer who reviewed the initial project submission documents) and a representative of each agency that issued an approval or permit in relation to the development.
 2. The on-site inspection will be completed to determine if the development complies with all requirements of the approving agencies and the Township. At the conclusion of the inspection, the Zoning Administrator shall prepare a summary of the inspection indicating approval and if required any punch-list items which need to be completed prior to the acceptance of the development by the Township Board.
 3. The proprietor shall be required to complete all punch-list items prior to requesting acceptance of the development by the Township Board. In situations where the installation of infrastructure is phased or cannot be completed within reasonable time, the Zoning Administrator may establish procedures for the completion of certain elements including financial guarantees, including cash deposits and security bonds.

Section 20.05 – Township Board Acceptance of Land Division or Condominium Development (Continued)

- B. **Township Board Acceptance:** The proprietor of the Land Division or Condominium development upon completion of all punch-list item or compliance with security agreements for the completion of such items and upon submission of as-built drawing for any construction of infrastructure deeded to any public or private body shall request the acceptance of the development by the Township Board.
1. The Township Board shall accept the development upon verification that:
 - a. The development has been constructed in accord with the plans and specifications as approved by the Township Planning Commission and Township Board and other agencies who have issued permits or approvals relative to any portion of the development;
 - b. That any and all public and private infrastructure has been installed and accepted by applicable agencies;
 - c. That any unfinished work which is to be completed after the acceptance, is secured through a cash deposit or security bond, in a form acceptable to the Township Attorney and Township Board of Trustees;
 - d. That as-built drawings have been completed and filed with the Zoning Administrator; and
 - e. That the plat of subdivision or plat of Condominium has been recorded with the Berrien County Register of Deeds.
- C. **Conditional Acceptance:** The Township Board may, at their discretion, accept a portion of development provided that a Development Agreement is executed between the developer and the Township Board governing the installation of the remaining infrastructure, and only upon consent of the County Drain Commissioner, County Road Commission and any other agency who has jurisdiction over any aspect of the remaining lands that are to be developed.
- D. **Public Notice of Acceptance:** Upon acceptance of the development by the Township Board, the proprietor shall record with the Berrien County Register of Deeds and notice of acceptance, and file a copy of the recorded document with the Zoning Administrator.

Section 20.06 – Standards for Development

- A. Road Lot/Unit Standards.
1. Compliance with Private Road specifications according to Article XVIII (18) and the Berrien County Road Commission, if any.
 2. The arrangement of roads shall provide for a continuation of existing streets from adjoining areas into the new subdivision.

Section 20.06 – Standards for Development (Continued)

3. Where adjoining areas are not subdivided, the arrangement of streets in the proposed plat or plan shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjoining area; provided, however that minor streets within the plat or plan shall be so laid out that their use by through traffic will be discouraged.
4. Where the proposed plat or plan abuts or contains a county primary road and major thoroughfare, the Planning Commission may require marginal access streets approximately parallel to the right-of-way of the primary road or major thoroughfare and may require such other treatment as is deemed necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
5. Street names should be unique. Commonly used names such as Oak St., Pine St., Elm St., etc. should be avoided to eliminate confusion. Private Roads must end with "Lane".
6. Streets should intersect at ninety (90) degrees or closely thereto in no case be less than eighty (80) degrees.
7. Where the proposed continuation of a street at an intersection is not in alignment with the existing street, it must not intersect such cross street closer than one-hundred seventy five (175) feet from such opposite existing street, as measured from the center line of said streets.
8. The minimum length allowed for residential blocks shall be one thousand (1,000) feet.
9. All right-of-way within or abutting such plats or plans shall be not less than sixty-six (66) feet in width. Permanent dead-end streets in excess of six hundred sixty (660) feet in length shall be prohibited. Exceptions may be granted by the Planning Commission only where the topographic of the area, rivers, and streams, to her natural conditions or the prior development of the area prevents a through street from being constructed.
10. A plat or extension of an existing plat or a condominium plan or extension of an existing plan creating a total of fifty (50) or more lots must be developed so as to provide two (2) or more access streets.
11. Corner lots generally should have extra width to permit appropriate building setback from both streets.

B. General Layout Provisions:

1. Privately held reserve strips controlling access to streets shall be prohibited.

Section 20.06 – Standards for Development (Continued)

2. Existing natural features which add value to residential development, that enhance the attractiveness of the community (such as streams, water courses, historic spots and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision.
3. Lands subject to flooding or otherwise determined to be unsuitable for development by the Planning Commission should not be divided for residential, commercial or industrial purposes. Such lands within a plat or condominium plan may be set aside for other purposes such as parks, open space or common elements.
4. The Planning Commission shall review maps of existing and/or proposed electrical or gas utility easements, on record with the Township, which are within five hundred (500) feet of the boundary of the proposed plat or plan.
5. Elevation contours shall not be altered more than ten (10) feet as shown on the preliminary plan for any building site unless a licensed professional engineer certifies that the elevation change will not adversely affect the drainage plan for the plat or plan. All roads and drainage infrastructure shall be built in accordance with a licensed Michigan Professional Engineers stamped profile.

C. Standards for Monumentation:

1. Monuments shall be located in the ground and made according to the following requirement, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the plat or plan, if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
2. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
3. Monuments shall be located in the ground at all angles in the boundaries of the plat or plan at all intersection lines of streets, at the intersection of the lines of streets, at the intersection of alleys with the boundaries of the plat or plan; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in all side lines of streets and alleys; at all angles of an intermediate traverse line and at intersections with elements and all common elements, if applicable.
4. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

Section 20.06 – Standards for Development (Continued)

5. If a point required to be monumental is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch diameter, shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
6. All required monuments shall be placed flush with the ground where practical.
7. All unit corners shall be monumental in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter or other approved markers.
8. The Planning Commission or Township Board may waive the placing of any of the required monuments and markers, not required by law, for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash or a certified check, or irrevocable bank letter of credit running to the Township, whichever the proprietor selects, in an amount set by resolution of the Township Board. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a professional licensed surveyor that the monuments and markers have been placed as required within the time specified.

Section 20.07 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Condominium may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 20.08 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved Article X (10).

ARTICLE XXI

Excavation

Section 21.01 – Intent

- A. The intent of this Article is to provide a procedure for the removal of soil, sand, clay, gravel or similar materials, excavation or filling operations.
- B. It is the intent to allow for Excavation in AG, Agricultural, R-AG, Residential Agricultural, C-AG, Commercial Agricultural, C, Commercial and I, Industrial Districts, subject to a Special Land Use Permit as set forth in this Article and Article X (10).
- C. It is the intent of the Township to require that upon completion of an Excavation Operation, said land subject to the excavation shall be restored in such manner that the property can be suitably used for the uses prescribed by district in which the property is located.

Section 21.02 – Definition

- A. **Excavation:** The term “Excavation” is defined as the removal of soil, sand, clay, gravel or similar materials... The removal of, grading or stripping of any topsoil, sand, clay, gravel or similar material, except that necessary for construction issued pursuant to an approved Building Permit and the stockpiling of soil or rock within the unincorporated area.
- B. Excavations for ponds, detention/retention, drainage and other purposes constructed pursuant to plans and/or approvals of the Berrien County Drain Commissioner, Soil Conservation Service, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Agriculture (generally accepted agricultural management standards) are exempt from the provisions of this Article.

Section 21.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for Excavation, provided for in this Article in the zoning district in which the land is situated. No Excavation Operation shall begin in the Township without first having acquired all permits as described in this Article.
- B. **Application:** An application and site plan shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.

Section 21.03 – Application Procedure (Continued)

- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
1. Names and addresses of parties of interest in said premises setting forth their legal interest in said premises.
 2. Full legal description of the premises wherein operations are proposed.
 3. Location of all buildings on the site and within five hundred (500) feet of the perimeter of the site.
 4. Detailed proposal as to method of operation, what type of machinery or equipment will be used, estimated period of time that such operation will cover, and all haul roads and truck entrance locations to be used.
 5. Detailed statement as to exactly what content and type of soil, sand, clay, gravel, or similar material is proposed to be extracted deposited or stockpiled.
 6. Topographical survey map showing existing grades and final grades after, to be prepared by a registered civil engineer or registered land surveyor such survey shall include:
 - a. Existing spot elevations on a fifty (50) foot grid system on parcels not exceeding four acres in area and one hundred (100) foot grid system on areas exceeding four acres in area;
 - b. The contour interval shall not exceed two (2) feet or as determined by the Planning Commission;
 - c. Existing spot elevations on the grid system and a line parallel to and exterior to at a distance of twenty (25) feet (minimum) from the lot boundary lines in order to indicate existing grade elevations of abutting parcels of land; and
 - d. Existing and proposed contour lines, drainage swales, storm sewers and methods of storm water run-off drainage.
 7. Existing roadways, drains, roadway ditches, and existing utility locations, widths and elevations.
 8. Location of floodplain wetlands and any other natural features on site.
 9. Such other information as may be reasonably required by the Planning Commission to determine whether a permit should be issued.
 10. Restoration plans showing final topography and a proposed development plan or other form of evidence determined acceptable by the Planning Commission showing that the site after completion of the excavation can be suitably used for the uses designated in the zoning district in which the property is located.

Section 21.03 – Application Procedure (Continued)

11. If rezoning is the subject property is required to comply with this provision, said rezoning shall be completed prior to the approval of the permit in conformance with Article XV (15).
 12. A site plan in conformance with Article XI (11).
 13. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 10.04 C and other standards imposed by this Ordinance affecting the special land use under consideration.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 21.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Excavation Operation to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for Excavation, the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 21.05 – Review and Approval

- A. All procedures for review will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. No permit shall be approved without sufficient evidence and after affirmative decision by the Planning Commission that the excavation and proposed reuse plan is sufficient to assure compliance with the intent of the Township Policy that all excavated land shall be restored to a condition that allows development of or continuation of the uses prescribed in this Ordinance in which the land is located.
- C. For the terms of this Article, there shall be a five hundred (500) foot setback area surrounding the perimeter of any excavation site which shall remain undisturbed with respect to elevation and vegetative cover, except for access ways as approved by the Planning Commission.
- D. The Planning Commission may approve such Special Land Uses and exceptions for such Excavation Operations subject to the following limitations:

Section 21.05 – Review and Approval (Continued)

1. Where an excavation in excess of five (5) feet will result from such operations, the applicant shall erect and maintain a fence with warning signs completely surrounding the portion of the site where the excavation extends, said fence will be wire mesh or other suitable material and is to be not less than five (5) feet in height complete with gates, which gates shall be kept locked when operations are not being carried on.
2. Any roads used for the purpose of ingress or egress to said excavation site which are located within one thousand (1000) feet of occupied residences shall be kept dust free by hard-topping with cement, bituminous substance or chemical treatment.
3. No cut or excavation shall be made closer than one hundred (100) feet from the nearest street or highway right-of-way line nor nearer than five hundred (500) feet to the nearest residence, nor closer than one hundred (100) feet to any property line; provided however, that the Township Board may prescribe more strict requirements in order to give sub lateral support to surrounding property where soil or geographic conditions warrant it.
4. The recommended slope of the banks within the second one hundred (100) feet measuring from the near edge of a public highway, or within the second one hundred (100) feet measuring from the property line of an adjoining land owner shall not exceed a minimum of one (1) foot vertical drop to each seven (7) feet horizontal and where permanent ponded water results from the mining operation the slope of all banks adjoining the pond must be maintained at the one (1) to seven (7) ratio above and must be extended into the water of such permanent pond to a water depth of at least five (5) feet.
5. The Planning Commission may require such other performance standards where, because of peculiar conditions, they deem it necessary for the protection of health, safety, morals and well being of the citizens of the Township.

E. Stripping or Removal Operations:

1. No excavation shall be conducted within five (500) hundred feet of any right-of-way, natural water course, drain without the approval of the Berrien County Drain Commissioner, Berrien County Road Commission, Michigan Department of Environmental Quality and Issuance of Applicable Permits by said agencies.
2. Any roads used for the purpose of ingress or egress to said excavation site which are located within one thousand (1000) feet of occupied residences shall be kept dust free by hard-topping with cement, bituminous substance or chemical treatment.
3. No soil, sand, clay, gravel or similar materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health or safety. The premises shall at all times be graded so that surface water drainage is not interfered with.

Section 21.05 – Review and Approval (Continued)

4. Wherever topsoil exists, suitable for growing turf or for other land use, at the time the operations begin a sufficient quantity of topsoil shall be stockpiled on said site so that the entire site, when stripping or removal operations are completed, may be recovered with a minimum of four (4) inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the excavation, however, that such operations continue over a period of time greater than thirty (30) days, the operator shall replace the stored topsoil over the stripped areas in incremental stages. At no time shall the excavated, stockpile and operations encompass an area in excess of five (5) acres stripped of top soil.
5. The Planning Commission may require such further requirements as are deemed necessary in the interest of the public health, safety, morals and general welfare of the citizens of Bainbridge Township.

F. Filling Operations:

1. The filling of land with construction, building materials (of any type), rubbish, or garbage or any other waste matter is hereby prohibited in all unincorporated areas of the Township except in an approved land fill.
2. No soil, sand, clay gravel or similar materials shall be deposited in such manner as to cause water in violation of rules of the Berrien County Drain Commissioner or the Berrien County Health Department.
3. The Planning Commission may require a temporary fence to be erected to prevent the scattering of fill materials.
4. The Building Inspector may waive the regulations for filling operations and the review by the Planning Commission and conduct an independent review to permit those filling operations which meet the following requirements:
 - a. The fill material does not include garbage, rubbish, or any other waste matter;
 - b. The actual area on which the filling operation is to be performed does not exceed ten thousand (10,000) square feet and does not lie within fifteen (15) feet of any property line;
 - c. The fill operation has been approved by the Berrien County Drain Commissioner. Final grades of the perimeter of the filled area are compatible with existing off-site grades of abutting properties; and
 - d. All requirements of the Michigan Department of Environmental Quality have been met, if applicable.

Section 21.05 – Review and Approval (Continued)

5. The Planning Commission shall, to insure strict compliance with any regulations contained herein and required as a condition of the issuance of a permit either for mining, topsoil stripping and removal or filling operations, require the permittee to furnish a security bond executed by a reputable security company authorized to do business in the State of Michigan in an amount determined by the Planning Commission to be reasonably necessary to insure compliance hereunder. In fixing the amount of such security bond, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as may be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application.
6. In addition, the Planning Commission may recommend as a condition of the permit a tonnage fee or annual fee assessment to reimburse the Township for any and all cost associated with the monitoring and periodic inspection of the operations in determining this fee, the Township shall establish the amount considering:
 - a. Cost for periodic inspection of the site and operations by Township personnel and any consulting engineer and land surveyor needed to inspect and verify if the operation complies with the terms of the approved permit; and
 - b. Cost for road maintenance and resurfacing for any and all truck routes designated for access to the subject property. The fee shall be determined based on the guidance of the Berrien County Road Commission concerning the projected cost and timing for any road improvements needed to maintain the current level of road surface quality in face of increased truck traffic expected for the operation.

Section 21.06 – Issuance, Revocation or Suspension of Permit

- A. A permit may be revoked upon finding by the Township Board that the applicant operates in any manner inconsistent with the terms of the approved permit to statements in the application or by amendment thereto, or fails to comply with any special requirements or conditions which the Township may order set forth in the permit to protect the health, welfare and safety in the general circumstances of the situation.

Section 21.07 – Notification of Intent to Revoke Permit

- A. The applicant shall be give notice, mailed or personally served, at least five (5) days prior to the date of the meeting of the Township at which revocation is considered, and shall be granted the opportunity to be heard in person or by counsel. Said notice shall specify the date, time and place of the meeting and the reason or reasons why the revocation in under consideration and of the applicant's right to be heard either in person or by counsel. Revocation of a permit shall not exempt the applicant from punishment for violation of this Ordinance as provided herein.

Section 21.08 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing an Excavation Operation may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 21.09 - Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).

ARTICLE XXII

Power Generating Facilities

Section 22.01 – Intent

- A. The intent of this Article is to provide a procedure for the application, regulation, construction and operation of electric power generator, power generating facilities and transformer stations, gas regulator stations with service yards, water and sewerage pumping stations and telephone exchange buildings.
- B. It is the intent to allow Power Generating Facilities having electric power generating capacity of five (5) megawatts or more in current or future I, Industrial District with the Township, subject to Special Land Use Permit as set forth in this Article and Article X (10).

Section 22.02 – Definitions

- A. **A Power Generating Facility:** All Electric power generating facilities including windmills, electric power transformer stations and substations, gas regulator stations with service yards, water and sewerage pumping stations and telecommunication exchange facilities and/or antennas.

Section 22.03 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for a Power Generating Facility provided for in this Article in the zoning district in which the land is situated. No Power Generating Facility shall be erected in the Township without first having acquired all permits as described in this Section.
- B. **Application:** An application and site plan shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X (10) and the following:
 - 1. An engineering drawing of the facility design signed by a licensed Michigan Professional Engineer specializing in structural engineering verifying that the tower design meets all wind load and soil load bearing requirements for the tower or windmill installation, if applicable.
 - 2. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance in a reasonably prudent standard.

Section 22.03 – Application Procedure (Continued)

3. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be filed with the Township Clerk. This information shall be continuously updated by the applicant during all times the facility is on the premises.
 4. A map showing the location, name and address of the owner(s) and/or operators of any Power Generating Facility within the Township and any facility within a five-mile (5) radius of the proposed site, identifying any other colocation utilized on each facility.
 5. A land division application, if requirements of the Michigan Land Division A, Act 288 of 1967, as amended apply.
 6. A site plan in conformance with Article XI (11).
 7. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Article X(10) and other standards imposed by this Ordinance affecting the special land use under consideration.
 8. Such other information as may be reasonably required by the Planning Commission to determine whether a permit should be issued.
- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 22.04 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Power Generating Facility to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for the Power Generating Facility, the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 22.05 – Review and Approval

- A. All procedures for review will comply with those procedures and regulations in Article X (10).
- B. The Planning Commission may approve such Special Land Uses for such Power Generating Facility subject to the following limitations:
 1. The proposed site must meet all front, side and rear yard setback minimum requirements where not specifically addressed herein and any minimum road frontage requirements that may be established.

Section 22.05 – Review and Approval (Continued)

2. The facility shall be fenced at a minimum with a six (6) foot high chain link fence.
3. Any such site which is approved shall maintain an access road or driveway.
4. Accessory structures are limited to uses associated with the operation of the facility and may not be located any closer to any property line than standard setback requirements.
5. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
6. All buffer yard requirements within this Ordinance shall be otherwise satisfied.
7. The division of property for the purpose of locating a Power Generating Facility is prohibited unless all requirements and conditions of this Ordinance are met.
8. The Power Generating Facility construction plans shall be certified by a structural engineer registered by the State of Michigan.
9. All Power Generating Facilities must meet the standards of the Federal Communications Commission.
10. Height of the generating facility shall not exceed three hundred (300) feet from the grade.
11. Existing on-site vegetation shall be maintained.
12. Identification is required for emergency purposes and shall be displayed or erected on the property.
13. The paint scheme shall minimize the off-site visibility of the generating facility.
14. Structures shall be subject to any Township, County, State and Federal laws, rules or regulations. If more restrictive standards are adopted in the future, the facility shall be made to conform to said regulation within thirty (30) days or the Special Land Use approval will be subject to revocation by the Township Board. All costs for testing and verification of compliance shall be borne by the operator of the facility.
15. The Township may require landscaping or other improvements to the site so as to minimize the aesthetic or other damage the tower causes to the surrounding properties.
16. If a tower is proposed, a signed statement from a registered Michigan Professional Engineer specializing in structural engineering shall be provided verifying the installation of the tower was completed in accord with the approved plans and specifications.

Section 22.05 – Review and Approval (Continued)

17. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be filed with the Township Clerk. This information shall be continuously updated by the applicant during all times the facility is on the premises.

Section 22.06 – Issuance, Revocation or Suspension of Permit

- A. A permit may be revoked upon finding by the Township Board that the applicant operates in any manner inconsistent with the terms of the approved permit to statements in the application or by amendment thereto or fails to comply with any special requirements or conditions which the Township may order set forth in the permit to protect the health, welfare and safety in the general circumstances of the situation.

Section 22.08 – Notification of Intent to Revoke Permit

- A. The applicant shall be give notice, mailed or personally served, at least five (5) days prior to the date of the meeting of the township at which revocation is considered, and shall be granted the opportunity to be heard in person or by counsel. Said notice shall specify the date, time and place of the meeting and the reason or reasons why the revocation in under consideration and of the applicant's right to be heard either in person or by counsel. Revocation of a permit shall not exempt the applicant from punishment for violation of the ordinance as provided herein.

Section 22.07 – Appeals

- A. Any person, firm, corporation or other party aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of establishing a Power Generating Facility Special Lane Use may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).
- B. The Board of Appeals may vary the area, height, bulk and placement regulations as reasonably compatible with the intent and character of the district. Said terms of the variance, if granted by the Board of Appeals, shall be incorporated into the Special Land Use Permit if approved by the Planning Commission.

Section 22.08 – Effect of Approval of Planning Commission

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10)

ARTICLE XXIII

CONDITIONAL REZONING

Section 23.01 – Intent

- A. It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Article to provide a process consistent with the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. It is the Intent to allow Conditional Rezoning in all districts, subject to an Amendment as set forth in this Article and Article XV (15).

Section 23.02 – Application and Offer of Conditions

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a Conditional Rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a Conditional Rezoning request with conditions shall be the same as that for considering rezoning requests, Article XV (15), made without any offer of conditions, except as modified by the requirements of this Article.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which Conditional Rezoning is requested.
- E. Any use or development proposed as part of an offer of conditions that would require a Special Land Use permit under the terms of this Ordinance may only be commenced if a Special Land Use permit for such use or development is ultimately granted in accordance with the provisions of this Article and Article X (10).
- F. Any use or development proposed as part of an offer of conditions that would require a Variance under the terms of this Ordinance may only be commenced if a Variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Article and Article XIII (13).
- G. Any use or development proposed as part of an offer of conditions that would require Site Plan approval under the terms of this Ordinance may only be commenced if Site Plan approval for such use or development is ultimately granted in accordance with the provisions of this Article and Article XI (11).

Section 23.02 – Application and Offer of Conditions (Continued)

- H. The offer of conditions may be amended during the process of Conditional Rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final Conditional Rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original Conditional Rezoning request, then the Conditional Rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

Section 23.03 – Planning Commission Review

- A. The Planning Commission, after public hearing and consideration of the factors for Conditional Rezoning set forth in this Article and Article XV (15), may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

Section 23.04 – Township Board Review and Approval Procedure

- A. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested Conditional Rezoning and may approve or deny the Conditional Rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Article XV (15). Should the Township Board consider amendments to the proposed Conditional Rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with the Michigan Zoning, Enabling Act, Act 110 of 2006, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the Conditional Rezoning with or without amendments.

Section 23.05 – Approval

- A. If the Township Board finds the Conditional Rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming to the provisions of this Article. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the Township Board to accomplish the requested Conditional Rezoning.
- B. The Statement of Conditions shall:
 - 1. Be in a form recordable with the Berrien County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - 2. Contain a legal description of the land to which it pertains.

Section 23.05 – Approval (Continued)

3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 5. Contain a statement acknowledging that the Statement of Conditions and Affidavit giving notice thereof may be recorded by the Township Clerk with the Berrien County Register of Deeds.
 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the Conditional Rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions and Affidavit giving notice thereof shall be filed by the Township Clerk with the Berrien County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- E. Upon the Conditional Rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

Section 23.06 – Compliance with Conditions

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly to Article XII (12). Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
- B. No permit or approval shall be granted under this Article for any use or development that is contrary to an applicable Statement of Conditions.

Section 23.07 – Time Period for Establishing Development or Use

- A Unless another time period is specified in the Conditional Rezoning, the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the Conditional Rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Section 23.08 – Reversion of Zoning

- A If approved development and/or use of the rezoned land do not occur within the time frame specified under Section 23.07 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests in accordance with Article XV (15).

Section 23.09 – Subsequent Rezoning of Land

- A When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 23.08 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Berrien County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

Section 23.10 – Amendment of Conditions

- A During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original Conditional Rezoning and Statement of Conditions.

Section 23.11 – Township Right to Rezone

- A. Nothing in the Statement of Conditions or in the provisions of this Article shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Article XV (15) and the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Section 23.12 – Failure to Offer Conditions

- A. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 23.13 – Consideration

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

Section 23.14 – Appeals

- A. Any person, firm, corporation or department, board or bureau of the Township aggrieved by the decision of the Township Board on Conditional Rezoning may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 23.15 – Effect of Approval of Planning Commission

- A. The approval of the application by the Township Board shall be conclusively presumed unless the Berrien County Planning Commission within thirty (30) days of receipt notified the Township Clerk of its disapproval.

ARTICLE XXIV

EARTH CHANGE

Section 24.01 – Intent

- A. The intent of this Article is to prevent the creation of nuisances and hazards to public health, safety and general welfare of persons and property in the Township by regulating the removal, dumping and grading of ground in the Township, through issuance of a Special Land Use permit pursuant to this Article and Article X (10).
- B. It is the intent to allow Earth Change in R-AG Residential Agricultural, C, Commercial, C-AG, Commercial Agricultural, I Industrial and AG Agricultural districts subject to Special Land Use Permit as set forth in this Article and Article X (10)
- C. When the intent of the Earth Change is not for the removal of minerals for commercial sales which is regulated pursuant to Article XXI (21) Excavation.

Section 24.02 – Definition

- A. Earth Change regulations apply to all parcels of land in the Township upon which not more than five (5) acres of earth (land area) shall be subject to an Earth Change, unless the Earth Change is exempted pursuant to the provisions of Section 24.03. An Earth Change in excess of five (5) acres in size shall be regulated under Article XXI (21) – Excavation.

Section 24.03 – Exempted Activities

- A. The following activities are specifically exempted from regulations set forth in this Article, including:
 - 1. An Earth Change for a residential, commercial or industrial building construction site when performed in conjunction with the immediate use or development of the land upon which the earth change occurs;
 - 2. The Earth Change does not exceed a maximum of six hundred (600) cubic yards and is not intended to become, and does not become, part of a larger earth change project; and
 - 3. The Earth Change is related to the agricultural use of the property, specifically the plowing or tilling of soil for the purposes of crop production including construction of farm ponds for irrigation purposes when such ponds have been designed by or when the design has been approved by the US Department of Agriculture, Natural Resource Conservation Service.

Section 24.04 – Application Procedure

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for Special Land Use Earth Change Permit, provided for in this Article in the zoning district in which the land is situated.

Section 24.04 – Application Procedure (Continued)

- B. **Application:** Applications for a Special Land Use Earth Change Permit shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The Zoning Administrator shall then submit to the Planning Commission after review for completeness pursuant to Article X(10) and the following:
1. An application for a Special Land Use Earth Change Permit under the terms of this Article shall be accompanied by the application for a Berrien County Soil & Sedimentation Permit.
 2. A scaled drawing prepared in accordance with the requirements of Article XI (11), Section 11.03.
 3. A legal description showing location and acreage of property.
 4. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Article X (10), Section 10.04, C and other standards imposed by this Ordinance affecting the special use under consideration.
 5. The final grade plan showing site topographic elevations in two (2) foot topographic contours showing the entire site after the earth change is completed,
 6. The estimated total cubic yards of material and type of material(s) to be removed, dumped or graded,
 7. A drainage plan indicating anticipated drainage flow from the site after the completion of earth changes and what if any, effect the run-off will have on adjoining properties,
 8. A statement of the manner in which the earth change project is to be preformed, including:
 - a. A statement of the work that shall be performed,
 - b. The hours in which the work will be performed,
 - c. The kind of equipment to be used to perform the work,
 - d. The manner in which on and off-site drainage shall be controlled during the performance of the work,
 - e. Any ground stabilization controls that will be employed,
 - f. The methods employed to prevent ground erosion and to control blowing dust during the performance of the work,
 - g. The number and route of truck transport of off-site or on-site movement of materials,
 - h. The methods employed to hide unsightly site condition from view of surrounding properties, and
 - i. The final ground surface soil type, landscaping and seeding of the site upon completion of the work.

Section 24.04 – Application Procedure (Continued)

- D. **Incomplete Application:** An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

Section 24.05 – Acceptance of Lesser Application Standards

- A. The Zoning Administrator may accept and refer to the Planning Commission an application containing lesser standards than the site plan requirements of Article XI (11), and Section 24.04 above, when in the opinion of the Zoning Administrator that the application can be satisfactorily reviewed and processed by the Planning Commission with the lesser information. The Planning Commission shall make an affirmative determination concerning the sufficiency of the application and submitted information prior to consideration of the application and may request such other information as deemed necessary for processing such applications.

Section 24.06 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Special Land Use Earth Change Permit to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Special Land Use Earth Change Permit the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 24.07- Review and Approval Standards for Approval of Earth Change Special Land Use Permits.

- A. All Procedures for review will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. The Planning Commission, in consideration of an application for a Special Land Use Earth Change Permit recommendation for approval to the Planning Commission shall take into consideration the following:
 - 1. The Township Master Plan and this Ordinance designation of the site;
 - 2. The intended use of the site by the applicant;
 - 3. Possible impact upon abutting and nearby properties, during the earth change work;
 - 4. Possible impact upon adjoining and nearby properties after completion of the earth change;
 - 5. The need for the Earth Change in relation to other possible uses for the property;
 - 6. The impact of the Earth Change on the health, general welfare and safety of residents;
 - 7. Preservation of natural and environmental resources of the Township; and
 - 8. Prevention of nuisances and hazards.

Section 24.08 – Prohibition of Permits Creating Dangerous Topographic Conditions

- A. The Planning Commission shall reject any application when it appears from investigation thereof, that the Earth Change would remove lateral or sub-lateral support of the adjacent land, or result in a dangerous topographic conditions, or result in seepage, or slides, or create a nuisance, dangerous to public safety, or that it would, otherwise, in any manner endanger the public health, or safety, or prevent the preservation of natural resources, or be detrimental to the environment and general public welfare.

Section 24.09 – Application of Special Conditions - Violations of Special Conditions by Applicant

- A. The Planning Commission shall consider the attachment of such special conditions to the recommendation for approval of a Special Land Use Earth Change Permit limiting the size, amount of material movement, and operations as deemed necessary to protect the health, safety and general welfare of adjoining and surrounding residents and the Township. Such conditions shall be made in writing and when approved by the Planning Commission attached to the Special Land Use Earth Change Permit. Violation of the terms of these conditions shall be deemed a violation of the zoning ordinance and enforced pursuant to the provision of Article XII (12).

Section 24.10 – Appeals

- A. Any person, firm corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission on Special Land Uses for the purpose of an Earth Change Permit may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 24.11 – Effect of Approval Filing of Approved Soil and Sedimentation Permit Prior to Issuance of Commencement to Proceed

- A. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved and Article X (10).
- B. The Zoning Administrator shall not issue a Commencement to Proceed for a Special Land Use Earth Change Permit approved pursuant to this article until the applicant has filed with the Zoning Administrator an approved Berrien County Soil and Sedimentation Permit

ARTICLE XXV

Wind Energy Conversion System

Section 25.01 – Intent

- A. It is the purpose of this Article to promote the safe, effective, and efficient use of Large and Small Wind Energy Systems installed to reduce the on-site consumption of electricity supplied by utility companies. To provide for the issuance of a Special Land Use Permit for all Large Wind Energy Systems.
- B. To allow Large Wind Energy Systems in C - Commercial, CA – Commercial Agricultural, I - Industrial and AG – Agriculture subject to Special Land Use Permit as set forth in this Article and Article X (10).

Section 25.02 – Definitions

- A. **Wind Energy Conversion System:** “Wind Energy Conversion System” (WECS) shall mean all, or any combination of the following:
 - 1. A wind mill, mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
 - 2. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
 - 3. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
 - 4. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
 - 5. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and
 - 6. A wind monitoring station.
- B. **Large Wind Energy Conversion System;** A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than one hundred (100) Kilowatts (kW).
- C. **Small Wind Energy Conversion System, Small:** A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than one hundred (100) Kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

Section 25.03 - Small Wind Energy Conversion System

- A. A Small Wind Energy Conversion System may be regarded as a permitted accessory use in any district, if it meets the standards and requirements of this Section 25.03. A system that cannot meet the requirements of this Section shall be regulated as a Large WECS.
- B. **Application Procedure:** An application for a Zoning and Building Permit may be filed with the Zoning Administrator and to include the following:
 - 1. The applicant shall provide evidence that a small windmill will not cause sounds in excess of sixty (60) dB, as measured at any property line.
 - 2. Small WECS shall bear an approval certificate from a certification program recognized by the American Wind Energy Association.
 - 3. Building permit applications for small WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings.
 - 4. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted.
- C. **Review and Approval:** The Zoning Administrator may approve such Special Land Uses and exceptions for such Small WECS subject to the following limitations:
 - 1. **Tower Height.** For parcels of less than two (2) acres in area, the tower height (not including the blades) shall be limited to forty (40) feet. For parcels with land area greater than two (2) acres and located in the AG, 5.09 or CA, 5.07 or I, 5.08 districts, the tower height (not including the blades) shall be limited to sixty (60) feet.
 - 2. **Setback.** The tower shall be setback from all adjoining property lines and rights of-way (public or private) the combined height of the tower and the turbine blade in its vertical position. ("Fall zone") No part of the Small WECS, including guy wire anchors, may extend into any adjacent yard or property. (Note: property owner may arrange an "easement" with an adjacent property owner to acquire their needed "fall zone" footage.)
 - 3. **Utility Notification.** No Small WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
 - 4. **Additional Turbines.** A Small WECS system may include more than one turbine and tower if all other requirements are met and the total of all turbines on the site does not exceed one hundred (100) kilowatts (kW).

Section 25.03 – Small Wind Energy Conversion System (Continued)

- D. **Removal Required.** If any Small WECS remains non-functional or inoperative for a continuous period of one (1) year, the permit holder shall remove said system at his/her/their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property. If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within thirty (30) days from the date of notification by the Zoning Administrator, Bainbridge Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder.

Section 25.04 – Application Procedures Large Wind Energy Conversion System

- A. **Applicant:** Any person owning or having an interest in the subject property may file an application for one or more Special Land Use Wind Energy Conversion System Permits, provided for in this Article in the zoning district in which the land is situated.
- B. **Application:** Applications for Special Land Use Wind Energy Conversion System Permits shall be submitted through the Zoning Administrator, to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
- C. **Required Information:** The following standards shall apply to all Large Wind Energy Conversions Systems (WECS) as defined herein except wind monitoring stations. Applications shall be submitted through the Zoning Administrator, who shall then submit to the Planning Commission within after review for completeness pursuant to Article X (10) and the following:
1. **Impact Analysis Required.** The applicant shall submit an evaluation of the likely impacts of the proposed facility in the following areas:
 - a. Noise and vibration at any property line;
 - b. Potential impacts on wildlife, including native and migrating birds, “shadow flicker” and glare impacts on adjacent properties; and
 - c. Aesthetic impacts on the WECS on adjoining properties.
 2. **Required Site Plan.** In addition to the site plan required for a Special Land Use permit, pursuant to Article X (10), the applicant shall also submit an appropriately scaled site plan illustrating the following:
 - a. Property lines, dimension, acreage, and contours with appropriate intervals for site evaluation.
 - b. Location and elevation of the proposed Large WECS.
 - c. Location and dimensions of all existing structures and uses on the lot within 300 feet of the systems.

Section 25.04 – Application Procedures (Continued)

- d. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed Large WECS.
 - e. Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the Large WECS location.
- 3. **Additional Required Information.** The applicant shall also submit the following information:
 - a. Standard drawings of the structural components of the Large WECS, including structures, tower, base, and footings. A registered engineer shall certify drawings and any necessary calculations that the system complies with all applicable local, state, and federal building, structural and electrical codes.
 - b. Evidence from a qualified individual that the site is feasible for a Large WECS.
 - c. Certification from a registered engineer or qualified person that the rotor and over speed control have been designed for the proposed use on the proposed site.
 - d. Evidence that there is a substantial need for the proposed use.
 - e. Registered engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five (85) miles per hour.
 - f. Registered engineer's certification that if the wind turbine were to fall, no building or structure – existing or potential – would be damaged.
 - g. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be filed with the Township Clerk. This information shall be continuously updated by the applicant during all times the facility is on the premises.

Section 25.05 – Processing

- A. **Copy of Application to Planning Commission:** The Zoning Administrator shall forward a copy of the application for the Special Land Use Wind Energy Conversion System Permit to the Planning Commission within thirty (30) days of receiving the request.
- B. **Hearing:** After a preliminary review of the site plan and an application for a Special Land Use Wind Energy Conversion System Permit the Planning Commission shall hold a hearing on the site plan and special land use request in accordance with Article X (10).

Section 25.06 – Review Process and Approval

- A. All procedures for review will comply with those procedures and regulations set forth in this Article and Article X (10).
- B. The planning Commission may approve such Special Land Uses and exceptions for such Large WECS subject to the following limitations:
 - 1. **Setbacks.** Large WECS shall maintain a minimum setback of two (2) times the total height of the tower and blade height from any property line.
 - 2. Large WECS shall maintain a minimum setback of at least five (5) times the tower height and blade from the right-of-way line of any public road or highway.
 - 3. In all cases the Large WECS shall maintain a minimum distance of at least 1.25 times the tower and blade height from any habitable structure.
 - 4. **Dimensions.** A Large WECS shall be located on a parcel at least two and one-half (2-1/2) acres in size.
 - 5. A large WECS shall not exceed a total tower and blade height of one hundred fifty (150) feet unless the parcel on which the large WECS is to be located is ten (10) acres or larger, in which case the maximum total tower and blade height may be two hundred (200) feet.
 - 6. In all cases the minimum height of the lowest position of the Large WECS blade shall be at least thirty (30) feet above the ground.
 - 7. An approved Large WECS shall be exempted from height restrictions of the zoning district.
 - 8. **General Site and Design Standards.** Large WECS shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
 - 9. Colors and surface treatment of the Large WECS and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
 - 10. Large WECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such lighting shall be positioned to avoid undue visual impact on neighboring properties.
 - 11. **Safety Measures.** Each large WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
 - 12. The Planning Commission shall determine the height, color, and type of fencing for the Large WECS installation.

Section 25.06 – Review Process and Approval (Continued)

13. Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs.
14. Each Large WECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electrical Code.
15. Any Large WECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within twelve (12) feet of the ground. A locked, protective fence at least six (6) feet high shall enclose a tower capable of being climbed.
16. The Large WECS operator shall maintain a current insurance policy which will cover installation and operation of the large WECS. The amount of said policy shall be established as a condition of approval. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the large WECS can be successfully operated in the climatic conditions found in Bainbridge Township.
17. The Large WECS shall be warranted against any systems failures reasonably expected in severe weather operation conditions as a condition of approval.
18. Large WECS shall include no sign or advertising of any kind, except for one sign, not to exceed two (2) square feet posted at the base of the tower, and said sign shall contain the following information:
 - a. "Warning: high voltage"
 - b. Manufacturer's name
 - c. Operator's name
 - d. Emergency phone number
 - e. Emergency shutdown procedures
19. **Radio and Television Interference.** A Large WECS shall be designed and constructed so as not to cause radio and television interference.

Section 25.07 – Notification of Intent to Revoke Permit

- A. **Removal Required.** If any Large WECS remains non-functional or inoperative for a continuous period of one (1) year, the permit holder shall remove said system at his/her/their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property. If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within thirty (30) days from the date of notification by the Zoning Administrator, Bainbridge Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder. To assure removal of an obsolete, inoperable or abandoned facility, the Township may require of the applicant a financial guarantee.

Section 25.07 – Notification of Intent to Revoke Permit (Continued)

- B. **Primary Use.** A wind monitoring station may be approved by the Planning Commission either as a principal or accessory use; however, all other components of a large WECS shall be considered a principal use on a parcel of land.

Section 25.08 – Appeals

- A. Any person, firm corporation or department, board or bureau of the Township aggrieved by the decision of the Planning Commission for the issuance of a Special Land Use Permit for the purpose of establishing a Wind Energy Conversion System, may seek review by the Board of Appeals in the manner prescribed in Article XIII (13).

Section 25.09 – Effect of Approval of Planning Commission

- B. The approval of the application by the Planning Commission shall allow the Zoning Administrator to issue a Zoning Compliance Permit in conformity with the application as approved in this Article and Article X (10).

ARTICLE XXVI

Definitions

Definitions -

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows: The word person includes a firm, association, organization, partnership, Limited Liability Company trust, company or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular. The word shall is mandatory, the word may is permissive. The words used or occupied include the words intended, designed, or arranged to be used or to be occupied. The word his includes the word her.

Definitions ("A")

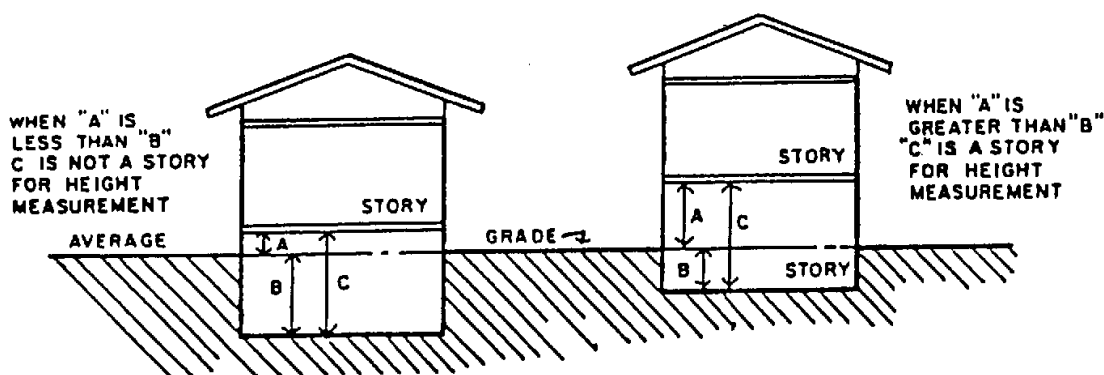
Accessory Building or Structure: A structure detached from a principal building on the same lot and customarily incidental and subordinate in use to the principal building or use. Mobile Homes or trailers shall not be used as Accessory Buildings.

Accessory Use: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Agriculture: The cultivation, tilling or use of soil for the purpose of growing or storing crops thereon or use of land for the purpose of animal or poultry husbandry, including the preparation and marketing of agricultural products for commercial purposes. All reasonable dust, spray drift, water drift, noise, odors, and other conditions normally associated with the foregoing agricultural uses are considered a part of the agriculture and are permitted.

Definitions ("B")

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



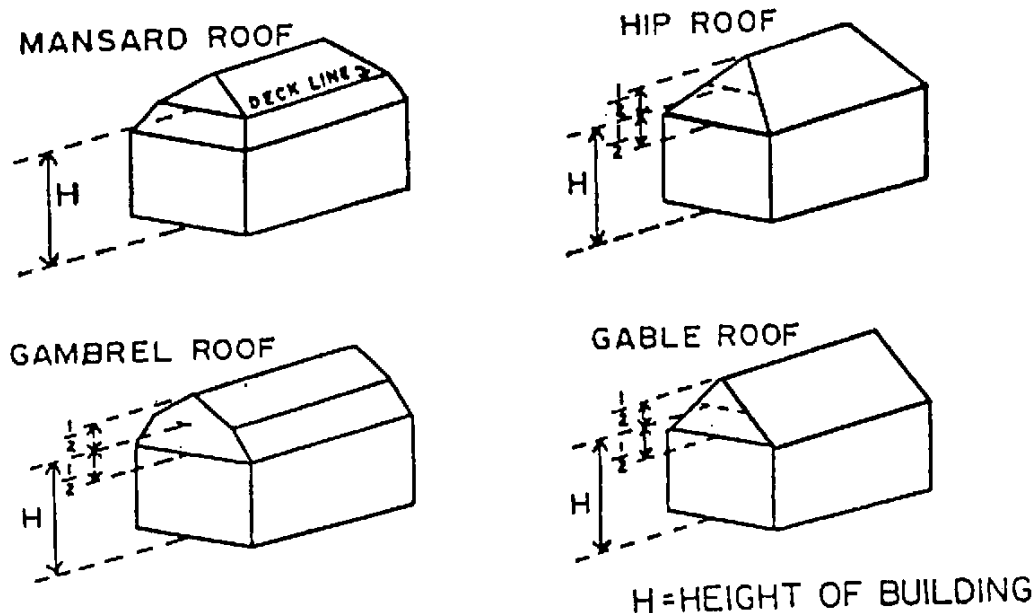
Bed and Breakfast: A private owner-occupied residence, where short-term lodging rooms and meals are provided as a commercial operation.

Bed and Breakfast Operation: A residential building or structure housing a Bed and Breakfast Operation that is subordinate and incidental to the main residential use of the building and shall be considered a Home Occupation.

Definitions ("B") (Continued)

Berrien County Soil & Sedimentation Permit: A permit issued by the Berrien County Drain Commissioner pursuant to Part 91 of the Natural Resources and Environmental Protection Act, Act 451 of P.A. 1994, as amended

Building Height: The vertical distance measured from the established grade to the highest point of the roof's surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on a sloping terrain, height may be measured from the average ground level of the grade at the building wall.



Definitions ("C")

Colocation: "Colocation" shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reducing the overall number of structures required to support wireless communication antennas within the community.

Feasibility of Colocation: Colocation shall be deemed to be "feasible" for purpose of this section when the requirements of Article XIX (19), Section 19.02 C, 1 through 4 are met.

Condominium Building Site: The condominium unit and contiguous limited common area or element. The condominium building site is the functional equivalent of a lot as defined in the P.A. 87 of 1997 The Land Division Act When lot is used as a reference in this Ordinance the regulation shall also refer to condominium building site.

Condominium Project: A plan or project consisting of not less than two condominium units if established and approved for recording with the Berrien County Register of Deeds in conformance with P.A. 59 OF 1978 the Condominium Act.

Definitions ("C") (Continued)

Condominium Plan: The drawings and information prepared in compliance with the Zoning Ordinance which display the proposed site layout according to Article XX (20).

Definitions ("D")

DAY CARE: A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Day care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

Drive-In Restaurant or Refreshment Stand: Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where Customers may service themselves and may eat or drink the food, refreshments or beverages on the premises.

Dwelling, Single-Family: A building, mobile home, pre-manufactured or precut dwelling structure designed and used for the complete living accommodations of a single family, complying with the following standards:

- A. Having a minimum living area of one thousand (1,000) square feet for a one (1) or two (2) bedroom dwelling plus one hundred and fifty (150) square feet of additional living area for each additional bedroom beyond two (2) and with a minimum floor to ceiling height of seven (7) and one half (7.5) feet.
- B. Having a minimum width along any exterior side elevation of twenty (20) feet.
- C. Firmly attached to a solid foundation constructed on the site in accordance with the Township Building Code not less in area than the area of the dwelling as measured around its perimeter, which attachment shall also meet all building codes or other state regulations.
- D. No exposed wheels, towing mechanisms, undercarriage, or chassis shall be permitted and no storage shall be allowed in any crawl space or skirted area which is not a standard basement.
- E. The dwelling shall be connected to a public sewer and water supply or to private such facilities approved by the Berrien County Health Department.
- F. The dwelling must contain storage area either in a basement located under said dwelling, in an attic area, in closet areas, or in a separate fully enclosed structure on the site of standard construction similar to or better quality than the principal dwelling, space shall be in addition to the space for the storage of automobiles and shall be equal to not less than fifteen (15%) percent of the interior living area of the dwelling.
- G. The dwelling must be aesthetically compatible in design and appearance to conventionally on-site constructed homes with a roof overhang, not less than two (2) exterior doors with one being in the front of the home and the other being in either the rear or side of the home, must contain permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same, and with window sills and roof drainage systems concentrating roof drainage and avoiding drainage along the sides of the dwelling.

Definitions ("D") (Continued)

Dwelling, Single-Family (continued):

- H. The question of compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in the within definition of "dwelling" as well as the character of residential development outside of mobile home parks or mobile home subdivisions within two thousand (2000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20) percent of said area, or, where said area is not so developed, by the character of residential development outside of mobile home parks and subdivisions throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- I. The dwelling shall be properly maintained against deterioration and/or damage from the elements or otherwise by prompt and appropriate repairs, surface coating, and other appropriate protective measures.
- J. The dwelling must contain no additions of rooms or other areas which are not constructed with similar materials and with similar quality of workmanship as in the original structure, including an appropriate foundation and permanent attachment to the principal structure.
- K. The dwelling must comply with all pertinent building and fire codes including, among others, those pertaining to newly manufactured mobile homes or other newly manufactured homes.
- L. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park or in a mobile home subdivision except to the extent required by state law or otherwise specifically required in this Ordinance of the Township of Bainbridge pertaining to such parks or subdivisions.
- M. Dwelling shall also include energy-saving earth shelter homes either one (1) constructed entirely below ground or two (2) constructed substantially below ground and with a roof having a slope with at least a five (5) inch rise for each twelve (12) inches of run, and, in either case, containing at least one (1) exposed vertical exterior elevation not less than seven (7) and one half (7.5) feet in height by twenty four (24) feet in width designed and constructed in accordance with standard building code regulations pertinent thereto and without any accommodation for any dwelling units above ground.

Definitions ("E")

Earth Change: A man-made change in the natural or existing cover topography of any land area. Earth changes shall include the removal, dumping or moving of any ground on any lot, parcel or condominium unit or tract of land within the Township. Earth change shall also include the piling, stockpiling, depositing or similar action required for the removal, dumping, spreading or moving of ground.

Essential Services: The term "essential services" means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety or general welfare. Telecommunication Towers regulated pursuant to Article XIX (19) are specifically excluded from the definition of essential services.

Event Venue: A place where an organized reception to celebrate a particular event is held. A form of agritourism that connects agricultural with tourism, incidental to existing, working farms that is supportive of agriculture by increasing farm income.

Excavation: The term "Excavation" is defined as the removal of soil, sand, clay, gravel or similar materials... The removal of, grading or stripping of any topsoil, sand, clay, gravel or similar material except that necessary for construction issued pursuant to an approved Building Permit, and the stockpiling of soil or rock within the unincorporated area.

Existing Grade: The various elevations of the surface of the land as it actually exists upon the site prior to the initiation of the earth change activity

Definitions ("F")

Family: For the purposes of this Ordinance, a family is: One (1) or more persons occupying a dwelling unit, related by blood, legal adoption, marriage or co-habitation.

Domestic servants employed on the premises may be housed on the premises without being counted as a family or part of a family.

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or agri2cultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Farm operation: As defined in the Michigan Right to Farm Act, P.A. 93 of 1981, as amended the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes but is not limited to:

- A. Marketing produce at roadside stands or farm markets.
- B. The employment and use of labor.

Definitions ("F") (Continued)

Fish hatcheries, stockyards, intensive livestock operations, recreation parks, stone quarries, gravel, dirt or sand pits, keeping of furbearing animals or game, kennels, stables, riding academies, or mineral extraction, are not considered farms or farm uses.

Farm product: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aqua cultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture and Rural Development, MDARD.

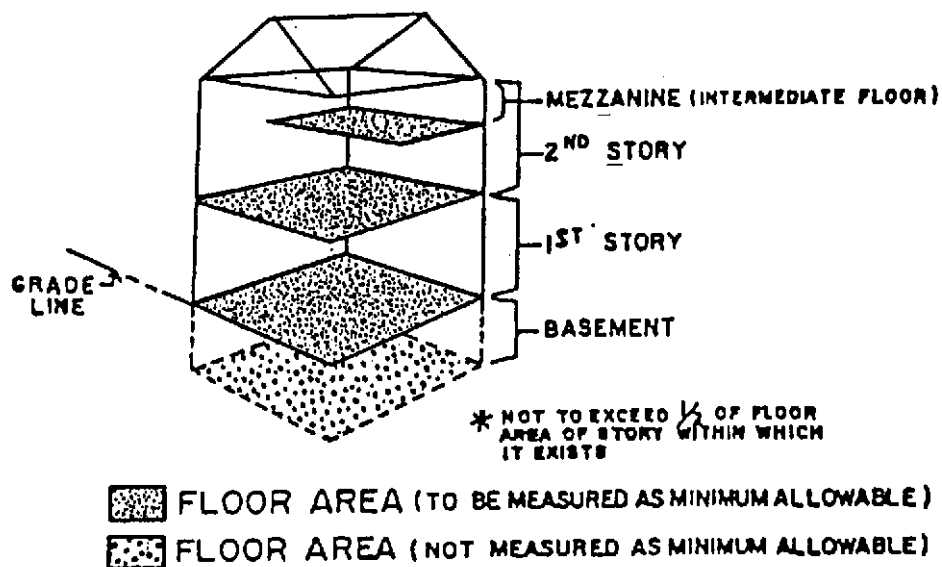
Fence: A structure or hedge of trees or shrubs which is a barrier and is used as a boundary or means of protection, confinement, or screening.

Fire Wood Sales: The sale of well-staked piles of wood, not harvested from the land on which it is being sold.

Filling Station: Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where other incidental services may be rendered and sales made.

Final Grade: The various elevations of the surface of the land upon the site after completion of the earth change activity.

Floor Area: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators, or stair bulkheads, common hall areas, and accessory structures.



Floor Area, Usable (For the purpose of computing parking space). That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers and all that area devoted to employee work space. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, elevators or stair bulkheads or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

Definitions ("G")

Grade (adjacent ground level): The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building between the building and a line five (5) feet from the buildings.

Ground: Soil, topsoil, subsoil, overburden, sand, gravel, earth, clay, muck, peat, rock, stone, aggregate, sludge and any other similar materials or resources

Guest House: An accessory building or structure that will meet all the requirements for an occupancy permit.

Definitions ("H")

Home Occupation: A Home Occupation is a use conducted in a residential district in either the principal residential dwelling or an accessory building that is clearly incidental and secondary to the residential occupancy of the residentially zoned property and that does not change the residential character of the residentially zoned property.

Definitions ("I")

Immediate Relatives: Shall include, mother, father, son, daughter, parent, grandparents, brother or sister related by blood, marriage, adoption, court order or guardianship.

Definitions ("J")

Junk Yard: An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area for storage, keeping or abandonment of junk, and uses established entirely within enclosed buildings.

Definitions ("K")

Kennel: Any lot or premise on which three (3) or more dogs, cats, or other household pets, six (6) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred or sold for commercial purposes.

Definitions ("L")

Loading Space, Off-Street: Space logically and conveniently located for bulk pickups and deliveries, scale to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size, exclusive of areas under water, to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. The word lot includes the words plot and parcel. Such lot shall have frontage on a recorded public or private road. In no case of division or combination shall any new or residual lot or parcel be created which does not meet the requirements of this Ordinance. Lot includes the definition of a Condominium unit.

Lot Frontage: The front of a lot shall be construed to be the portion nearest the road. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent road shall be considered frontage, and yards shall be provided as indicated under *Yards* in this section; provided, however, that frontage for lake front lots shall be governed by Section 6.10.

Lot Measurements

- A. **Depth** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost point of the side lot lines in the rear.

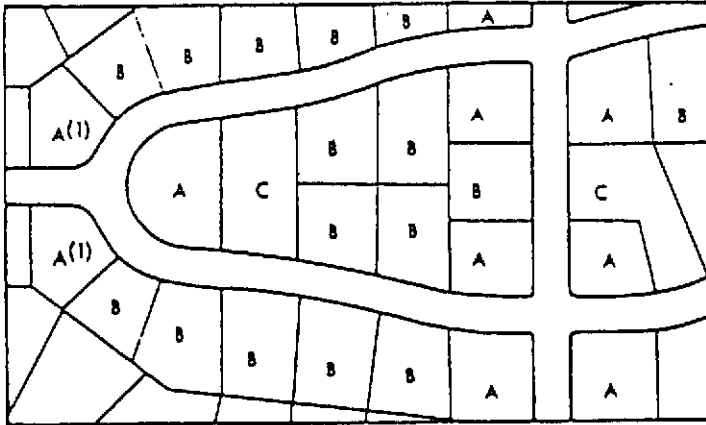
Lot Measurements

- B. **Width** of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, provided however that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving road and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved road wherein the lot lines converge toward the rear, the measured width shall be taken at the rear line of the principle building or thirty (30) feet behind the front setback line, parallel to the street or street chord.

Lot of Record: A lot which is part of a subdivision *recorded* or a unit recorded as a Condominium in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types: The diagram below illustrates terminology used in this Ordinance with reference to corner lots, interior lots, and through lots.

Definitions ("L") (Continued)



In the diagram:

A = corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A (1) in the diagram.

B = Interior lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Definitions ("M")

Manufactured Housing: A single family dwelling units designed and built in a factory, installed as a permanent residence, which bears the seal certifying that it was built in compliance with the federal manufactured housing construction and safety standards law and applicable requirements of the Michigan Construction Code Commission.

Medical Hardship: Temporary Medical Hardship must be a demonstrated medical hardship that temporarily renders one unable to do certain things they once could on their own, such as undertake off site unassisted shopping, feeding, and clothing oneself, or personal care assistance.

Mezzanine: An intermediate floor in any story occupying space not to exceed one-third (1/3) of the floor area of such story.

Definitions ("M") (Continued)

Microbrewery: A brewer that produces in total less than 30,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises. In determining the 30,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility. Retail sales and tasting facilities of beer and related promotional items may be permitted as part of the microbrewery operations. Allowed in R-AG Residential Agricultural, C Commercial, C-AG Commercial Agricultural and AG Agricultural districts subject to Special Land Use Permit as set forth in Article X (10)

Mobile Home: A vehicular, portable structure built in accordance with standards of the National Fire Protection Association No. 501B-1973, American National Standards Institute No. A119.1-1974, as indicated on the manufacturer's data plate as required by the Michigan Construction Code Commission Rule No, R. 408.31136, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling unit when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty consecutive days.

Mobile Home Park: Any parcel or tract of land licensed and registered under provisions of the State Mobile Home Commission Act, Act 96 of 1987 under the control of any person, upon which three (3) or more occupied mobile homes are harbored on a continual or non-recreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of mobile homes.

Mobile Home Subdivision: A "subdivision" as defined by the state Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of the aforementioned Act and of all other applicable Township, County, State or Federal laws, rules or regulations.

Definitions ("N")

(Reserved for Future Use.)

Definitions ("O")

(Reserved for Future Use.)

Definitions ("P")

Parking Space, Off-Street: For the purposes of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten (10) feet by twenty (20) feet.

Planned Unit Development: A Planned Unit Development must constitute a land area of at least five (5) acres to be occupied by principal building(s) located on a lot of record in accordance with Article V, Schedule of District Regulations. The development shall be designed as an entity intended to be substantially completed within three (3) years if less than fifty (50) acres and five (5) years if more than fifty (50) acres.

Pool House – Building used for storage of pool related equipment, changing room, rest room, shower and entertainment area. Pool houses will not be issued an occupancy permit and may not be used as a Guest House.

Power Generating Facility: All Electric Power Generating Facilities, having electric power generating capacity of five (5) megawatts or more in current or future form, located in I Industrial District within the Township, and subject to Special Land Use Permit, including windmills, electric power transformer stations and substations, gas regulator stations with service yards, water and sewerage pumping stations and telecommunication exchange facilities and/or antennas.

Private Road: Private Road is defined as a privately owned and maintained road which has not been accepted by the public for ownership and maintenance; which persons, in addition to the owners of the property underlying said road, have a lawful right to use for ingress and egress, whether as invitees, by common custom, or otherwise. This definition does not include a private driveway which serves one (1) one-family, or one (1) two-family residence.

Public Utility: Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public: electricity, gas, steam, communications, telegraph, transportation or water.

Definitions ("Q")

(Reserved for Future Use.)

Definitions ("R")

Recreational Vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pick-up campers, travel trailers and tent trailers, provided any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to mobile homes.

Restaurant: A building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment where food may be taken outside of the building for consumption either on or off the premises.

Road: Road shall mean a thoroughfare which affords vehicular traffic circulation and principal means access to abutting property, including avenue, place, way, drive, land, boulevard highway, street, and other thoroughfare, except an alley or private driveway.

Roadside Stand: A structure used or intended to be used solely by the householder, owner or tenant of the parcel on which such structure is located for the sale of fresh farm products the majority of which are raised or produced on the parcel.

Definitions ("S")

Semi-Trailer/Tractor Trailer: A trailer with or without a refrigeration unit, designed to be transported over a highway by a semi-tractor/truck to transport goods or material.

Shipping Container: A metal container designed to be transported by ship, rail, or over a highway on a semi-trailer to ship or transport goods or material.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Signs, Number and Surface Area: For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

Sign, On-Site: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises.

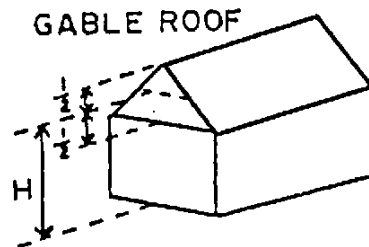
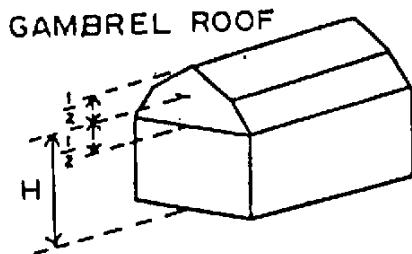
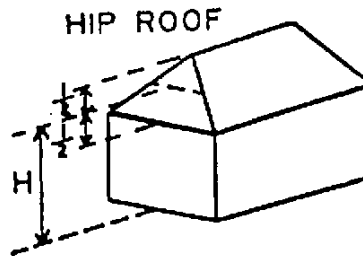
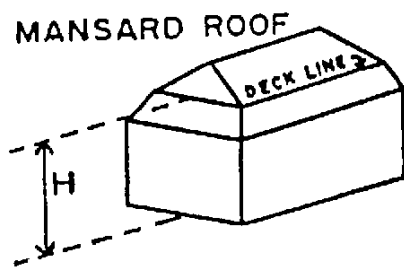
Sign, Off-Site: A sign other than an on-site sign.

Definitions ("S") (Continued)

Special Land Use (Use Permit): A Special Land Use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon the issuance of a Special Land Use Permit by the Planning Commission in such zoning district as Special Land Uses, if specific provision for such Special Land Use is made in this Ordinance.

Storage Units: Self storage in which storage space (such as rooms, lockers, containers, and/or outdoor space), also known as "storage units" is rented to tenants, usually on a short-term basis .

Story: Is that part of a building, except a mezzanine, as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if no floor above, then the ceiling next above. A story, thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content is below the height level of the adjoining ground.



H=HEIGHT OF BUILDING

Definitions ("S") (Continued)

Story, Half: Is an uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below in and is not used or designed or arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

Street (Road): A thoroughfare for vehicular traffic, including all area within the right-of-way.

Street (Road) Line: The right-of-way line of a street or easement for ingress and egress.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, poster panels and swimming pools.

Definitions ("T")

Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet.

Telecommunication Tower: Telecommunication shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building(s) and private and commercial mobile radio facilities. Not included within this definition are: Citizen band radio facilities, short-wave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes, and governmental facilities which are subject to County, State or Federal laws, rules or regulations which pre-empt municipal regulatory authority.

Definitions ("U")

(Reserved for Future Use.)

Definitions ("V")

Variance: A Variance is a relaxation of the terms of this Ordinance where, in the judgement of the Board of Appeals, such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of this Ordinance would result in undue hardship or practical difficulty. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a Variance be granted because of the presence of nonconformity's in the zoning district or uses in an adjoining zoning district.

Definitions ("W")

Warehouse: A building or buildings used primarily as a commercial business for the storage of goods and materials.

Wind Energy Conversion System, Small: A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 Kilowatts (kW) and which is intended to primarily reduce on-site consumption of utility power.

Wind Energy Conversion System, Large: A wind energy conversion system as defined herein, consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 100 Kilowatts (kW).

Winery and Distillery: An operation for the production of alcoholic drinks, wine and brandy under the laws of the State of Michigan (Act 8 of 1933, as amended), and Federal Law as enforced by the U.S. bureau of Alcohol, Tobacco, Firearms and Explosives. A winery and distillery shall also include buildings involved in the production of spirits, wine and tasting rooms conducted in association with and on the same property as the winery or distillery.

An agricultural processing facility used for: (1) the fermenting and processing of fruit juice into wine; or (2) the refermenting of still wine into sparkling wine. (3) the production of spirits from grain, potatoes, fruit or sugarcane grown on the farm.

An agricultural processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar spirits. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the distillery, winery and warehousing. Retail sales and tasting facilities of wine and related promotional items may be permitted as part of the winery or distillery operations.

Definitions ("X")

(Reserved for Future Use)

Definitions ("Y")

Yard: A required open space, between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this Ordinance, provided however that fences, walls, poles, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

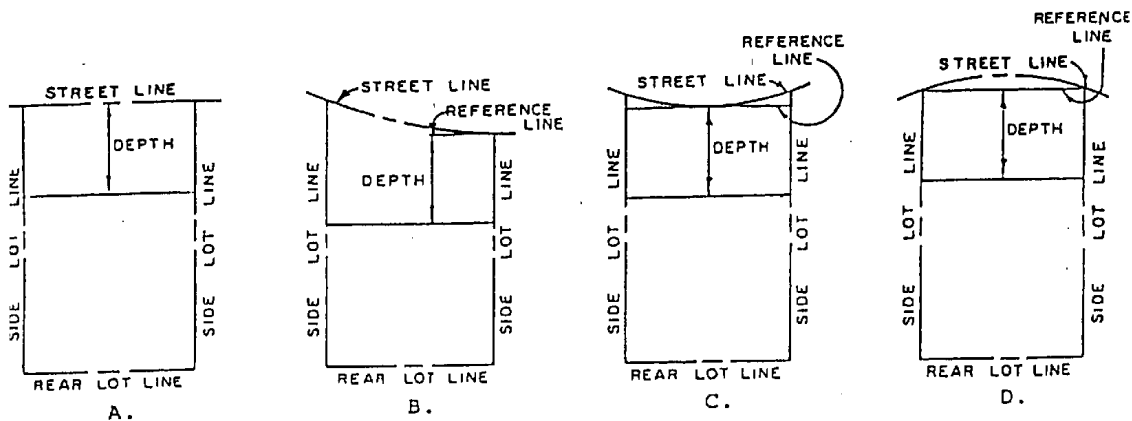
Yard, Front: A yard extending between side lot lines across the front of a lot adjoining a public or private street; or, in the case of lake front lots, which shall be considered as through lots, a public or private street on one frontage and lake front on the other frontage.

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Definitions ("Y") (Continued)

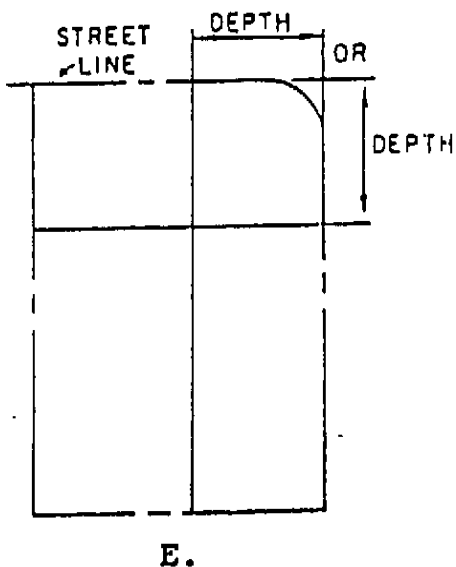
Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than twenty five (25) feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.

Depth of required front yards: Shall generally be measured from the inner-most portion of the road line right-of-way to the outer most portion of the structure, including the eave and/or roof structure as set forth in Section 5.10.



In the case of rounded property corners at street intersections, reference points for measurements shall be placed as though the side lot lines would have met the street line if the corner were not rounded. The front and rear lines of the front yard shall be parallel.

CORNER LOT



Definitions ("Y") (Continued)

Yard, Side: A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards.

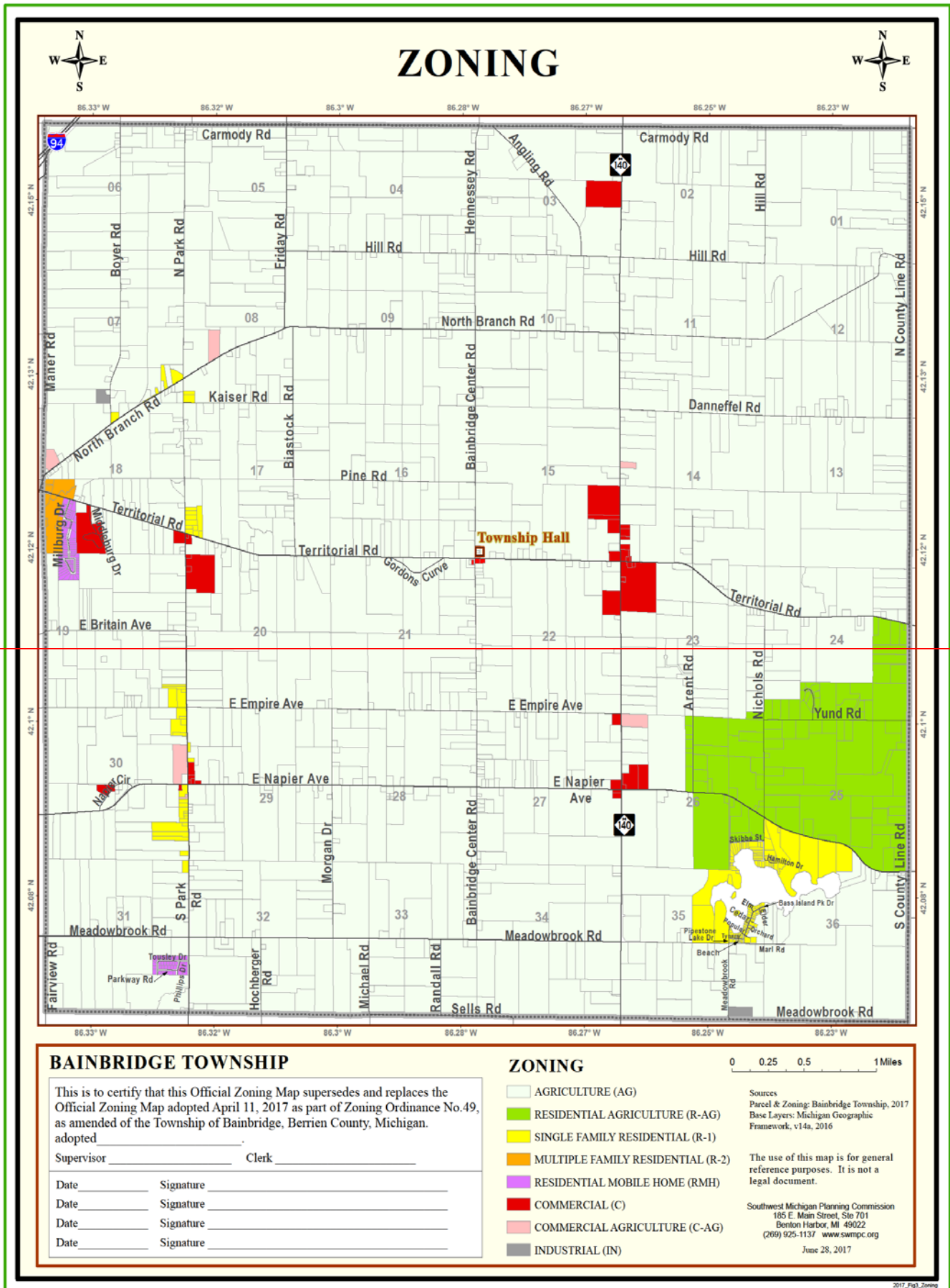
Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

Yard, Rear: The yard extending across the rear of a lot between side lot lines.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

Definitions ("Z")

Zoning Administrator: The person designated by the Township Board to administer the provisions of this Zoning Ordinance.



ARTICLE XXVIII

BAINBRIDGE TOWNSHIP BOARD OF TRUSTEES

ADOPTION RESOLUTION

Ordinance 49 Q, Zoning Map

WHEREAS, the Bainbridge Township Planning Commission has been established pursuant to the Township Planning Act, Act 168 1959, as amended; and

WHEREAS, the Bainbridge Township Planning Commission during the calendar year of 2017 and 2018 has reviewed the current Zoning Ordinance, Zoning Map and Future Land Use Map and prepared an update text, for the purpose of encouraging and guiding orderly and efficient future growth and development of Township; and

WHEREAS, in accordance with Act 168 P.A. 1959, as amended, the Planning Commission did transmit to the Berrien County Planning Commissions a copy of the Ordinance and Maps for review as required by the Act; and

WHEREAS, in accordance with Act 168 P.A. 1959, as amended, with notices of public hearing duly published and invitations to attend and provide comment, a public hearing was held on May 21, 2018 at the Bainbridge Township Hall for the purpose of making public explanation of the proposed Zoning Ordinance Update, reprint of the Zoning and Future Land Use Maps, and to receive public comment and recommendations regarding the Ordinance and Maps; and

WHEREAS, the Bainbridge Township Board of Trustees has been kept informed of the preparation of the Zoning Ordinance and reprint of the Zoning and Future Land Use Maps;

NOW THEREFORE BE IT RESOLVED, that the Bainbridge Township Board of Trustees hereby adopts the *Bainbridge Township Zoning Ordinance, Zoning and Future Land Use Map*, dated 2017 as prepared, approved and adopted by the Bainbridge Township Planning Commission to encourage and guide future growth and development of Bainbridge Township in an orderly manner.

The forgoing resolution if offered by N. Weber.

Second offered by J. Yetzke

Upon roll call vote the following voted.

	YES	NO	ABSENT
John Yetzke	X		
Don Baiers	X		
Nancy Weber	X		
Patty Hiler-Molter	X		
Bill Hodge	X		

The Supervisor declared the resolution adopted, this 9th day of July 2018.

CERTIFICATE

I, Patty Hiler-Molter, the duly elected and acting Clerk of Bainbridge Township, herby certify that the foregoing resolution was adopted by the Township Board at a regular meeting of said Board held on July 9, 2018, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth; that said resolution was ordered to take immediate effect.

Patty Hiler-Molter, Clerk