

Barry County Zoning Ordinance



Final Draft

Adopted _____

5/1/08

Effective _____

DRAFT BARRY COUNTY ZONING ORDINANCE
TABLE OF CONTENTS

ARTICLE ONE: TITLE, PURPOSE AND INTENT

100 Short Title.....1-1
101 Purpose and Intent.....1-1

ARTICLE TWO: DEFINITIONS AND INTERPRETATION

200 Rules Applying to the Text2-1
201 Definitions.....2-1
202 A.....2-1
203 B.....2-4
204 C2-5
205 D2-7
206 E.....2-8
207 F.....2-9
208 G 2-11
209 H..... 2-12
210 I..... 2-13
211 J..... 2-14
212 K..... 2-14
213 L..... 2-14
214 M..... 2-16
215 N 2-18
216 O 2-18
217 P..... 2-19
218 Q..... 2-21
219 R..... 2-21
220 S 2-22
221 T..... 2-27
222 U 2-27

223 V..... 2-28
224 W 2-28
225 X..... 2-29
226 Y..... 2-29
227 Z 2-30

ARTICLE THREE: RESERVED

ARTICLE FOUR: NONCONFORMITIES

400 Scope and Intent4-1
401 Nonconforming Lots.....4-1
402 Nonconforming Uses of Land.....4-2
403 Nonconforming Structures.....4-2
404 Nonconforming Uses of Structures and Land.....4-3
405 Repairs and Maintenance of Nonconforming Uses4-4
406 Change of Tenancy or Ownership4-4

ARTICLE FIVE: GENERAL PROVISIONS

500 Purpose and Scope5-1
501 Accessory Buildings and Structures5-1
502 Access Lots.....5-3
503 Access to Public Roads.....5-4
504 Accessory Uses.....5-4
505 Reserved
506 Building Height.....5-5
507 Clear Visibility at Corners5-5
508 Conditions of Approval.....5-6
509 Open Space Subdivisions.....5-6
510 Reserved
511 Dwellings 5-13
512 Emergency Housing 5-14
513 Farm Worker Housing..... 5-14

514 Fences	5-15
515 Essential Services and Governmental Offices	5-16
516 Grades and Runoff.....	5-16
517 Home Occupation.....	5-16
518 Keeping of Animals	5-17
519 Reserved	
520 Reserved	
521 Landscaping and Screening	5-18
522 One Principal Use Per Parcel.....	5-20
523 Outdoor Lighting Requirements	5-20
524 Outdoor Storage and Recreational Units	5-21
525 Reserved	
526 Parcel Divisions	5-22
527 Parking Standards	5-23
528 Performance Guarantee for Compliance	5-31
529 Reserved	
530 Reserved	
531 Private Streets	5-31
532 Razing and Moving of Buildings.....	5-34
533 Spatial and Physical Requirements.....	5-34
534 Swimming Pools and Swimming Pool Fences.....	5-36
535 Reserved	
536 Reserved	
537 Temporary Dwellings and Uses	5-37
538 Unclassified Uses	5-38
539 Water Protection	5-38
540 Reserved	
541 Water Supply and Sewage Facilities	5-39
542 Transferable Development Rights	5-39
543 Small Wind Energy Conversion Systems	5-40
544 Small Pit Mine, Sand and Gravel	5-41

ARTICLE SIX: RESERVED

ARTICLE SEVEN: DISTRICTS, DIMENSIONAL STANDARDS, USES TABLE AND ZONING MAP

700 Establishment of Districts7-1
701 Official Zoning Map7-1
 Copy of Official Zoning Map7-3
702 Application of Regulations7-5
703 Zoning District Regulations7-5
704 Table of Land Uses7-5
 Table 703 Schedule of Regulations7-7
 Table 704 Land Use Summary7-9

ARTICLE EIGHT: CONSERVATION RESERVE (CR)

800 Purpose and Intent8-2
801 Reserved
802 Permitted Uses8-2
803 Special Land Uses8-2
804 Dimensional Standards8-3
805 District Regulations8-4

ARTICLE NINE: NATURAL LAKES AND RIVER (NLR)

900 Purpose and Intent9-2
901 Reserved
902 Permitted Uses9-2
903 Special Land Uses9-2
904 Dimensional Standards9-3
905 District Regulations9-4

ARTICLE TEN: RECREATIONAL LAKES (RL)

1000 Purpose and Intent 10-2

1001 Permitted Uses	10-2
1002 Special Land Uses	10-2
1003 Dimensional Standards.....	10-3
1004 Reserved	
1005 District Regulations.....	10-4

ARTICLE ELEVEN: RURAL RESIDENTIAL (RR)

1100 Purpose and Intent	11-2
1101 Permitted Uses.....	11-2
1102 Special Land Uses.....	11-2
1103 Dimensional Standards	11-3
1104 Reserved	
1105 District Regulations	11-4

ARTICLE TWELVE: LOW DENSITY RESIDENTIAL (LDR)

1200 Purpose and Intent.....	12-2
1201 Permitted Uses	12-2
1202 Special Land Uses	12-2
1203 Dimensional Standards.....	12-3
1204 Reserved	
1205 District Regulations.....	12-4

ARTICLE THIRTEEN: MODERATE DENSITY RESIDENTIAL (MDR)

1300 Purpose and Intent.....	13-2
1301 Permitted Uses	13-2
1302 Special Land Uses	13-2
1303 Dimensional Standards.....	13-3
1304 Reserved	
1305 District Regulations.....	13-4

ARTICLE FOURTEEN: HIGH DENSITY RESIDENTIAL (HDR)

1400 Purpose and Intent..... 14-2
1401 Permitted Uses 14-2
1402 Special Land Uses 14-2
1403 Dimensional Standards..... 14-3
1404 Reserved
1405 District Regulations..... 14-5

ARTICLE FIFTEEN: MIXED USE (MU)

1500 Purpose and Intent..... 15-2
1501 Permitted Uses 15-2
1502 Special Land Uses 15-2
1503 Dimensional Standards..... 15-3
1504 Reserved
1505 District Regulations..... 15-4

ARTICLE SIXTEEN: GENERAL COMMERCIAL (GC)

1600 Purpose and Intent..... 16-2
1601 Permitted Uses 16-2
1602 Special Land Uses 16-2
1603 Dimensional Standards..... 16-3
1604 Reserved
1605 District Regulations..... 16-3

ARTICLE SEVENTEEN: LIGHT INDUSTRIAL (LI)

1700 Purpose and Intent..... 17-2
1701 Permitted Uses 17-2
1702 Special Land Uses 17-2
1703 Dimensional Standards..... 17-3
1704 Reserved
1705 District Regulations..... 17-3

ARTICLE EIGHTEEN: GENERAL INDUSTRIAL (GI)

1800 Purpose and Intent..... 18-2
1801 Permitted Uses 18-2
1802 Special Land Uses 18-2
1803 Dimensional Standards..... 18-3
1804 Reserved
1805 District Regulations..... 18-3

ARTICLE NINETEEN: AGRICULTURE (A)

1900 Purpose and Intent..... 19-2
1901 Reserved
1902 Permitted Uses 19-2
1903 Special Land Uses 19-2
1904 Dimensional Standards..... 19-3
1905 District Regulations..... 19-4

ARTICLE TWENTY: FLOOD HAZARD OVERLAY

2000 Purpose and Intent..... 20-2
2001 Delineation of the Flood Hazard Overlay Zone..... 20-2
2002 Development 20-3
2003 General Standards for Flood Hazard Reduction 20-3
2004 Specific Base Flood Elevation Standards..... 20-4
2005 Manufactured Home Standards 20-4
2006 Floodplain Protection Standards..... 20-5
2007 Disclaimer of Liability..... 20-6

ARTICLE TWENTY-ONE: HASTINGS AREA OVERLAY DISTRICT

ARTICLE TWENTY-TWO: RESERVED

ARTICLE TWENTY-THREE: STANDARDS AND REQUIREMENTS FOR SPECIAL USES

2300 Special Uses 23-1

2301 Special Use Procedures 23-1

2302 Special Use Review Standards 23-4

2303 Reserved

2304 Accessory Buildings with Footprint in Excess of 150% of Principal Structure 23-6

2305 Accessory Dwellings 23-7

2306 Accessory Use, When Accessory to a Special Land Use 23-7

2307 Adult Foster Care Facility 23-8

2308 Airport 23-9

2309 Assembly Operation 23-10

2310 Automobile Repair Facility 23-10

2311 Bed and Breakfast 23-11

2312 Reserved

2313 Boarding House 23-15

2314 Boat Launch 23-14

2315 Campground 23-14

2316 Car Wash 23-15

2317 Cemetery 23-16

2318 Clinic 23-16

2319 Contractor’s Facility 23-17

2320 Reserved

2321 Convenience Store 23-18

2322 Reserved

2323 Day Care, Commercial 23-19

2324 Day Care, Group 23-20

2325 Reserved

2326 Drive-through Business 23-21

2327 Reserved

2328 Eating and Drinking Establishment 23-21

2329 Educational Facility	23-22
2330 Farm Product Processing Facility	23-23
2331 Reserved	
2332 Gallery or Museum	23-24
2333 Gasoline Station.....	23-24
2334 Golf Course.....	23-25
2335 Governmental Office.....	23-26
2336 Greenhouse.....	23-26
2337 Gun and/or Archery Club	23-27
2338 Reserved	
2339 Home Occupation, Major	23-28
2340 Hospital.....	23-29
2341 Reserved	
2342 Junkyard/Salvage Operation	23-30
2343 Kennel/Animal Day Care	23-31
2344 Reserved	
2345 Library	23-32
2346 Reserved	
2347 Marina.....	23-33
2348 Reserved	
2349 Mechanical Repair and Machining	23-35
2350 Reserved	
2351 Mine, Sand and Gravel.....	23-36
2352 Mini/Self-Storage Facility	23-40
2353 Reserved	
2354 Open Air Business	23-41
2355 Reserved	
2356 Park or Parkland	23-42
2357 Personal Storage Building.....	23-43
2358 Reserved	
2359 Place of Public Assembly, Large and Small.....	23-43

2360	Planned Unit Development (PUD)	23-44
2361	Reserved	
2362	Private Roads.....	23-50
2363	Processing and Manufacturing	23-51
2364	Reserved	
2365	Research Laboratory and Testing.....	23-52
2366	Roadside Stand	23-52
2367	Reserved	
2368	Sawmill	23-53
2369	Sexually Oriented Business.....	23-54
2370	Reserved	
2371	Solid Waste Disposal and Handling Site	23-56
2372	Subdivision, Conservation	23-58
2373	Subdivision, Conventional.....	23-65
2374	Reserved	
2375	Tattoo or Piercing Parlor	23-63
2376	Tavern.....	23-64
2377	Reserved	
2378	Uses Similar to Uses Permitted as Special Land Uses.....	23-64
2379	Veterinary Clinic.....	23-65
2380	Warehouse	23-66
2381	Water Access Lots	23-67
2382	Reserved	
2383	Wells, Extraction.....	23-68
2384	Wholesale Facility	23-69
2385	Wind Energy Conversion System	23-70
2386	Wireless Communication Antenna	23-73
2387	Zoo, Private	23-77

ARTICLE TWENTY-FOUR: M-37 CORRIDOR OVERLAY

2400 Intent..... 24-1
2401 Applicability 24-1
2402 Application Review, Approval and Coordination Process..... 24-1
2403 Site Plan Requirements and Review Criteria 24-2
2404 Driveways 24-3
2405 Modification of Standards..... 24-6

ARTICLE TWENTY-FIVE: SIGNS

2500 Purpose 25-1
2501 General Provisions for All Signs 25-1
2502 Exempt Signs 25-4
2503 Prohibited Signs 25-5
2504 Permitted Signs 25-5
2505 Permit Process..... 25-10

ARTICLE TWENTY-SIX: RESERVED

ARTICLE TWENTY-SEVEN: SITE PLAN REVIEW

2700 Purpose..... 27-1
2701 Scope 27-1
2702 Optional Sketch Plan Review..... 27-1
2703 Application Procedure..... 27-2
2704 Action on Application and Site Plans..... 27-11
2705 Review Criteria..... 27-12
2706 Conformity to Approved Site Plans 27-13
2707 Term of Approval of the Site Plan 27-14
2708 Amendment to the Site Plan 27-14
2709 Appeals 27-14
2710 Performance Guarantees 27-14

ARTICLE TWENTY-EIGHT – TWENTY-NINE: RESERVED

ARTICLE THIRTY: ADMINISTRATION

3000 Zoning Administrator 30-1
3001 Duties and Limitations of the Zoning Administrator 30-1
3002 Land Use Permit 30-2
3003 Reapplication 30-3
3004 Hearing and Notice Requirements 30-3
3005 Rehearing 30-4
3006 Stop Work or Stop Use Order 30-5

ARTICLE THIRTY-ONE: ZONING BOARD OF APPEALS

3100 Establishment..... 31-1
3101 Membership, Terms of Office 31-1
3102 Meetings 31-1
3103 Duties, Rules, Hearing and Decisions of Appeals, Right to and Grounds of Appeal . 31-1
3104 Time to and Notice of Appeal: Transmission of Record 31-2
3105 Stay of Proceedings Pending Appeal..... 31-2
3106 Hearings and Notices, Right to be Heard, Disposition of Appeals,
Decision not Final 31-2
3107 Duties and Powers 31-3
3108 Performance Guarantee for Compliance..... 31-5

ARTICLE THIRTY TWO: MUNICIPAL CIVIL INFRACTIONS

3200 Municipal Civil Infractions 32-1
3201 Injunctive Relief..... 32-1
3202 Nuisance Per Se 32-1

ARTICLE THIRTY THREE: FEES, CHARGES, AND ESCROW ACCOUNTS

3300 Fees 33-1
3301 Applicant Escrow Accounts..... 33-1

ARTICLE THIRTY-FOUR: AMENDMENTS

3400 Amendments..... 34-1
3401 Rezoning Agreements 34-1

ARTICLE THIRTY-FIVE: VALIDITY, SEVERABILITY, REPEALER, AND EFFECTIVE DATE

3500 Severability 35-1
3501 Repealer and Savings 35-1
3502 Effective Date 35-1

BARRY COUNTY ZONING ORDINANCE

The County Commission of Barry County, Michigan Ordains:

An ordinance to establish zoning districts and regulations governing certain portions of Barry County in the State of Michigan in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended; to define certain terms used herein; to prescribe the powers and duties of certain officials; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

ARTICLE ONE TITLE, PURPOSE AND INTENT

SECTION 100 SHORT TITLE

This Ordinance shall be known as the “Barry County Zoning Ordinance” and will be referred to hereinafter as “this Ordinance.”

SECTION 101 PURPOSE AND INTENT

The fundamental purposes of this Ordinance are:

- A. To promote and protect the public health, safety, and general welfare;
- B. To encourage the use of lands and natural resources in accordance with their character and adaptability;
- C. To implement the goals, objectives, and future land use recommendations of the Barry County Master Plan and to regulate the intensity of land use and parcel areas in a manner compatible with said Plan;
- D. To determine the area of open spaces surrounding buildings and structures necessary to provide adequate light, scenic views and air and to protect the public health;
- E. To protect the character and stability of the natural, agricultural, recreational, residential, commercial and industrial areas within Barry County and promote the orderly and beneficial development of the County;
- F. To lessen and avoid congestion on the public highways and streets;

- G. To protect and preserve high quality agricultural lands and natural features and to promote voluntary transfers of development rights from said lands to areas best able to accommodate such development;
- H. To provide for the needs of recreation, residence, commerce, and industry in future growth;
- I. To promote healthful surroundings for family life in residential areas;
- J. To set reasonable standards to which buildings and structures shall conform;
- K. To provide for reasonable uses and forms, buildings, and structures which are compatible with the character of development or the uses, buildings, or structures permitted within specified Districts and to provide for sanitary, safety and protective measures that shall be required for such structures;
- L. To prevent such additions or alterations or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
- M. To reduce the risk of fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards to life and property;
- N. To prevent improper uses of land and the overcrowding of land and undue concentration of buildings and structures as appropriate in each District;
- O. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
- P. To create an Appeals Board and to define the powers and duties thereof;
- Q. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
- R. To provide for the payment of fees for zoning permits and escrow accounts to support the expense of administration and proper review of applications for zoning permits;
- S. To provide penalties for the violation of this Ordinance;
- T. To provide safety in traffic and vehicular parking;
- U. To accomplish any other purposes contained in Public Act 110 of 2006, as amended.
- V. To implement and carry out the purposes of the Land Division Act, being Act 288 of 1967, as amended.

ARTICLE TWO
DEFINITIONS AND INTERPRETATION

SECTION 200 RULES APPLYING TO THE TEXT

For the purpose of this Ordinance, certain rules of structure apply to the text. Words used in the present tense include the future tense, and vice versa; and the singular includes the plural, and vice versa, unless the context clearly indicates the contrary. The words “person” and “entity” include a corporation, association, organization, partnership, trust, company, or firm as well as an individual. The words “used” or “occupied” as applied to any land or building include the words “intended, designed, or arranged to be used or occupied.” The word “lot” includes the words “plot,” “tract,” or “parcel.” The term “shall” is always mandatory and not discretionary; the word “may” is permissive. Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization. Unless the context or actual language of this Ordinance otherwise provides, references to “Section” or “Article” shall refer to Sections or Articles of this Zoning Ordinance.

SECTION 201 DEFINITIONS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

SECTION 202 A

ACCESS: A way or means of approach to provide vehicular physical entrance to or exit from a property or area.

ACCESS LOT: A waterfront lot, or riparian lot, on a lake or stream, providing for private or common (semi-private) access to such lake or stream for one or more access lot beneficiaries.

ACCESS LOT BENEFICIARY: An entity with a right of access to a waterway or use of a waterway through an access lot, in whole or in part by fee ownership, lease, license, gift, business invitation, or any written form of conveyance, dedication, permission, or access/use right. The following entities each constitute one access lot beneficiary:

- A. A natural person, that being a human being, as distinguished from an artificial person created by law.
- B. An owner/occupant if the owner/occupant is a natural person.
- C. An owner/occupant if the owner/occupants are members of the same family as defined in Section 207 hereof.

ACCESS POINT: The connection of a driveway at the right-of-way line to a road; a new road, driveway, or service drive.

ACCESSORY BUILDING: An accessory structure, as defined herein, which is a supplementary building on the same parcel as the principal building, or part of the principal building, occupied by or devoted exclusively to an accessory use.

ACCESSORY STRUCTURE: A structure which is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include, but are not limited to, the following: storage structures, parking lots, loading docks, radio and television antennas, or any part thereof; but shall not include fences and hunting blinds which are clearly not permanent and are easily removed. Under no circumstances shall a septic system and tile field be considered an accessory structure.

ACCESSORY USE: A use naturally and normally incidental to, subordinate to, and devoted exclusively to, the principal use of the land or buildings.

ADMINISTRATOR or ZONING ADMINISTRATOR: The Barry County Zoning Administrator as established in **Section 3000** of this Ordinance.

ADULT FOSTER CARE FACILITY: A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

- A. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;
- B. Hospitals for persons with mental disabilities or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
- C. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
- D. A child care institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;
- E. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- F. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.

AGRICULTURAL SUPPORT BUSINESS: A necessary and accessory facility principally established to serve on-site farming activities and which relies on the on-site agriculture as its major means of support.

AIRPORT: Any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established.

ALLEY: A public way which is not a street, private street, or sidewalk, which provides secondary access to property and which is not meant for general traffic circulation, generally but not always to the rear of parcels.

ALTERATIONS: Any construction; modification; remodeling; repair; improvement; relocation; or, replacement of a structure, building, dwelling, accessory building, or structure which needs a permit under the provisions of **Section 3002** or under the provisions of the Building Code.

ALTER, ALTERED OR ALTERATION: Any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

ANIMAL GROOMING FACILITY: Any property, structure, building, or premise in or on which pets and other domesticated animals are bathed and/or groomed for commercial gain and kept for no longer than twenty-four (24) hours, but excluding any kennel, veterinary or clinical services.

APPEALS BOARD: The Barry County Zoning Board of Appeals, created in **Article 31**.

ARBOR: An man-made structure or shelter consisting of a lattice or trellis intended and used as a landscape decorative amenity and used to support vines, floral plants or branches.

AREA OF SPECIAL FLOOD HAZARD: Land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

ARTICLE: The main divisions of this Ordinance, cited by the words "Article XX." Sections further divide Articles.

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

ATTIC: That part of a building that is immediately below and wholly or partly within the roof framing.

AUTOMOBILE REPAIR FACILITY: An establishment engaged in the general repair, engine rebuilding, transmission rebuilding, overhaul or reconditioning of motor vehicles, including automobiles, trucks, farm implements, recreational vehicles and including; collision repair services, such as body, frame or fender straightening and repair; major welding activities; and overall painting and undercoating of automobiles.

SECTION 203 B

BASE FLOOD: A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASEMENT: A portion of a building which is not intended to serve as the main living space in a dwelling, duplex or multiple-family building, and is built below the main floor joists such that it is partially or wholly below average 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.

BED AND BREAKFAST: An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day for overnight guests only.

BLUFF LINE: The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front declining steeply on the lakeward side. Where there is no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.

BOARD OF COMMISSIONERS: The County Board of Commissioners for Barry County.

BOARDING HOUSE: A dwelling unit or part thereof in which, for compensation, lodging and more than one meal is provided, for periods of more than 7 days.

BOAT: Means every description of water craft used or capable of being used as a means of transportation on water. (reference; vessel definition from the Marine Safety Act P.A. 303 of 1967, as amended, Compiled Laws Annotated, 281.1008).

BOAT LAUNCH: A public or privately-owned facility designed and used for boat access to, and removal from, a lake or stream, using trailers drawn by motor vehicles. A Boat Launch may include a public road.

BUFFER AREA: An open landscaped area that may include berms, plantings, fences or walls all designed to buffer noise, light, visual, and other nuisances.

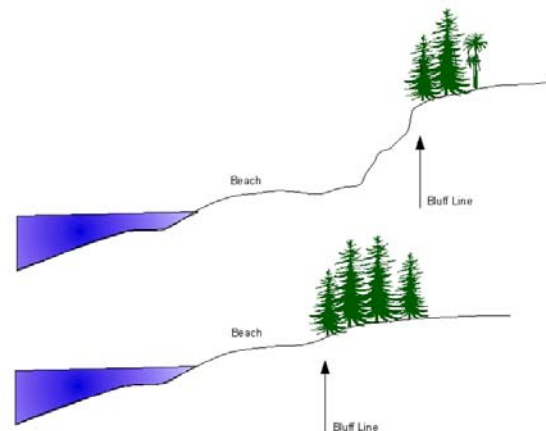
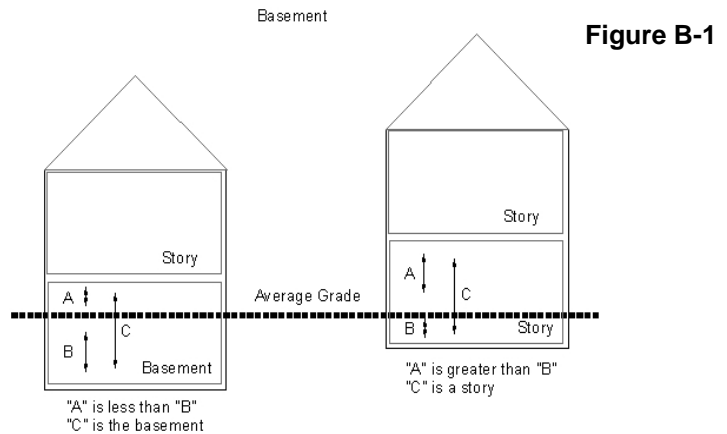


Figure B-2

BUILDABLE AREA: That portion of a parcel contained by the required front, rear and side yards and excluding any wetland, 100-year flood plain, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property.

BUILDING: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of person, animals, chattel, or property of any kind. Buildings shall include: decks and porches, including steps and trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDING AREA or FOOTPRINT: The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

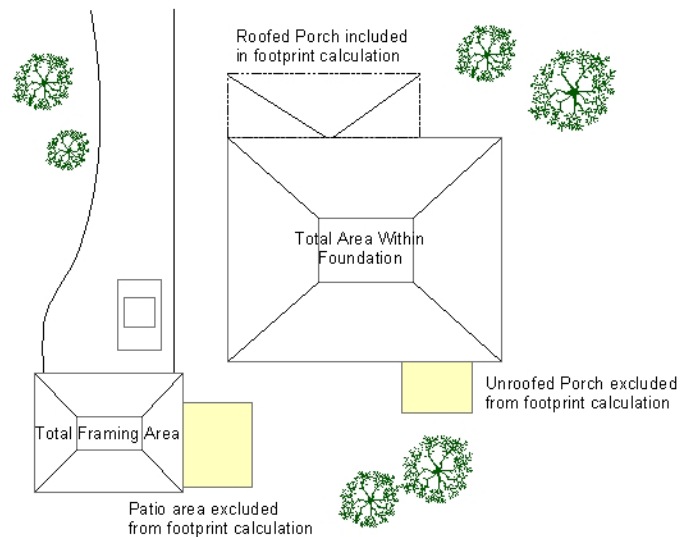
BUILDING CODE: The building or construction code in effect in Barry County, which generally regulates construction, housing, plumbing, electrical wiring and fire protection.

BUILDING ENVELOPE: That portion of a parcel contained within the required front, rear, waterfront and side yards, as established by the setback dimensions for the zoning district.

BUILDING INSPECTOR: The administrator of the building, housing, plumbing, electrical or other codes that have been adopted or may be adopted in the future by the County or which the County is required by law to enforce.

BUILDING LINE: A line extending through the building foundation, or the outermost portion of a cantilevered building and parallel to the nearest parcel boundary.

Figure B-3



SECTION 204 C

CABIN: A detached building which is used for seasonal occupancy as a full dwelling for one family, but not including a motel, hotel or boarding house.

CABIN COURT: One or more cabins grouped together as one single development and intended and/or used for transients or tourists for a fee.

CAMPGROUND: A use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either

free of charge or for a fee, for the establishment of temporary living quarters for 3 or more recreational units, as defined in this Ordinance.

CAR WASH: Any facility or premises or portions thereof used for washing automobiles, including, manual wash facilities, coin washes, and those with automatic and semiautomatic application of cleaner, brushes, rinse water, and forced air and/or heat for drying.

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

CEMETERY: Any one or a combination of more than one of the following (as per MCL 456.522): a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human or pet remains; and a columbarium for the deposit of cremated remains.

CLINIC: A facility for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm and injured persons and those who are in need of medical, dental, or minor surgical care attention, but who are not kept on the premises for more than eight (8) hours.

CLUB: An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COUNTY: The County of Barry, a chartered Michigan municipal corporation.

COMMISSION or PLANNING COMMISSION: The Barry County Planning and Zoning Commission created pursuant to Public Act 110 of 2006, as amended, being Michigan Zoning Enabling Act, which has vested with it all the powers and duties of a planning commission pursuant to said Act.

COMMUNICATION TOWER: A monopole, lattice and/or guyed structure in excess of 35 feet in height, intended or used to support one or more antennae or other equipment to transmit and/or receive radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

CONCENTRATED ANIMAL FEEDING OPERATION: Agricultural operations as defined by the Michigan Department of Agriculture which involve the raising, breeding or feeding of beef or dairy cattle, swine, sheep, goats, poultry/fowl, turkeys/ducks or other livestock in concentrations greater than ___ animal units per acre; including any buildings, structure, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes or for the cultivation of animal feed, and any animal waste storage structures, excavations or areas directly connected to or associated with such operations.

CONDOMINIUM: A building, or group of buildings, or parcel of land in which individual portions thereof are owned by, or offered for sale to, separate entities with common elements owned jointly as prescribed in Act 229 of 1963, as amended.

CONFLICT POINT: An area where intersecting traffic merges, diverges, or crosses, including left-turn conflict points and right-turn conflict points.

CONSERVATION LANDS: Environmentally sensitive areas with characteristics such as steep slopes, wetlands, floodplains, high water tables, forest areas, endangered species habitat, shoreline, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character.

CONTRACTOR'S FACILITY: A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly or staging areas.

CONVALESCENT HOME: (See Nursing Home)

CONVENIENCE STORE: Any retail establishment offering for sale goods such as but not limited to prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads and sandwiches, and beverages for on-site or off-site consumption, as well as motor vehicle fuels, lubricants and similar supplies.

SECTION 205 D

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

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

DAY CARE FACILITY (6 CLIENTS): A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

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

DECK: An accessory structure or platform supported by pillars or posts, either attached or unattached to a building, that is higher than six (6) inches above grade at any portion of the structure or platform, and which does not contain walls.

DENSITY: The number of dwelling units per unit of land. The maximum density is that number of dwelling units per acre that is allowed based on the total parcel area.

DISTRICT OR ZONING DISTRICT: A part, zone, or geographic area within the County within which certain zoning or development regulations apply.

DORMITORY: A building or portion thereof, used for housing purposes under the supervision of college, university, or other institution.

DRIVE THROUGH BUSINESS: A principal or accessory use of an establishment that by design, physical facilities, services or by packaging procedures encourages or permits some or all customers to receive services, obtain goods or be entertained while remaining in their vehicles.

DRIVEWAY: A private vehicular roadway providing access to a street from a property.

DRIVEWAY SPACING: The distance between driveways as measured from the centerline of one driveway to the centerline of the second driveway along the same side of the street or road.

DRY CLEANING AND LAUNDRY ESTABLISHMENT: A commercial establishment providing dry cleaning and laundry services on-site for businesses and residents, but which does not include a dry cleaning plant.

DUMPSTER: A refuse container with capacity of one (1) cubic yard, or more.

DWELLING or DWELLING UNIT: A building or portion thereof that is used exclusively for human habitation by one family and so designed and arranged as to provide living, sleeping, sanitary, and kitchen accommodations.

DWELLING, MULTIPLE FAMILY: A building which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and sanitary facilities for each.

DWELLING, SINGLE FAMILY: A building or portion thereof that is used exclusively for human habitation by one family and so designed and arranged as to provide living, sleeping, sanitary, and kitchen accommodations.

DWELLING, TWO FAMILY: A building which is a dwelling designed for or occupied by two families, with separate housekeeping, cooking, and sanitary facilities for each.

SECTION 206 E

EASEMENT: A private irrevocable agreement of record between landowners, public utilities, and/or persons, for a specific purpose such as, but not limited to, utilities, driveways, pipelines, or pedestrian ways.

EATING AND DRINKING ESTABLISHMENT: A retail establishment selling food and drink for consumption on the premises, including, but not limited to, restaurants, taverns, coffee houses,

bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

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

ENVIRONMENTAL ASSESSMENT: An Environmental Assessment means a summary review of the environmental impacts of a project.

ENVIRONMENTAL IMPACT STATEMENT: A thorough analysis which evaluates the effects a proposed development or project, and other major actions, and alternatives to those developments, projects or actions, may have on the environment and that inventories existing environmental conditions at the project site and the surrounding area, including air and water quality, water supply, hydrology, geology, soil type, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archaeology.

ERECTED or ERECTION: As applied to any building or structure, erected or erection means built, constructed, reconstructed, moved upon, or any physical operation or work on the land which the building or structure is to be built, constructed, reconstructed or moved upon, including excavation, filing, draining or the like.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or departments for the general health, safety or welfare.

EXOTIC ANIMAL: Any species of animal, reptile, or bird that is not indigenous to the environs of Barry County and which is not customarily considered as a farm animal or a pet and which may potentially be dangerous to humans, domestic animals or property if not properly managed.

SECTION 207 F

FAMILY: An individual or a collective number of individuals living together in one dwelling as a single housekeeping and cooking unit, whose relationship is of a permanent and distinct domestic character. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

FARM: Land, plants, animals, buildings, structures, including ponds, used for agricultural or aquacultural activities, machinery, equipment and other appurtenances used in the commercial

production of farm products. By way of example, this definition includes, but is not limited to, greenhouses, nurseries, orchards and facilities for the production of wine, tree farms, chicken hatcheries, poultry farms, dairy farms, animal farms and livestock facilities, and similar activities. This definition does not include the sale of agricultural produce, chemicals or equipment; the commercial storage of agricultural produce or chemicals; or commercial feedlots.

FARM ANIMALS OR LIVESTOCK: Animals customarily kept by humans for the purpose of providing food, clothing or work, and which are customarily raised for profit, including but not limited to, equine, bovine, ovine, caprine, porcine, fowl, and bees.

FARM BUILDINGS: Any building or structure, other than a dwelling, used or maintained on a farm which is essential and customarily used on farms in the pursuit of agricultural activities.

FARM OPERATION: 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; as further defined in Act 93 of 1981.

FARM PRODUCT PROCESSING FACILITY: A facility involved in the complete or partial conversion of any agricultural product into a commercial product of any kind, or in the processing of agricultural-related waste products. A Farm Product Processing Facility may include, but shall not be limited to, ethanol processing plants, grain mills, slaughter operations, dairy operations, canning operations, methane processing and refining plants, and similar facilities.

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

FENCE, OBSCURING: A fence that is 80% or more opaque.

FILTERED VIEW OF WATER: A vista or view of a river, lake or stream that is partially screened by woody vegetation of sufficient density to buffer development from said water body, to provide for bank stabilization and erosion control, to serve as an aid in filtration of surface runoff, and to provide cover to shade the water. Vegetation need not be so dense as to completely block the view of the water, but shall not include clear cutting.

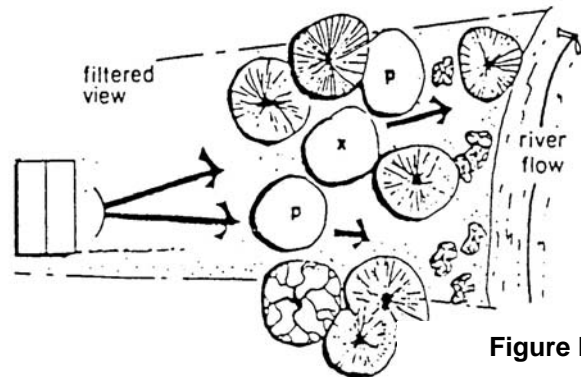


Figure F-1

FINANCIAL GUARANTEE: A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

FINANCIAL INSTITUTION: Commercial establishments such as banks, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

FLAG POLE: A freestanding structure or a structure attached to a building or to the roof of a building and used for the sole purpose of displaying non-commercial flags.

FLOOD or FLOODING: A general and temporary condition of partial or completed inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface water from any source.

FLOOD HAZARD AREA or FLOODPLAIN: Land, which on the basis of available floodplain information, is subject to a 1% or greater change of flooding in any given area and as determined from time to time by the Federal Emergency Management Agency, or any successor agency.

FLOOD HAZARD BOUNDARY MAP (FHBM): An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk of premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN: (see Flood Hazard Area)

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study which must be reserved in order to discharge the base flood.

FLOOR AREA: The sum of the horizontal area of each story of a building measured from the exterior faces of the exterior walls, but not including basements, unfinished attics, attached garages or carports, breeze ways and enclosed or unenclosed porches, decks or patios.

FRONTAGE: The total continuous length along which a parcel of land fronts on a street measured at right angles to the lot depth at the setback line.

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

SECTION 208 G

GALLERY OR MUSEUM: Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.

GARAGE, PRIVATE: A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and other storage incidental to a residential use such as rakes, lawnmowers, garbage cans, etc., and that is not a separate commercial enterprise available to the general public. A private garage may be detached or attached to a principal residential building.

GASOLINE STATION: Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels, lubricants and similar products for motor vehicles.

GOLF COURSE: A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards such as waterways, which may include such accessory uses as a pro shop, a clubhouse, driving range, practice greens and service buildings.

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

GRADE, FINISHED: The final elevation of the ground level after development.

GRADE, MEDIAN: The finished median ground elevation along the perimeter of the building.

GRADE, NATURAL: The elevation of the ground level in its natural state, before construction, development, filling, or excavation.

GREENBELT: A natural, or intentionally-created planting strip or buffer strip consisting of deciduous and/or evergreen trees.

GREENHOUSE: Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GUN AND/OR ARCHERY CLUB: A property, location or land use established as a business or organized club and used for recreational shooting, including target practice with firearms, bow and arrow or other means; and similar activities for recreational shooting purposes. A gun and archery club may include improvements such as buildings used for permitted purposes.

SECTION 209 H

HARMFUL INCREASE: An unnaturally high stage of a water body which causes or may cause damage to property, threat to life, personal injury or damage to land or water resources.

HAZARDOUS SUBSTANCES: One or more of the following:

- A. A chemical, toxic substance, or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- C. "Hazardous waste" as defined in Article II, Chapter 3, Part 111 of P.A. 451 of 1994, as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.

D. "Petroleum" as defined in Article II, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.

HEIGHT, BUILDING: The vertical dimension from the median grade of the building, structure, or wall exposed above grade to the highest point of the roof, parapet wall, or other uppermost part.

HOBBY: An activity carried out by a person primarily for pleasure and self-entertainment.

HOME-BASED BUSINESS: See Home Occupation, Major.

HOME OCCUPATION: An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

HOME OCCUPATION, MAJOR: A Home Occupation as defined herein that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.

HOME OCCUPATION, MINOR: A Home Occupation as defined herein that, under normal circumstance, is not apparent to neighbors.

HOSPITAL: A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.

HOTEL: A facility offering transient lodging accommodations to the public with access from interior lobbies, and which may provide such additional services or facilities meals or restaurant service, meeting rooms, entertainment, and recreational facilities.

SECTION 210 I

IMPERVIOUS SURFACE: Any material of the built environment that prevents, or significantly retards, absorption of storm water into the ground, including pavement and rooftops.

INOPERABLE or JUNK MOTOR VEHICLE: Any motor vehicle, car, truck, bus, van, semi tractor or semi trailer incapable of immediately being driven. Tractors and similar farm vehicles and equipment that are serviceable and used on a farm are not considered to be inoperable or junk vehicles.

INTERSECTION: The location where two or more roadways cross at grade without a bridge.

SECTION 211 J

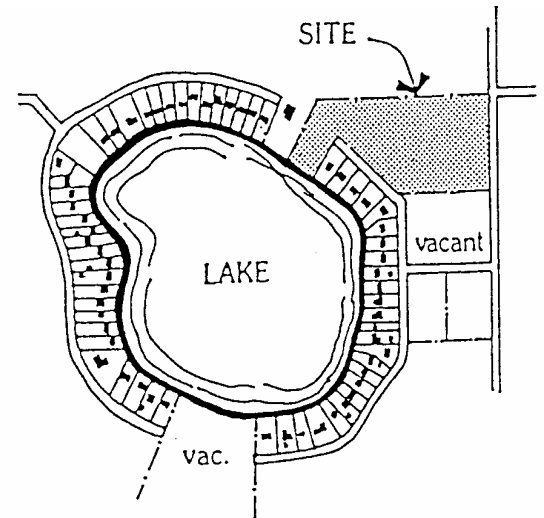
JUNK: Any scrap, waste, reclaimable material, or debris, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition or abandoned.

JUNKYARD: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk; and including any premises upon which 2 or more inoperable or junk motor vehicles are kept, parked or stored outside a building for a period of 15 days or more within any 12 month period.

SECTION 212 K

KENNEL/ANIMAL DAY CARE: Any lot or premise on which three (3) dogs, cats, or more domesticated animals more than six (6) months in age, are either permanently or temporarily boarded or trained for remuneration, but not including trophies or awards.

KEYHOLE DEVELOPMENT: Keyhole development (also known as “funnel” development) is the use of a waterfront lot as common open space for waterfront access for a larger development located away from the waterfront.



Source: Planning & Zoning News

Figure K-1

SECTION 213 L

LAND DIVISION: A land division as defined in the Land Division Act of the State of Michigan, being Public Act 288 of 1967, as amended.

LAND PRESERVE: (see Conservation Lands)

LAUNDRY AND DRY CLEANING ESTABLISHMENT: A service business which provides washers and dryers and other facilities for rental use to the general public for cleaning garments, bedclothes, and other household and personal materials and a facility which provides cleaning and dry cleaning services to the general public.

LIBRARY: A public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

LIVING AREA: The net floor area of a dwelling unit used, or intended to be used, for permanent habitation including, but not limited to, sleeping, cooking, personal sanitation areas, but excluding storage space in attics, garages, and any below-grade room without a window or door affording egress to the outdoors.

LOT AREA: The total horizontal area contained within the lot lines of a lot.

LOT, PARCEL OR TRACT: An area of land separated from other parcels of land by description on a plat, condominium subdivision plan or by metes and bounds description, recorded in the Barry County Office of the Register of deeds and may have a unique tax identification number, and which complies with the dimensional requirements of this Ordinance.

LOT, CORNER: A lot where the interior angle of 2 adjacent sides at the intersection of 2 streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than 150 feet and the tangents to the curve, at the 2 points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

LOT COVERAGE: The amount of a lot, stated in terms of percentage that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs and the like, whether open box type and/or lathe roofs or fully roofed, but shall not include pavement, fences, wall or hedges used as fences, or swimming pools.

LOT DEPTH: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line.

LOT, DIVIDED: A lot that is bisected by any street.

LOT, INTERIOR: Any lot other than a corner lot.

LOT, FLAG: A lot having only its driveway fronting on a public street.

LOT LINES: The lines bounding a lot as defined herein:

- A. **Front Lot Line:** In the case of an interior lot, is that line directly adjacent to the right-of-way line upon which the lot fronts. In the case of a through lot, is that line separating the lot from either street. In the case of a corner lot, the shorter right-of-way line shall be considered the front lot line; except in the case of both street lines being equal, the choice

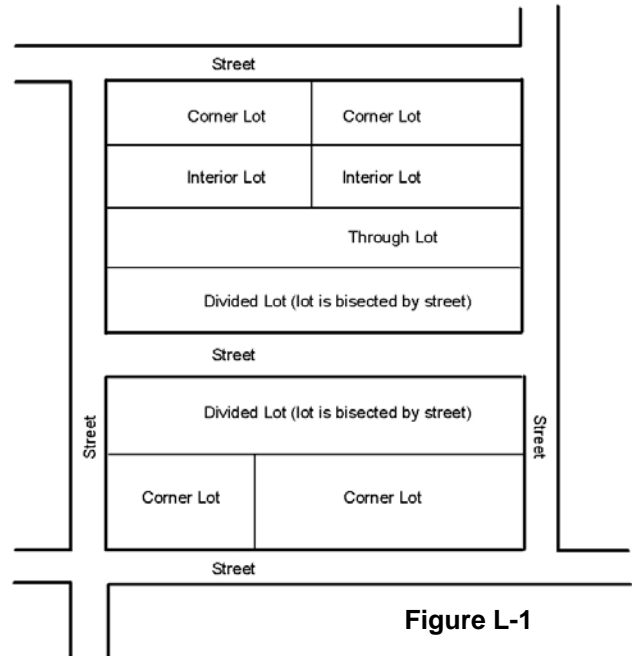
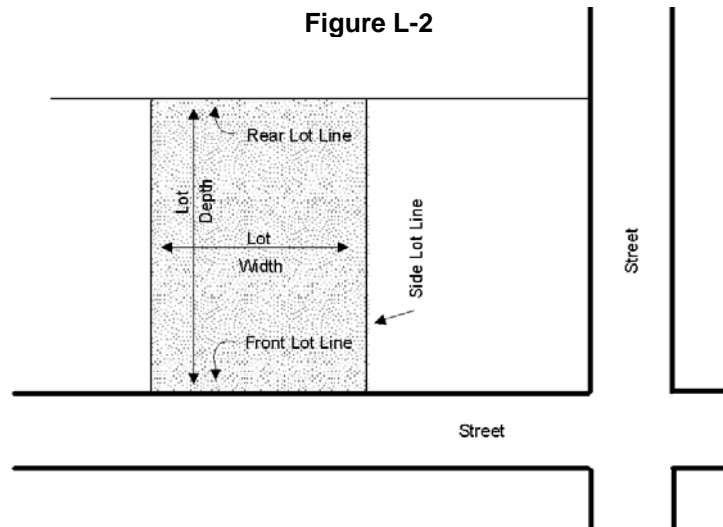


Figure L-1

may be made at the discretion of the property owner. However, once declared, the designated front lot line shall remain as such.

- B. Rear Lot Line: That lot line opposite and most distance from the front lot line. In the case of an irregular-shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In the case of waterfront lots, the lot line adjacent to the water's edge.



- C. Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD: A lot, parcel or tract as defined herein and recorded as of _____ in the Office of the Barry County Register of Deeds.

LOT, THROUGH: A lot that fronts upon two more or less parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT, WATERFRONT: A lot that has frontage on a body of water.

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

SECTION 214 M

MANUFACTURED HOME: A structure, transportable in one or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder.

MANUFACTURED HOME SALES: An establishment engaged in the selling of manufactured homes to the general public and which may render services incidental to the sale of such manufactured homes.

MANUFACTURED HOUSING COMMUNITY: A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

MARINA: A commercial facility, including 3 or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina.

MASTER DEED: A legal instrument under which title to some or all rights of real estate ownership are conveyed and by which a condominium is created and established, including as exhibits and incorporated by reference in the approved bylaws and the condominium subdivision plan.

MASTER PLAN: The comprehensive, long-range plan intended to guide growth, preservation and development in Barry County which includes recommendations on future land use, economic development, housing, recreation, transportation, open space, agriculture and community facilities.

MECHANICAL REPAIR AND MACHINING FACILITY: A facility for metal working using power-driven machine tools, such as a lathe, milling machine, grinder and other equipment, for the manufacturing or repair of metal products.

MEDICAL AND DENTAL OFFICE: A facility in which medical, dental, health and related providers maintain offices and provide services to patients on an outpatient basis.

MEZZANINE: An intermediate floor in any story occupying more than 1/3 of the floor area of such story.

MINE, SAND AND GRAVEL: A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

MINI/SELF STORAGE FACILITY: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

MINIATURE GOLF COURSE: A theme-oriented recreational facility, typically comprised of at least nine putting greens, each with a "cup" or "hole," where patrons in groups of one to four pay a fee to move in consecutive order from the first hole to the last.

MOTEL: An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

SECTION 215 N

NONCONFORMING BUILDING or STRUCTURE: A structure or building lawfully in existence prior to the effective date of this Ordinance which does not conform to the requirements of the zoning district in which it is situated.

NONCONFORMING LOT: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

NONCONFORMING USE: A use of lands or structures lawfully in existence on the effective date of this Ordinance but which does not conform to the regulations of the zoning district in which it is situated.

NURSING HOME: A residential care facility providing long-term care for elderly, infirm, terminally-ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978, as amended.

SECTION 216 O

OFFSET: The distance between two driveways on opposite sides of a street as measured from the centerline of one driveway to the centerline of the second driveway.

OPEN AIR BUSINESS: The display and sales of products and services primarily outside of a building or structure, including, but not limited to, vehicles, garden supplies, boats and aircraft, farm equipment, motor homes, burial monuments, manufactured housing, recreational vehicles, building and landscape materials, and lumber yards.

OPEN SPACE: An area within a development designed and intended for the use or enjoyment of all residents or occupants of the development or for the use and enjoyment of the public in general.

ORDINARY HIGH WATERMARK: The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

OWNER: A person having legal title to the land through a deed or land contract as distinguished from the owner of personal property.

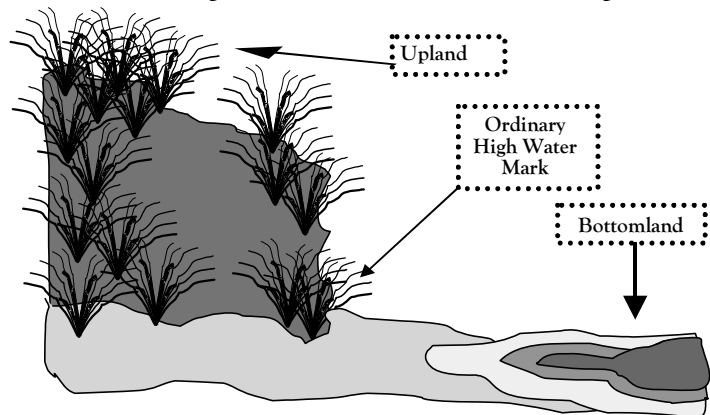


Figure O-1

SECTION 217 P

PARENT PARCEL: A parcel of record on the effective date of this ordinance amendment, or the “parent parcel” or “parent tract” as defined by the Michigan Land Division Act.

PARK OR PARKLAND: A tract of land, designated, maintained and used by the public for active and/or passive recreation and which is owned and controlled by a public entity or unit of government.

PARK, PRIVATE: A tract of land owned or controlled and used by private or semi-public entities or groups for active and/or passive recreational purposes.

PARKING AREA or LOT: A parking area available to the public, with or without fee, used to temporarily store motor vehicles.

PARKING SPACE: One unit of parking area provided for the parking of one automobile or similar motor vehicle.

PATIO: A level, landscaped, and/or surfaced area directly adjacent to a principal building at or within 6 inches of the finished grade and not covered by a permanent roof.

PERMIT, BUILDING: A County of Barry permit issued by the Building Inspector as required by the building code regulations and as provided in **Section 3002** of this Ordinance.

PERMIT, ZONING: A County of Barry Land Use Permit issued by the Zoning Administrator and as provided in **Section 3002** of this Ordinance.

PERSONAL PROPERTY SALES: Events such as garage sales, yard sales, basement sales or other similar events where personal property is offered for sale on a limited basis.

PERSONAL SERVICE ESTABLISHMENT: An establishment engaged in providing services involving the care of a person or his or her personal goods or apparel, including linen supply,

beauty shops, barbershops, shoe repair, health clubs, and similar facilities, but not including a tattoo or piercing parlor.

PERSONAL STORAGE BUILDING: A building used or intended to be used only for storage, collection, stockpiling or keeping of personal property or vehicles located on a lot parcel with no other principal buildings or dwellings.

PET: Any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

PLACE OF PUBLIC ASSEMBLY: Buildings, structures and grounds, including theaters, churches, auditoriums, stadiums, sports arenas, concert halls, lecture or reception halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering 30 or more. A family gathering, reunion or similar event shall not be considered a place of public assembly.

PLACE OF PUBLIC ASSEMBLY, SMALL: A place of public assembly shall be considered a small facility if it has either less than 2,000 square feet in gross floor area or total seating capacity of no more than 100 in the largest room or space intended for public assembly.

PLACE OF PUBLIC ASSEMBLY, LARGE: A place of public assembly shall be considered a large facility if it has either 2,000 square feet or more in gross floor area, total seating capacity of more than 100 in the largest room or space intended for public assembly, or the capability to expand to meet these standards in the future.

PLANNED UNIT DEVELOPMENT: A special land use pursuant to **Article 23** intended to accommodate developments with mixed or varied uses, innovative design features, the preservation of natural features, and/or sites with unusual topography or unique settings.

PORCH: An open area or deck attached to or part of, and with direct access to, a building, which is either fully or partially enclosed with screening, glazing or other means of enclosure, whether or not it is heated or cooled by mechanical means.

PRIMARY CONSERVATION AREA: Land which includes bodies of water, regulated wetlands, ponds, lakes, streams, culverts, lands within a 100-year floodplain, permanent easements that restrict development, slopes in excess of twenty-five percent (25%) and other permanent restrictions that prevent development.

PRINCIPAL BUILDING: A building in which is conducted the principal use of the lot on which it is located.

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

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

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

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

PUBLIC SEWER AND WATER: Properly licensed and permitted systems for the treatment and distribution of potable water, and the collection and treatment of wastewater and serving multiple parcels, whether owned or operated by a unit of government or a private entity.

SECTION 218 Q RESERVED

SECTION 219 R

REASONABLE ACCESS: The minimum number of access connections, direct or indirect, necessary to provide safe access to and from a street.

RECREATIONAL UNIT: A tent, vehicle, trailer or alternative type of structure or equipment, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit shall include but shall not be limited to the following:

- A. Travel Trailer: A vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a stock passenger vehicle primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use.
- B. Camping Trailer: A vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
- C. Motor Home: A vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping and travel use.
- D. Truck Camper: A portable designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide living quarters for recreation, camping or travel use.

RECREATION FACILITY: A place designed and equipped for the conduct of sports, exercise and leisure-time activities, which may or may not be open to the public for a fee, and including facilities for recreational activities such as tennis, bowling, gun firing, billiards, platform games, swimming, exercise rooms, handball, court games and similar activities.

RESEARCH, LABORATORY, AND TESTING: An establishment or other facility for carrying on investigation in the natural, physical or social services, which may include engineering and product development.

RESTAURANT: (See Eating and Drinking Establishment).

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

RIGHT-OF-WAY: Land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, railway, electric transmission lines, pipeline, water line, sanitary storm sewer, and other similar essential services, whether public or private, for public purposes.

ROAD: (see Street)

ROAD, PRIVATE: A road which is not publicly-owned, and which has not been accepted by the County or other governmental entity.

ROADSIDE STAND: A building or structure from which agricultural products produced on the premises are sold.

SECTION 220 S

SAWMILL: A facility where logs or partially processed logs are sawn, split, shaved, stripped, dried, or chipped. For the purposes of this ordinance, this shall not include the processing of timber for use on the same lot by the owner or resident of that lot.

SECTION: A part of this Ordinance, being the next division under an Article. Sections may be further divided into subsections, and divisions, paragraphs and subparagraphs.

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

SETBACK: The required minimum distance between a building and any lot line.

SEXUALLY ORIENTED BUSINESS: An establishment engaged in providing services, entertainment or products characterized by an emphasis on matters involving, depicting, describing or relating to specified sexual activities and/or specified anatomical areas, as defined.

SHARED DRIVEWAY: A driveway connecting two or more contiguous properties to the street.

SHARED PARKING: Joint use of a parking area by more than one use or business.

SIGN: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images; including the following sign types:

- A. Sign, Animated or Moving: Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation, including liquid crystal displays and plasma screens, not including electronic message boards.
- B. Sign, Bench: A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

C. Sign, Billboard: A structure which is typically leased for the permanent display of advertising services or products, activities, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located. A sign painted directly on

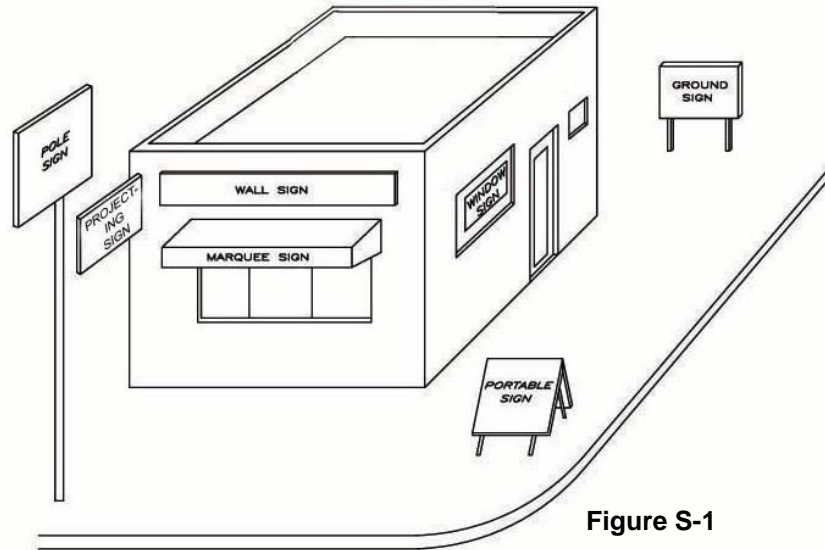


Figure S-1

- the exterior wall surface of a building associated with a farm operation in existence as of the effective date of this Ordinance shall not be considered a Billboard.
- D. Sign, Bulletin Board: A sign that identifies an institution or organization on the premises of which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.
 - E. Sign, Construction: A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.
 - F. Sign, Directional: Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way,” “entrance,” and “exit.”
 - G. Sign, Electronic Message Board: A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.

- H. Sign, Ground: Any sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground and is independent of any other structure and which is up to six (6) feet in height.
- I. Sign, Identification: A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.
- J. Sign, Marquee: A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by ordinance.
- K. Sign, Off Premise: Any sign advertising goods, products, or services, not located or sold on the premises on which the sign is located.
- L. Sign, Pole: A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is 6 feet or more above grade.
- M. Sign, Political: A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.
- N. Sign, Portable: A sign that is not permanent, affixed to a building, structure, or the ground, such as an A-frame sign.
- O. Sign, Projecting: A sign that is wholly or partly dependent upon a building for support and that projects more than 12 inches from such building.
- P. Sign, Real Estate: A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.
- Q. Sign, Roof: A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- R. Sign, Suspended: A sign hanging down from a marquee, awning, or porch that would exist without the sign.
- S. Sign, Temporary: A sign designed for use for a limited period of time to announce special events.
- T. Sign, Wall: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure, and the exposed face of which shall be on a plane parallel to the building wall to which it is attached.
- U. Sign, Window: A sign attached to, or in close proximity to, the window surface so as to be clearly and comprehensively visible from the outside.
- V. Sign, Yard. A sign of relatively impermanent construction placed in a yard and typically intended to announce or advertise an infrequent event such as, but not limited to, a garage

sale; or to support a political candidate or political position; or the sale or rental of real property.

SIGN AREA: The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

SITE CONDOMINIUM: A method of subdivision where the sale and ownership of land is regulated by the Condominium Act (P.A. 59 of 1978), as amended, as opposed to the Land Division Act.

SITE CONDOMINIUM SUBDIVISION PLAN: The site, survey and utility plans, floor plans, and sections, as appropriate, showing the existing and proposed structures and improvements, including the location thereof in the land.

SITE PLAN: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to **Article 27** of this Ordinance.

SOLID WASTE DISPOSAL AND HANDLING SITE: Any site, tract of land or buildings used for the disposition, storage, transfer, collection or reclamation of solid waste material, and operating in conformance to all applicable state and local regulations. A solid waste disposal and handling site shall not include a recycling drop-off center.

SPECIAL USE: A use permitted under specific conditions within a zoning district as regulated in **Article 23** of this Ordinance.

SPECIFIED ANATOMICAL AREAS: Specified anatomical areas shall include:

- A. Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: Any of the following:

- A. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or,
- D. Excretory functions as part of or in connection with any of the activities set forth in A-C above.

STABLE, PRIVATE: A building used or to be used by an individual for housing horses owned by said individual for the use of himself and his immediate family.

STABLE, PUBLIC: A building used or to be used for the housing of horses for hire by the owner or operator thereof.

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

STORY: That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above then the ceiling next above. A basement shall not be counted as a story.

STORY, HALF: An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of 7 feet, 6 inches. For the purposes of this ordinance, the usable floor area is only that area having at least 5 feet clear height between floor and ceiling.

STREET: A dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

STREET, LOCAL: A street of limited continuity used primarily for access to abutting residential properties.

STREET, MAJOR: A street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond.

STRUCTURE: Anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, but not including automobiles, trucks, trailers, hunting blinds, fences, hedges, sidewalks, gardens, and shore stabilization devices.

STUDIO FOR PERFORMING AND GRAPHIC ARTS: A facility designed, constructed, or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance and other similar pursuits.

SUBDIVISION, CONSERVATION: A residential use that divides land into not more than the number of lots permissible in a conventional subdivision of same property in the same zoning district, but where the size of individual lots may be reduced in order to gain common open space.

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

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been

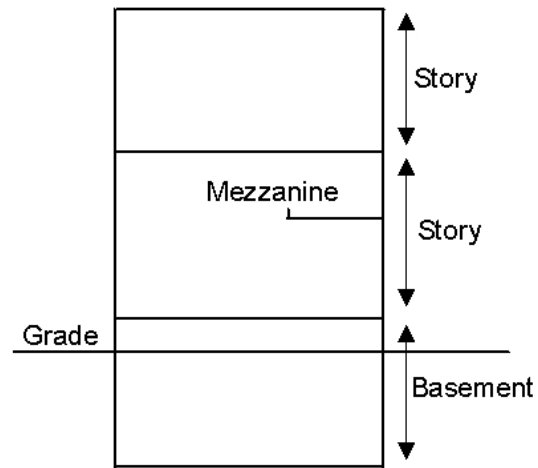


Figure S-3

damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either, (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 221 T

TATTOO: Any method of placing permanent designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance, by the aide of needles or any other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring.

TATTOO or PIERCING PARLOR: An establishment where persons are tattooed or where body piercing is undertaken, other than by a licensed medical practitioner or cosmetologist; whether in exchange for compensation or not.

TAVERN: An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.

TEMPORARY STORAGE STRUCTURE: A framework of wood, plastic or metal which is secured to the ground by anchor, rod, rod drill, buried weight, or unburied weight, established for a limited duration with the intent to discontinue such use and remove said structure upon the expiration of a predetermined time period.

THEATER: A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

TRANSFERABLE DEVELOPMENT CREDITS (TDC): A right which has been, or which may be, severed or extinguished from a parcel by deed restriction, conservation easement, or other legal instrument law and the recording of that instrument, and which is transferable for use on another parcel, as authorized by law.

SECTION 222 U

USE: The primary or main purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

USEABLE OPEN SPACE: Any parcel or area of land or water where the actual and intentional use is enjoyment of owners, occupants, and their guests of land adjoining such open space. Useable open space may include active recreational facilities such as swimming pools; play equipment; competitive sports fields and courts; and picnic tables.

SECTION 223 V

VARIANCE: Permission to depart from the literal requirements of this Ordinance in accord with Section 3107.

VETERINARY CLINIC: A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use.

SECTION 224 W

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

WELLS, EXTRACTION: Wells installed for the commercial extraction of ground water, crude oil, brine, natural gas, sour gas or similar products. This definition may include any surface or subsurface pumping or processing equipment or facilities associated therewith, but shall not include irrigation wells.

WETLAND: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life.

WHOLESALE FACILITY: An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WINDMILL (WIND ENERGY CONVERSION SYSTEMS): A windmill or a wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. 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;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

WINDMILL, SMALL (WIND ENERGY CONVERSION SYSTEMS): A Windmill (Wind Energy Conversion System), as defined herein, which has a rated capacity of not more than 100kW/1MW and which is intended primarily to reduce on-site consumption of utility power.

WIRELESS COMMUNICATION ANTENNA: Any mounted device that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communication signals, optical, laser or other communication signals; including, but not limited to cellular, PCS, land mobile radio, marine, paging, AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.

SECTION 225 X RESERVED

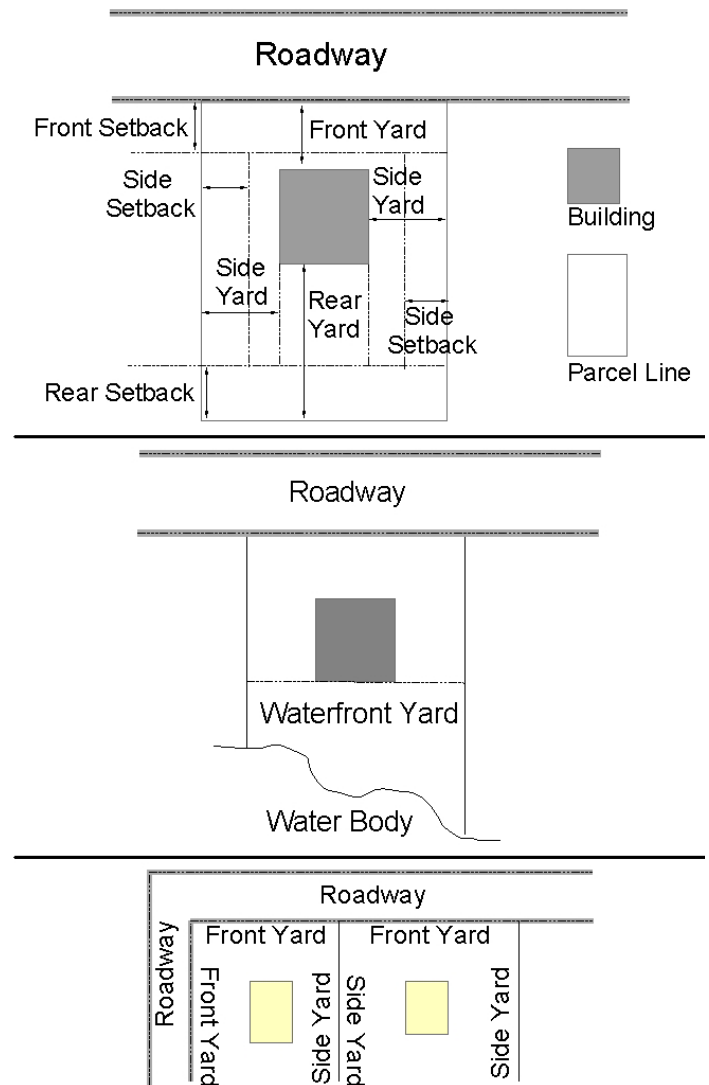
Figure Y-1

SECTION 226 Y

YARD: The open spaces that lie between the principal building or buildings and the nearest lot line.

- A. Front Yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line.
- B. Rear Yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way and the rear building line.
- C. Side Yard means the remaining yard(s) between the front and rear building lines and the side line (s) of the parcel.
- D. Waterfront Yard means a yard between the water's edge and a building line. It may be situated in what would be a side or rear yard if the water body was not present.

YARD, REQUIRED: The minimum required yard as set forth in this Ordinance that is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Ordinance.



SECTION 227 Z

ZONING ADMINISTRATOR: The Barry County Zoning Administrator, as established pursuant to **Section 3000**, hereof.

ZONING BOARD OF APPEALS: The Barry County Zoning Board of Appeals, as established pursuant to **Section 3100**, hereof.

ZONING LOT: Any tract or contiguous tracts of land established by plat, subdivision or otherwise and in the same ownership, whether one or more platted lots or parts of lots, as identified by property tax parcel number in the Barry County assessment roll.

ZOO, PRIVATE: Any lot, building, structure, enclosure, or premises whereupon or wherein are kept by any person, other than the state, or any political subdivision thereof, two or more exotic animals, whether such keeping is for pleasure, profit, breeding, or exhibiting, and including places where two or more exotic animals are boarded, kept for sale, or kept for hire.

**ARTICLE THREE
RESERVED**

ARTICLE FOUR NONCONFORMITIES

SECTION 400 SCOPE AND INTENT

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformance with the provisions of this ordinance. It is the intent of this Article to permit legal nonconforming lots, structures, or uses to continue until they are brought into conformity, removed, extinguished or forfeited.

It is recognized that there exists within the districts established by this ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this ordinance was adopted or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. Such uses are hereby declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Article that nonconforming uses 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.

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) and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

SECTION 401 NONCONFORMING LOTS

- A. Lots of Record. Any platted and/or recorded lot of record existing as of the effective date of this ordinance may be used for any principal use permitted in the district in which the lot is located, other than special land uses for which special lot area requirements are specified in this ordinance, whether or not such lot complies with the lot area and width requirements of the district in which it is located. Such use may be made provided that all requirements, other than lot area and width, prescribed in this ordinance are met, including provision for and adequate potable water supply and proper and safe sewage disposal facilities as approved by the Barry-Eaton Health Department.
1. To demonstrate that all dimensional requirements of this ordinance will be met in the use of such nonconforming lot, a staked survey shall be submitted indicating the placement of all proposed structures, including the well and septic system.
 2. For proposed new structures in the CR, RR and A districts, a mortgage survey may be substituted for a staked survey if it can be demonstrated thereby that the front, side and rear setback distance

for any proposed structure will be at least one hundred fifty (150) percent of the required minimum dimension of the district.

3. For additions to existing structures in all districts, a location survey may be substituted for a staked survey if it can be demonstrated thereby that the front, side and rear setback distance for any proposed addition or expansion of an existing structure will be at least one hundred fifty (150) percent of the required minimum dimension of the district.
- B. Combining Non-Conforming Lots. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage and in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved may be combined to create a conforming lot or a lot with a lesser degree or extent of non-conformity.
- C. For parcels in existence as of the effective date of this ordinance that do not meet the lot width standards for the underlying district, the Zoning Administrator may approve a reduction of three (3) inches in each of the minimum required side yards for each one (1) foot of reduced lot width. Provided that in no instance shall any such reduced side yard be less than six (6) feet.

SECTION 402 NONCONFORMING USES OF LAND

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

- A. 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 or amendment of this Chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance, unless doing so shall make said use less nonconforming with the terms hereof.
- C. If such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which such land is located.

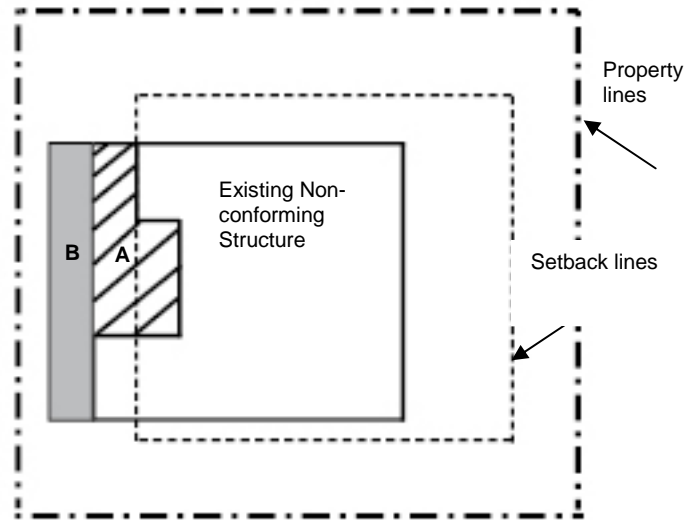
SECTION 403 NONCONFORMING STRUCTURES

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

- A. No such structure may be enlarged or altered in a way that increases the degree of its

nonconformity. However, structures may be enlarged in a way that does not increase the degree of its nonconformity with regard to its side and rear setbacks or building form, provided that structures shall be a minimum of six (6) feet from property lines. For the purposes of this section, the degree of the nonconformity refers to:

1. Enlarging any portion of the existing structure which is located in a required yard in the direction of the adjoining property line, and/or
2. Increasing the height of any portion of a structure such that said portion would exceed the height limits of the district.



Alteration "A" does not increase the degree of nonconformity and would be permitted. Alteration "B" increases the degree of nonconformity and is prohibited.

Figure 403

- B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost, exclusive of the foundation, at the time of destruction, it shall be reconstructed only in conformity with the provisions of this ordinance.
- C. 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 404 NONCONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not be permitted 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, and as otherwise set forth in this ordinance:

- A. No existing structure devoted to a use not permitted by this ordinance 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 or to a less nonconforming use.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the Zoning Board of Appeals shall find that the proposed

use is equally, or more appropriate, to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Article. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

- D. 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 in which such structure is located, and the nonconforming use may not thereafter be resumed.
- E. When a nonconforming use of a structure, or structures and land in combination, is discontinued, abandoned or ceases to exist for twelve (12) consecutive months or, for twenty-four (24) months during any three (3) year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excluded from this provision.
- F. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

SECTION 405 REPAIRS AND MAINTENANCE OF NONCONFORMING USES

A building or parcel devoted in whole or in part to any nonconforming use may be repaired and maintained in keeping with normal routine maintenance, provided that such repair and maintenance shall not result in any enlargement or expansion of the nonconforming use. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 406 CHANGE OF TENANCY OR OWNERSHIP

A change of tenancy, ownership or management of any existing nonconforming uses of land, of structures, or of structures and land in combination, shall be permitted.

ARTICLE FIVE GENERAL PROVISIONS

SECTION 500 PURPOSE AND SCOPE

It is the purpose of this Article to set forth regulations that may apply generally in all Zoning Districts to all permitted uses and special uses and to provide detail on how the standards of this Ordinance shall be applied.

The use of all land, buildings and structures and the construction, reconstruction, erection, alteration, development, repair and moving of all buildings and structures within the County of Barry shall conform to all applicable provisions of this Ordinance unless the nonconformance is a matter of record on the effective date of this Ordinance.

SECTION 501 ACCESSORY BUILDINGS AND STRUCTURES

- A. All accessory buildings and structures shall be located in the side yard or rear yard, except in those situations where on-site soils conditions may prevent such location. Accessory buildings shall be located in compliance with the setback requirements for the applicable Zoning District; provided the following exceptions and additional requirements:
1. When a detached accessory building is located at the rear of a lot provided vehicular access to a street, said accessory building shall be at least 12 feet from the rear property line.
 2. When built attached to the principal building, the accessory building shall be considered a portion of the principal building and shall comply in all respects with the requirements applicable to the principal building.
 3. When located on a waterfront lot, accessory buildings shall be set back a minimum of 20 feet from the street right-of-way line, as defined.
 4. When used in conjunction with a farm operation as defined herein and located in the RR and A districts, accessory buildings shall be set back a minimum of 50 feet from a County Road right-of-way and 75 feet from a State highway right-of-way. The requirements of this Section 501 pertaining to the floor area, building height and number of buildings shall not apply to any accessory buildings in the A and RR district.
 5. Within the LI and GI districts, the ground floor area or footprint of accessory buildings may exceed the area of the principal building without limitation, providing all other provisions of this Ordinance are met.
- B. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof. A detached accessory building shall not be located closer than 10 feet to the principal structure.
- C. In all Districts except the RL, RR and A districts, the height of accessory buildings shall not exceed the maximum building height for the respective district. In the RL District, the height

of accessory buildings may exceed the height of the principal building up to the maximum building height of the RL District, provided that on lots less than seventy-five (75) feet in width, the maximum permitted height of accessory buildings shall be reduced by an amount equivalent to the difference between the minimum lot width and the actual width, but not less than fifteen (15). In all instances, the required minimum yard setback distances shall be met and regardless of lot width.

- D. No accessory building shall be used as a dwelling or for temporary or permanent residential or lodging purposes or as sleeping quarters for human beings, except as permitted pursuant to **Section 2305**, pertaining to Accessory Dwellings.
- E. A mobile home, manufactured dwelling, truck, motor vehicle, junk or inoperable vehicle, trailer, truck trailer or any other vehicle capable under normal circumstances of being propelled by its own force or through some other source of power, shall not be used as an accessory building, except when as part of a farm operation.
- F. Area Limitations. In all Districts except the RR and A districts, up to 2 accessory buildings shall be permitted and the combined footprint area of all accessory buildings shall not exceed 150% of the footprint area of the principal building, except as provided in **Section 2304**.
- G. A personal storage building as defined herein shall not be considered an accessory building.
- H. A temporary storage structure shall meet the following requirements:
 - 1. A temporary storage structure shall not have a floor area or ground coverage footprint greater than 200 square feet. Any such temporary storage structure with a floor area or footprint of greater than 200 square feet or a temporary storage structure of any area which is permanently affixed to a foundation shall be considered an accessory building and shall comply with the requirements of Section 501, A through G.
 - 2. A temporary storage structure shall not be occupied as a dwelling.
 - 3. A temporary storage structure shall be located in accordance with the setback requirements of the respective zoning district. In the LDR, MDR, HDR, MU and GC districts, a temporary storage structure shall not be located in the front yard. In all instances, the location of a temporary storage structure shall be reviewed and approved by the Administrator prior to placement.
 - 4. All temporary storage structures shall be maintained in good condition and any torn membrane covering shall be promptly repaired.
 - 5. The applicant shall establish the maximum time period for the establishment of a temporary storage structure, which shall not exceed three (3) years and any approval granted under this section for such temporary storage structure shall be limited to said time period. Upon application and upon a finding by the Administrator that an existing temporary storage structure remains in serviceable condition in accord with this ordinance, such time limit may be extended for an additional period, not to exceed three (3) years.
- I. Gazebos, pavilions, arbors, trellises and play equipment shall meet the following requirements:

1. Structure height shall not exceed twelve (12) feet.
2. Such structures may be located within any yard; provided, that a setback of at least three (3) feet from all property lines is maintained; and provided further that the provisions of Section 507, Clear Visibility at Corners, shall be met.
3. In all districts except RL, Not more than fifty (50) percent of the front yard shall be occupied by such structures.

SECTION 502 ACCESS LOTS

No waterfront lot in any Zoning District shall be used as an access lot unless the following requirements are met:

- A. The minimum lot width requirement for the Zoning District within which the lot is located shall be met, provided that no access lot shall have less than 100 feet of continuous water frontage. Water frontage shall be measured by a straight line, which connects each side lot line of the lot at the point where the side lot lines intersect the ordinary high watermark.
- B. For each additional access lot beneficiary in excess of one, there shall be an additional lot width of 100 feet.
- C. If an access lot includes shoreline areas consisting of wetlands, as defined by Michigan law, then 50% of that wetlands shoreline shall be counted as part of the lot width requirement for the purpose of calculating the number of access lot beneficiaries.
- D. Any access lot that includes shoreline areas consisting of wetlands, as defined by Michigan law, shall comply with all applicable Michigan Department of Environmental Quality regulations pertaining to wetlands before being used as an access lot.
- E. An access lot serving more than one access lot beneficiary shall include:
 1. A buffer strip of 20 feet on each side of the access lot parallel with the side lot line. This buffer strip shall extend the entire depth of the access lot with no open or exposed ground; and,
 2. A water frontage native vegetation protective strip not less than 15 feet deep running the entire width of the water front lot line parallel to the high water mark, with the exception of the dock and boat access entrance. This area shall be maintained in its natural vegetative state except for the permitted clearing of dead or noxious plants. There shall be no mowed grass or open or exposed ground, except any naturally occurring beach, in this strip area.
- F. An access lot shall be permitted one dock for each access lot beneficiary permitted by right. No dock shall be located within 10 feet of the nearest property lines as projected into the watercourse or lake.
- G. Each access lot shall provide a minimum of one parking space, located on the lot, for each access lot beneficiary.

- H. No new permanent building shall be allowed on any access lot, except one portable storage building, no greater than 64 square feet may be permitted no closer than 30 feet from the side lot lines and no closer than 20 feet from the edge of the natural vegetative strip that is located furthest from the high water mark of the watercourse or lake.
- I. No access lot may serve more access lot beneficiaries than permitted by right until the Barry County Planning Commission grants a special use approval in accord with **Section 2381**.
- J. No structure or fence shall be constructed in a required setback area that would restrict the view of the occupants of the dwellings on the adjacent properties.
- K. Public parks and publicly-owned recreation areas shall not be subject to the provisions of this **Section 502**.

SECTION 503 ACCESS TO PUBLIC ROADS

In every Zoning District, every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public or private road or easement which provides access to a street, such private road or easement being at least 66 feet in width.

SECTION 504 ACCESSORY USES

- A. When an activity or use is conducted in conjunction with another principal use and the former use; constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. Uses may be considered accessory to the principal use regardless of whether the accessory use is separately identified in this Ordinance as a permitted or special use, provided that this provision shall not eliminate the need to receive special land use approval for an accessory use which is treated as a special use pursuant to **Article 23**.
- B. For purposes of interpreting accessory uses:
 - 1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
 - 2. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
 - 3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.
 - 4. By way of example, and not to limit the application of this section, common accessory uses may include swimming pools or tennis courts associated with and integrally related to a

residential subdivision or multi-family development, two or fewer boat slips associated with a residential or commercial development, automated car wash associated with a gasoline station and upper story dwellings above a commercial or office use in an urban or village setting.

SECTION 505 RESERVED

SECTION 506 BUILDING HEIGHT

A. Maximum Building Height. No building or structure or part thereof shall be erected or altered to a height exceeding the standard provided in each respective Zoning District, as measured from the finished median grade elevation of a site.

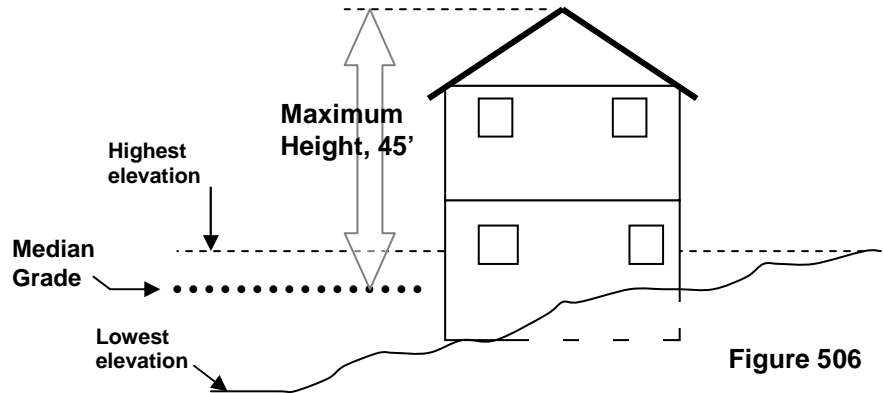


Figure 506

B. Measurement. Building height shall be measured from median finished grade elevation to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the highest point for gable, hip and gambrel roofs.

C. For the purposes of this Section, median grade shall be determined to be the elevation of the crown of the road at the center point of the parcel for all sites where there is less than 15 feet variation in elevation across the building envelope of the site. For parcels with more than 15 feet variation across the building envelope, the median grade shall be determined by subtracting the lowest point in elevation within the building envelope from the highest, multiplying the result by 0.667 and adding the product to the elevation of the lowest point.

D. The requirements of this Section shall not apply to radio, cellular, wireless, telecommunication and television antenna systems.

SECTION 507 CLEAR VISIBILITY AT CORNERS

No parking space or fence, hedge, planting, sign, structure, or any other element of the built environment greater than 3 feet in height, shall be located, erected or maintained, within a distance of 30 feet from a street right-of-way which obstructs safe vision at a street corner. The other provisions of this Section 507 notwithstanding, the Zoning Administrator, upon consultation with the County Engineer and/or Sheriff, may require a greater

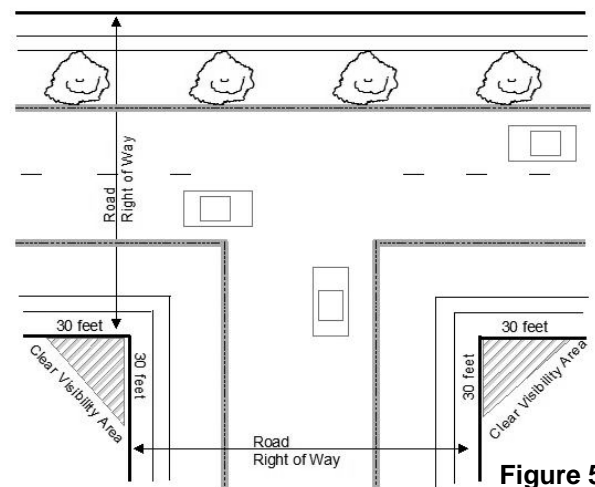


Figure 507

clear vision area where necessary due to visibility considerations, traffic speeds, volumes or the topography of the site.

- A. The Planning Commission may, upon the recommendation of the Zoning Administrator, waive or modify such standard within the MU, Mixed Use District to permit buildings to conform to existing front and side yard patterns in the immediate vicinity.
- B. The Planning Commission may approve the location of a pole sign within such clear visibility area, provided that the sign face shall not be less than 10 feet above the median grade.

SECTION 508 CONDITIONS OF APPROVAL

The Zoning Administrator, Planning Commission, County Board and Zoning Board of Appeals may attach reasonable conditions with the approval of special land uses, planned unit developments, site plans, variances, and other discretionary zoning decisions. These conditions may include those 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. Failure to comply with any such duly established conditions shall be deemed a violation of this Ordinance pursuant to Article 32 hereof. Any conditions imposed, however, shall conform to the requirements of the Michigan Zoning Enabling Act and meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- D. Be necessary to implement the Master Plan of Barry County, including its goals and objectives, future land use recommendations and other strategies and concepts.

SECTION 509 OPEN SPACE SUBDIVISIONS

- A. Purpose. The purpose of an Open Space Subdivision to preserve the rural character of the County while permitting reasonable use of the land consistent with the Master Land Use Plan. Provisions set forth provide flexibility to encourage innovative residential development, which results in an enhanced living environment by preserving natural features and rural landscape. By grouping dwellings together in clusters on a limited portion of a development property, much of the rural land and natural features will be preserved, and construction and maintenance of streets, utilities, and public services will be achieved in a more economical and

efficient manner.

B. Open Space Subdivision Option. Within the RL, LDR, MDR, HDR and MU Districts, a land owner shall have the option to develop land located outside an existing platted or condominium subdivision in accord with the terms of this section.

C. Permitted Uses. An Open Space Subdivision may include the following land uses:

1. Dwelling, detached one family
2. Dwelling, attached two-family
3. Dwelling, multiple family in the MDR and HDR districts only
4. Accessory buildings, subject to **Section 501**.
5. Common open space
6. Recreational uses, provided such uses are accessory to the residential uses and designed primarily to be used by residents of the Open Space Subdivision
7. Farming activities conducted in the common open space in such a manner as to not pose a nuisance or hazard to residents.

D. Development Requirements.

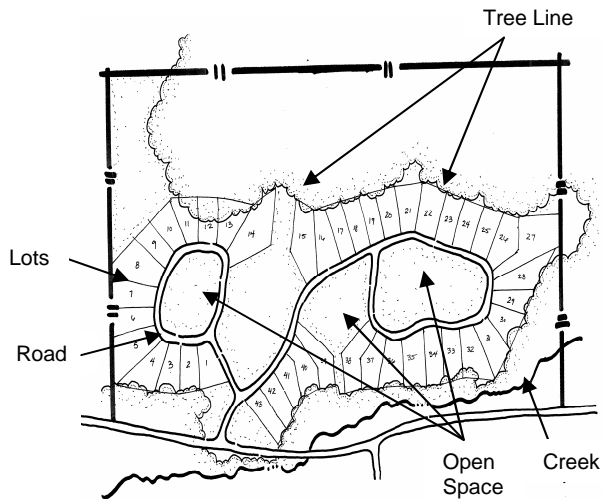
1. Ownership and Control. The proposed Open Space Subdivision development shall be under a single ownership, such that one person or legal entity shall be empowered to apply for County approval and make reliable and binding commitments on behalf of the applicant. The applicant shall provide documentation of ownership or control in a form acceptable to the County.
2. General Approval Standards. In addition to specific standards set forth in this **Section 509**, the Planning Commission shall evaluate all Open Space Subdivision applications based on standards for site plan approval set forth in **Section 2705**.
3. Dimensional Standards. The following dimensional standards shall apply to residential parcels and condominium units in an Open Space Subdivision:
 - a. Setbacks.
 - 1) In an Open Space Subdivision, the following minimum yards shall be provided:

Front yard setback:	25 feet
Rear yard setback:	20 feet
Side yard setback:	10 feet, (25 feet for corner lots)
 - 2) Open Space Subdivisions that include attached units shall be exempted from side yard requirements pertaining to dwelling units attached to one another.
 - b. Lot or Parcel Width and Area. The following minimum parcel area and width standards shall be applied in an Open Space Subdivision, subject to approval of minimum isolation distances for any required on-site water or wastewater systems:

Zoning District	Detached Units		Attached Units					
			2 Units		3 Units		4+ Units	
	Area (sq. ft.)	Width (feet)	Area (sq. ft.)	Width (feet)	Area (sq. ft.)	Width (feet)	Area (sq. ft.)	Width (feet)
RL	21,780	100	39,200	135	N/A	N/A	N/A	N/A
LDR	8,500	70	12,000	80	N/A	N/A	N/A	N/A
MDR	6,000	60	9,000	70	12,000	80	21,780	100
HDR	6,000	60	9,000	70	12,000	80	18,000	100
MU	6,000	60	9,000	70	12,000	80	21,780	100

- c. Common Open Space Area. Common open space may not constitute less than fifty percent (50%) of the adjusted parcel acreage.
 - d. Departures from Standards. The Planning Commission may approve departures from the standards set forth in subparagraphs 509, D, 3, a, through c, where the applicant demonstrates to the satisfaction of the Planning Commission that a proposed Open Space Subdivision will include features or design techniques that achieve the objectives of such standards.
4. Density Standards. Except in the case of Low Impact Design development pursuant to **Section 509, D, 7**, the total number of residential dwelling units permitted in an Open Space Subdivision shall not exceed that allowed in the underlying zoning district. The base density shall be determined by the following formula or by a comparison plan prepared pursuant to Subsection 5 hereof: Fifty (50) percent of the total area of regulated wetlands; and the total area of bodies of water with surface area greater than one (1) acre, streams, rivers and land within a 100-year flood plain, and permanent easements that restrict development shall be subtracted from the gross area of the site to determine adjusted parcel acreage. The adjusted parcel acreage shall be multiplied by eighty-five percent (85%) to account for rights-of-way, drainage facilities and similar facilities, and the resulting product shall be divided by the minimum lot area for the underlying zoning district, rounded to the nearest whole number. In the event the parcel includes more than one underlying zoning district, the calculation set forth in this paragraph shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed.

Figure 509 Open Space Subdivision Illustration



Gross Site Area:	15.0 Acres
Primary Conservation Area (50% of wetlands)	<u>3 Acres</u>
<u>Adjusted Parcel Area</u>	<u>12.0 Acres</u>
R.O.W. Adjustment	<u>- 85%</u>
	10.2 Acres
Minimum parcel area for underlying zoning (LDR)	12,000 sq. ft
Base Density	10.2 Ac., (or 444,312) ÷ 12,000 =
	37 parcels
Required Open Space	12.0 Acres
	<u>x 50%</u>
	6 Acres

5. Comparison Plan. At the option of the applicant, a comparison plan may be used to demonstrate the base density for the parcel. To utilize this option, the applicant shall prepare a comparison plan meeting the requirements of **Article 27** of this Ordinance to illustrate a feasible development pursuant to the underlying zoning. The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of the underlying zoning. The Zoning Administrator shall provide a evaluative report on the feasibility of the comparison plan. The number of dwelling units illustrated in a feasible comparison plan may be used as the base density in lieu of the base density determined pursuant to Section 509, D, 4, and the total number of residential dwelling units permitted in an Open Space Subdivision shall not exceed said amount.
6. Rural and Scenic Easement. A rural and scenic easement shall be incorporated into an Open Space Subdivision consisting of a natural area located parallel to and abutting any existing public roads. Such rural and scenic easement may be included in the required common area and shall be of sufficient depth and/or include sufficient year-round vegetation to preserve the character of the abutting roadway and minimize the visibility of the proposed development from the roadway. For the purposes of this paragraph, the rural and scenic easement shall be measured from the edge of the public right-of-way and shall be considered sufficient if it is at least fifty (50) feet in width.
7. Low Impact Design Option Density Bonus. An Open Space Subdivision which is proposed to incorporate the design elements outlined in this subparagraph, may be eligible for additional dwelling units up to, but not in excess of one hundred twenty-five percent (125%) of the maximum density determined pursuant to sub-paragraphs 4 of 5 hereof. To be considered for the Low Impact Design (LID) density bonus, at least two (2) of the following design elements shall be incorporated in the proposed development and the applicant shall control Transferable Development Credits pursuant to Section 542 and any

County ordinance or program establishing such Transferable Development Credits equivalent to the number of additional dwelling units proposed:

- a. On-site stormwater retention using a variety of native vegetation within rain gardens and bio-retention swales to assure no stormwater will leave the site in excess of the pre-development runoff;
- b. Retention of at least sixty percent (60%) of natural habitat conditions over the site;
- c. Improved on-site water quality beyond that required by current applicable regulations;
- d. Retention or re-creation of pre-development and/or natural hydrologic conditions to the maximum extent possible;

8. Design Standards.

- a. A maximum of twelve (12) dwelling units shall be permitted per cluster area.
- b. Cluster areas shall be visually and physically separated from one another and roadways by open space buffers.
- c. Cluster areas shall be designed to avoid a suburban subdivision appearance.

E. Open Space Subdivision Review Process. The following steps shall be completed to implement an open space community.

1. Prior to implementing an open space community project design, applicants shall conduct a preliminary development review with the County Zoning Administrator. The purpose of this review will be to discuss the nature of the site and the development, to reach a consensus about the potential for use as an Open Space Preservation Community, and to advise the County of the applicant's intent to proceed.
2. The applicant shall then complete a site analysis and prepare a detailed site inventory including a narrative description of the site. The site analysis shall address and locate water features, wetlands, topography, significant wooded areas, wildlife habitat areas, wildlife corridors, views, any endangered species, easements and rights-of-way, historic or cultural resources, steep slopes and any other features deemed important by the applicant. In a written narrative, the applicant shall discuss each of the features identified on the site and make an evaluation of each relative to the existing rural character of the County. The site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The site analysis shall illustrate the topography of the site with not greater than two (2) foot contour intervals where dwellings will be located and not greater than ten (10) foot intervals where common open space will be located.
3. Based on the site analysis, the applicant shall identify common open space areas in the order of their importance to the protection of the overall natural features of the site and its immediate vicinity. The applicant may use the Barry County natural features inventory and community opinion survey as guidance in completing the ranking of natural features. The applicant shall permit an on-site field verification of important features on the site.

Such on-site verification may be undertaken by the Zoning Administrator or others and the property owner will be notified in advance of any on-site visit. As a general guideline, the following listing of important natural features is presented in the rank order as determined from that survey:

- Protection of groundwater resources
 - Protection of surface water resources (lakes, streams and wetlands)
 - Preservation of large woodlots, open fields and vistas.
 - Preservation of productive farmlands
 - Educational and cultural enrichment.
 - Historic and cultural resource protection.
4. Common open space may not constitute less than 50 percent (50%) of the adjusted parcel acreage. The applicant shall calculate the base density for the proposed development in accordance with the provisions of this Ordinance.
 - a. Designated Open Space shall be set aside as common land for low impact recreation, conservation, or agricultural use, Community Septic Systems, or it can be preserved in a natural state.
 - b. Roads and road easements shall not be considered Open Space.
 - c. Any significant/sensitive environmental resources, including but not limited to; wetlands, woodlands, steep slopes, or prime agricultural land, shall be included in the designated Open Space.
 - d. Designated Open Space shall be set aside through an irrevocable conveyance such as recorded deed restrictions, covenants that run perpetually with the land, conservation easements, plat dedications or land trusts. The conveyance shall assure that the Open Space will be protected from all forms of development and shall not be changed to another use.
 5. Potential building sites shall be identified in areas outside the common open space areas. The number of potential building sites shall not exceed the permitted density determined in accord with this Section. The potential building sites shall be illustrated on the site analysis on a separate drawing or layer, at the applicant's option. Each building site shall have direct access to and shall abut common open space areas.
 6. The roads and trails system to serve the potential building sites shall be established. The road system shall meet standards for public roads in the county, or comply with the terms of this Ordinance and the County's Private Road Ordinance. The road system shall be illustrated as a separate drawing or layer, at the applicant's option. No lot in an Open Space Community shall have means of private ingress and egress directly onto a highway or county primary road.
 7. The lot or condominium lines shall be illustrated for each building site. These shall be

reflected on the site analysis as a separate drawing or layer, at the applicant's option. The dimensional requirements of this Section shall be met in the layout of the lot lines.

8. A preliminary site plan shall be prepared which shall illustrate the proposed project layout including the common open space, scenic easements, trails, building sites, road systems, lot or condominium lines. If the project will be undertaken in phases, an approximate implementation schedule for each phase shall be provided as a part of the site plan. The preliminary site plan shall meet the standards of **Article 27**, and shall include a detailed narrative description of the site analysis and the management plan for the perpetual preservation of the proposed common open space. Any clearance, earth changes or recreational uses proposed to be included within the common open space shall be clearly described.
9. The preliminary site plan and the site analysis with all overlays shall be presented to the Zoning Administrator for review and comment. The Zoning Administrator shall provide written comments on the preliminary site plan. Based on the comments of the Zoning Administrator, the applicant may make needed adjustments to the preliminary site plan and prepare a final site plan as directed by the Zoning Administrator or seek advisory judgment from the Planning Commission on any issues in dispute prior to preparing a final site plan. When the final site plan is prepared, it shall be submitted for Planning Commission review and approval in accord with **Article Twenty-seven**.

F. Use and Preservation of Common Open Space and Natural Features.

1. Further subdivision of open space lands, or their use for other than recreation, conservation or agricultural use by site owners, shall be prohibited. Pedestrian access points to common open space must be of common ownership and at least ten (10) feet in width. Access may be limited in areas of sensitive environmental features or wildlife habitat with the approval of the Planning Commission.
2. All dwellings and accessory structures shall be located at least one hundred (100) feet from any lakes, ponds, rivers, or streams. A roadway may be placed within one hundred (100) feet of lakes, ponds, rivers, or streams only with the approval of the Planning Commission.
3. The applicant and all subsequent owners shall establish, register and maintain a viable legal entity, which may be a homeowner's association, a condominium association or other organization acceptable to the County which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the County. All forms of ownership intended to protect common open space within an open space community development shall be subject to the review of the County Attorney.

G. General Development Standards. The following standards shall be observed in the preparation of an Open Space Subdivision:

1. Siting. Dwelling units shall be carefully sited and designed to screen homes from off-site

vantage points whenever possible, away from environmentally sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.

2. Trees. All lots or condominium units shall have no fewer than three (3) trees, each at least six (6) feet high, planted or retained in the front yard area prior to obtaining an occupancy permit.
3. Sanitary Sewer. If either public sanitary sewer or private sanitary sewers are provided within the development, all provisions for review and approval by the County must be followed.
4. Storm Water. An Open Space Subdivision shall meet the requirements of the Barry County Drain Commissioner for containing stormwater within the development. Provided, however, that proposed Open Space Subdivisions that employ Low Impact Design standards, pursuant to **Section 509, D, 7**, shall be further evaluated by the Drain Commissioner and may be subject to additional engineering review to assure that any such Low Impact Design storm water management techniques shall function properly.
5. Septic System. If not served by public sanitary sewer or a privately owned public sewer system, the proposed Open Space Subdivision shall fully comply with the requirements of the Barry-Eaton Health Department as they apply to siting and development of on-site wastewater treatment and disposal. With the approval of the Planning Commission and the Barry-Eaton Health Department, an approved drainfield may be located within an area dedicated as common open space.
6. Prior to Construction. All required approvals shall be completed prior to the start of any construction, as required by **Section 2701**.
7. Performance Guarantees. The County may require the posting of a performance bond or irrevocable letter of credit to assure the completion of the proposed open space community, as provided by **Section 528**.
8. Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required by the Commission. Should the Zoning Administrator determine that the requested modification to the approved plan is not minor, the plan shall be re-submitted to the Planning Commission for an amendment.

SECTION 510 RESERVED

SECTION 511 DWELLINGS

- A. All structures used or proposed to be used as a dwelling as defined herein, shall comply with dwelling standards of this Ordinance and the standards of the State of Michigan and United States Department of Housing and Urban Development, as applicable. All dwellings

constructed shall have a minimum square footage and minimum width required in each respective Zoning District.

- B. **Manufactured Housing.** Dwellings located in a Manufactured Housing Community regulated pursuant to Act 96 of the Public Acts of 1997, as amended, shall comply with the terms of this Ordinance as applicable and the terms of said Act and the rules promulgated thereunder.

SECTION 512 EMERGENCY HOUSING

Emergency housing and immediate family housing shall be governed by Barry County Ordinance _____.

SECTION 513 FARM WORKER HOUSING

- A. **Intent.** The intent of this Section is to permit the establishment of dwellings as a part of an active farm operation. Such dwellings may consist of permanent residences for farmhands, or family members as well as dwelling units for use by seasonal or temporary farming workers.
- B. **Farmhand Dwellings.** In the A district, the Planning Commission may approve the establishment of a single-unit detached residence as a proposed farmhand dwelling, subject to the following requirements.
 - 1. A proposed farmhand dwelling unit may be located on the same parcel with the principal farm and homestead, but shall be sited with sufficient separation from such other buildings as to permit its future establishment as a legal and conforming building and parcel in the A district.
 - 2. Farmhand dwellings shall only be permitted if farming is the principal use on the parcel on which it is located.
 - 3. Farmhand dwellings shall conform to all dimensional, structural and maintenance requirements of this ordinance, the Barry County Building Code and the Housing Code.
 - 4. Farmhand dwellings shall have a minimum of 720 square feet, and not more than 1,500 square feet of living area.
 - 5. At least one off-street parking space shall be provided for a farmhand dwelling.
- C. **Seasonal Labor Housing.**
 - 1. One or more dwellings proposed for use by itinerant or migrant labor may be permitted provided it meets the requirements of the Michigan Department of Public Health, Agricultural Labor Camp Rules and the following standards:
 - a. Seasonal Labor Housing shall be located on a parcel with not less than 5 acres in area, and shall be confined to the interior portions of the active farm at least 200 feet from adjacent right-of-way lines and at least 100 feet from side and rear lot lines. The Planning Commission may require a berm or landscape plantings to screen the Seasonal Labor Housing.

- b. The number of Seasonal Labor Housing units provided shall not exceed more than one (1) unit for each five (5) acres of land devoted to active farming operations.
 - c. Seasonal Labor Housing shall be occupied only by itinerant or migrant farm laborers and shall not be used for any other residential purpose. In no event shall Seasonal Labor Housing be used for more than 9 months in any calendar year.
 - d. Any structure utilized for temporary immigrant housing shall be subject to all applicable County building permits and inspection requirements.
 - e. All temporary immigrant housing units shall comply with the Agricultural Labor Camp Rules of the Michigan Department of Public Health. Evidence of such compliance shall be provided to the County on an annual basis. Failure to maintain compliance with such standards shall be grounds for revocation of a land use permit for Seasonal Labor Housing.
 - f. If Seasonal Labor Housing is not used for more than a two (2) year consecutive period, it shall be removed from the site by the property owner.
- D. A Basic Site Plan, pursuant to **Section 2701, A**, shall be required for farmhand dwellings and for Seasonal Labor Housing.

SECTION 514 FENCES

Fences and walls shall comply with the following regulations and requirements:

A. Location:

- 1. Fences and walls shall not be located outside or beyond the property or lot lines of the lot or parcel.
- 2. On a waterfront lot, no portion of a fence shall be located closer than 40 feet to the water's edge; provided, however that chain link fencing may extend to within ten (10) feet of the water's edge.

B. Height:

- 1. In all zoning districts except LI, GI, A and RR, fences and walls located within the required front yard shall not exceed a height of 4 feet.
- 2. In all zoning districts except LI, GI, A and RR, fences and walls located outside the required front yard shall not exceed 6 feet in height in any Zoning District, provided the Zoning Administrator may approve or require a greater height if necessary to better screen a use or activity from the roadway or adjacent uses.

C. Design and Type:

- 1. All fences and walls shall be constructed with the finished side exposed, the support posts placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surroundings.

2. No fence shall include barbed or razor wire strands or electrification, except in the A, RR, LI, or GI districts.
3. Except in the RR, A, LI, and GI districts, all fences and walls shall be constructed of durable materials such as wood planks, brick, cement block, chainlink, woven wire or structural resin intended to remain in good condition in the Southwestern Michigan climate.
4. Dense landscaping, such as a continuous hedge or row of evergreens, which has the effect of entirely screening the view from neighboring properties or the public right-of-way all year round, may also be permitted as a fence; provided, however, that such landscaping be entirely on the property and not overhanging or encroaching on the neighboring property.
5. The provisions of this **Section 514, C** shall not apply to fences associated with active farm operations regardless of the zoning district in which said farm operation is located.

SECTION 515 ESSENTIAL SERVICES AND GOVERNMENTAL OFFICES

The Planning Commission shall have the power to permit the use of lands and the erection and use of buildings and facilities for an essential service or governmental office in any district. The Planning Commission may further authorize buildings in connection with an essential service or governmental office to be constructed to a height or of a building area greater than permitted in the district upon a finding that such use, height and area is reasonably necessary for the public convenience and service. A site plan shall be required in accordance with **Section 2701, B**. All applicant entities are required to submit fees as would ordinarily be required, except for the County of Barry.

SECTION 516 GRADES AND RUNOFF

No premises shall be filled or graded so as to discharge surface run-off on to abutting premises except as may be permitted by the Barry County Drain Commissioner. When property is developed adjacent to existing properties previously developed, existing grades shall have priority. Leaching ponds, retention or detention basins may be required to appropriately manage stormwater on-site.

SECTION 517 HOME OCCUPATION

- A. Minor Home Occupations. Home occupations shall receive a zoning permit upon a finding by the Zoning Administrator that the proposed home occupation shall comply with all of the following requirements.
 1. The home occupation(s) shall be conducted entirely within enclosed structures and shall be limited to the personal residence of the person engaging in the home occupation and not more than one approved accessory building.
 2. The home occupation(s) shall be an accessory use to the residential use of the property.
 3. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be

aware of the existence of the home occupation. No exterior modification of the home shall be permitted in connection with such home occupation.

4. With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, arts and craft supplies or heating fuel, the home occupation(s) shall not involve the:
 - a. Generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433 et. seq.), or
 - b. Use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Dept. of Labor Regulations).
5. Not more than one automobile associated with the home occupation may be parked on the street at any time, if on-street parking is permitted. Any other parking shall be on the parcel where the home occupation is taking place, however, an additional parking area shall not be constructed and the existing driveway prior to the establishment of the home occupation shall be used for other customer parking.
6. Only the inhabitants of the residence plus not more than one non-resident shall be employed at the home occupation.
7. No additional rooms or accessory structures may be added to the dwelling to accommodate the home occupation.
8. One, non-illuminated wall-mounted or post-mounted sign no higher than 8 feet and with an area not to exceed 6 square feet shall be permitted.

B. Major Home Occupations. Home occupations that do not meet the standards of **Section 517, A**, may be approved as special land uses subject to **Section 2339**.

SECTION 518 KEEPING OF ANIMALS

- A. The keeping of pets is permitted as an accessory use in all Zoning Districts provided that the provisions of this Ordinance and other County regulations are not violated.
- B. The keeping of dangerous animals shall only be allowed as part of a zoo, museum or other similar use and provided that the provisions of this Ordinance and other County regulations are not violated.
- C. In the LDR, MDR, HDR, and MU districts, a temporary permit for up to three (3) years shall be issued by the Zoning Administrator for the keeping of a limited number of farm animals in connection with educational programs such as a 4-H club. The Zoning Administrator shall determine that adequate facilities and area are provided to safely accommodate the number and species of animals proposed.
- D. Keeping of Horses. The keeping of horses shall be permitted, provided that at least 2½ acres is provided for the first horse, and at least ½ acre is provided for each additional horse. Further, the horses shall be kept within a fenced in area and shall be provided with an

accessory structure for protection against the weather. Commercial stables and riding academies shall be subject to site plan review as provided in **Article 27**.

- E. Agricultural Zoning Districts. In the RR and A districts, farm animals and livestock (including horses) may be kept without restriction except that the Concentrated Animal Feeding Operations shall be limited to the A district and in all districts Generally Accepted Agricultural Management Practices as defined by the Right to Farm Act of the State of Michigan shall be observed at all times.

SECTION 519 - 520 RESERVED

SECTION 521 LANDSCAPING AND SCREENING

- A. Purpose and Intent. The purpose of this section is to establish minimum standards for certain landscaped areas in the County; and to require certain landscaped areas to protect the general health, safety and welfare of citizens of the community. It is further the intent of this section to minimize noise and site impact between adjacent districts. This section recognizes that the proper management and use of trees, plants and other types of vegetation will improve the appearance, value, character and quality of life in the County and promote resourceful site planning and creative design.
- B. In the LDR, MDR, HDR, MU, RL and GC districts, the following standards shall apply:
 - 1. All required yards shall be landscaped with living vegetative materials.
 - 2. Ground-mounted utility structures such as electrical transformers, air conditioners and similar features shall be screened from view by landscaping. Provided, however that screening for propane tank facilities, air conditioners and dumpsters serving single-family and two-family dwellings shall not be required.
 - 3. The Planning Commission may lessen the requirements of this section if site conditions make the strict application of these regulations unreasonable, or may impose additional requirements on landscaping, if such modification would further the intent of this ordinance, provide for sufficient buffering between dissimilar uses and between expanses of parking and rights-of-way, if any existing landscaping meets the intent of the ordinance or if native, drought tolerant plant materials are used.
 - 4. The plantings and features of the landscaping plan shall be installed prior to a certificate of occupancy being issued by the County; provided, that if a certificate of occupancy is issued between October and March, landscaping shall be installed by the following June 30th.
 - 5. Landscaping shall be installed and maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced in the next appropriate planting period.
 - 6. Buffer Area. Where a proposed nonresidential use, mixed-use development, or multiple-family dwelling will abut a one-family dwelling or two-family dwelling; and where a proposed nonresidential use will abut a multiple-family dwelling, a buffer area is required as follows:

- a. A buffer area shall be a minimum of 10 feet in width and shall be provided for along the common property line. A buffer area is not in addition to a required yard area.
 - b. For each fifty (50) feet measured along a property line, said buffer area shall include a minimum of one deciduous tree, 2 flowering landscape trees, and 3 evergreen trees shall be provided, as well as any additional plantings as may be proposed. If the property's dimension is a fraction of 50 feet or a multiple thereof, the property's measurement shall be rounded up for the purposes of this section to comply with the planting requirements; provided that reduced plantings may be approved by the Zoning Administrator for buffer areas less than fifty (50) feet in length.
 - c. The buffer area shall be dedicated solely to landscaping and no buildings, pavement (other than driveways or sidewalks), parking, or outside storage is permitted within that area. However, berms and fences, pursuant to this Ordinance, may be provided within a buffer area.
7. Parking Area Landscaping and Screening.
- a. Plantings are required within off-street parking areas to provide shade and relieve adverse visual impact of large expanses of pavement and parked cars. For parking areas in excess of 6 spaces, a minimum of one tree is required per each 15 spaces, or fraction thereof, for a parking lot requiring site plan review.
 - b. A buffer area shall be provided meeting the requirements of **Section 521, B, 7**, above, to buffer the parking area from adjacent property, regardless of the adjacent use. Provided that in the case of a shared parking lot, such a buffer shall not be required along the common property line. Driveways connecting to adjacent land or to a right-of-way may cross a buffer area with appropriate clear vision corners. Parking shall be prohibited within the buffer area.
8. Dumpster Screening. Where a dumpster is provided, it shall be screened with a fence 6 feet in height. Said fence shall be completely opaque and shall enclose the refuse container on all four sides with a gated closure.
9. Planting and Berm Requirements. Where plantings or berms are provided because they are required by this Ordinance, the following stipulations shall be met:
- a. Plant material shall meet or exceed current American Association of Nurserymen Standards.
 - b. Deciduous trees shall have a minimum of 2½ inch diameter at time of planting, measured at 4 feet from grade.
 - c. Evergreen trees shall be a minimum of 6 feet in height at time of planting.
 - d. Flowering landscape trees shall have a minimum 2 inch diameter at time of planting, measured at 4 feet from grade.
 - e. Where earth berms are provided, such berms shall provide a maximum slope ratio of 3 feet horizontal to one-foot vertical.

- f. Earth berms shall be covered with living vegetative materials, such as grasses, vines, spreading shrubs, or flowering plants; or with properly maintained ground cover material such as shredded bark, bark chips or landscape stone.

SECTION 522 ONE PRINCIPAL USE PER PARCEL

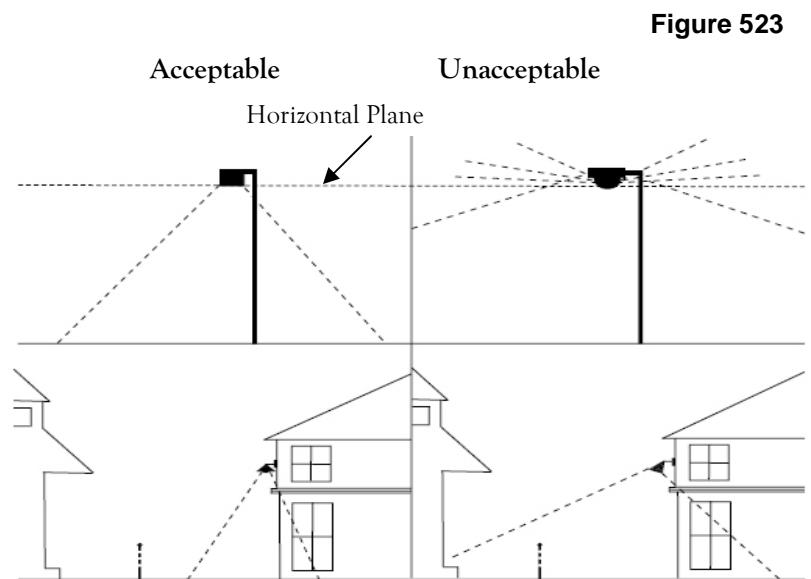
Each parcel in the County shall be limited to not more than one principal use; provided that multiple-tenant or multiple-occupant commercial, industrial or mixed-use developments may be regarded as single uses if approved pursuant to the standards of this Ordinance. This provision shall not be deemed to preclude a multiple-family residential development, a manufactured housing community, a condominium subdivision, or a farm, provided the same meets the requirements of the Ordinance and other applicable regulations.

SECTION 523 OUTDOOR LIGHTING REQUIREMENTS

A. Intent and Purpose: To maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare; to preserve the restful quality of nighttime and to preserve the rural character of the County, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow;” and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans or other applications submitted for approval under the terms of this Ordinance.

B. General Provisions:

1. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:
 - a. Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal light such as for Christmas decorating.
 - b. Sign lighting as regulated by Section 2504.
 - c. Lighting associated with detached single-family and two-family housing and farm operations.
2. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
 - a. Parking lot lighting, building-mounted lighting, and site lighting for commercial,



- industrial, multiple-family and institutional developments.
- b. Publicly and privately owned roadway lighting.
 - c. Other forms of outdoor lighting which, in the judgment of the Planning Commission or Zoning Administrator, is similar in character, luminosity and/or glare to the foregoing.
3. Standards: Lighting shall be designed and constructed in such a manner as to:
- a. Ensure that direct or directly reflected light is confined to the development site or subject property.
 - b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
 - c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
 - d. Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as illustrated in Figure 523. No light fixture shall be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
 - e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
 - f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. The permanent use of beacon and search lights is not permitted.
 - g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
 - h. The Administrator or Commission may impose other reasonable standards to better ensure that the intent and purpose of this Section would be met.

SECTION 524 OUTDOOR STORAGE AND RECREATIONAL UNITS

Within all districts except RR, A, LI and GI, the following requirements shall be met:

- A. The storage or parking for more than 48 consecutive hours of trucks of more than 1½ tons, semi truck trailers, recreational units, including boats and similar recreational equipment, shall be prohibited in any front yard in all Zoning Districts; provided that trucks of more than 1½ tons and recreational units may be stored within a front yard for a period of not more than 14 consecutive days within any 6 month period if parked on a driveway.

- B. The outdoor storage of recreational units, including boats and similar recreation equipment, shall be regarded as a permitted accessory use, if such storage conforms to the provisions of this Section.
- C. Such outdoor storage may be permitted within the rear yard or in one side yard, provided all stored material is placed no closer than 6 feet from a side lot line or 5 feet from a rear lot line and provided that such storage does not prevent clear access between the front and rear yards of the parcel for a person on foot.
- D. The open storage of disassembled or component parts for any vehicle of any type shall be deemed a nuisance in accord with the (Barry County nuisance control ordinance) and shall be prohibited at all times within the front yard. Said open storage shall be permitted in any other yard in any district as long as said storage area complies with minimum setback standards, is effectively screened from view from neighboring properties and from public rights-of-way and does not exceed a cumulative ground area of two hundred (200) square feet.
- E. No recreational unit shall be parked or stored on any roadway or road right-of-way, except in accord the parking regulations of the Barry County Road Commission.
- F. Recreational unit storage or parking is not permitted within a manufactured housing community, multiple-family residential development or similar development, except in a designation location for such storage or parking which has been approved by the Planning Commission during the site plan review process.

SECTION 525 RESERVED

SECTION 526 PARCEL DIVISIONS

- A. New lots or parcels created and existing lots or parcels combined shall conform to this Ordinance and the requirements of the Land Division Act, being Act 288 of the Public Acts of 1976, as amended.
- B. Except as provided elsewhere in this Ordinance, no lot, parcel, or tract of land shall hereafter be divided, subdivided, platted or included in a site condominium as a unit which results in the creation of any lot, parcel, tract, or unit of land which is less than the minimum area requirements for a building or structure in the zoning district in which it is located. Nonconforming land may be reserved for a future road right-of-way or similar use development provided such nonconforming use is recorded as a restriction upon the document conveying such nonconforming properties. Further, all land divisions must meet the following criteria:
 - 1. The required lot areas and/or frontage requirements, exclusive of easements and right-of-ways.
 - 2. For parcels less than twenty (20) acres, the lot depth shall not be greater than four times the width.
 - 3. Proposed land divisions resulting in seven (7) or more parcels or encompassing twenty (20) acres or more land shall be illustrated on a site plan pursuant to **Article 27**.

4. A boundary survey, legal description, driveway or private road permit, and application fee as set by the Barry County Board of Commissioners must be submitted with the application. Provided that in the case of a parcel or tract of land of forty (40) acres or more in area, in which no more than two divisions are proposed, a legal description and scaled drawing may be submitted in place of the boundary survey.
- C. Divided Lots. Unless expressly approved by the Planning Commission as a part of a Planned Unit Development, no parcel of land shall be divided by a public or private right-of-way or street easement such that any portion of the parcel isolated from the remainder of the parcel by such right-of-way includes less than the minimum area and frontage for the zoning district in which it is located.
1. Each portion of such divided lot exclusive of the right-of-way or easement, shall either:
 - a. Comply with the district requirements for minimum net lot area, street frontage, lot width, width to depth ratio and setback, or
 - b. Be considered permanently combined with such other portions of the lot such that the combined portions, exclusive of the area within the right-of-way, are considered one zoning lot to comply with the district requirements for minimum net lot area, street frontage, lot width, width to depth ratio and setback.
 2. Not more than one principal building may be erected on a Divided Lot.
 3. No portion of a Divided Lot, as defined herein, may be sold or otherwise conveyed if the Divided Lot, either prior to or after the conveyance, shall fail to meet the requirements of this Ordinance pertaining to minimum net lot area, street frontage, lot width, width to depth ratio and setback.
 4. One or more platted lots, any of which do not meet the net lot area and street frontage requirements of this Ordinance and which are separated from one another by a public or private street right-of-way or street easement and which have not been used historically as one site, may become one zoning lot if a copy of a recorded deed incorporating the owner's intent to permanently combine such parcels is provided to the County.
 5. Once a Zoning Lot, as defined herein, is designated and used as such, it shall not be used or developed except in conformance with the requirements of this Ordinance.

SECTION 527 PARKING STANDARDS

A. In General:

1. For any use or development requiring site plan review in accordance with **Article 27** and for any parking area with more than 5 parking spaces, a parking area, driveway, or off-street parking space shall not be constructed prior to issuance of a permit. In addition, a site plan shall be submitted in accord with **Section 2701**.
2. Off-street parking for nonresidential uses shall be on the same lot or within 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 area or space. Off-street parking for residential uses

shall be on the same lot; except in the case of shared driveways or recorded consolidated parking arrangement pursuant to this Section.

3. Required off-street parking spaces shall not be replaced by any other use unless and until an equal number of parking spaces are provided elsewhere and are so provided in compliance with this Ordinance.
4. Vehicular access to a parking area serving a non-residential use shall not be across land zoned or used for residential purposes.

B. Parking Standards for the MU, Mixed-Use District. New off-street parking areas serving nonresidential uses in the MU, Mixed-Use District shall comply with the following requirements:

1. Parking areas shall be located to the rear of the building to continue or establish a continuous facade wall along the street and/or to conceal the expanse of parking area. Where the Planning Commission determines such a configuration is not feasible, it may allow a parking area or portion thereof to be located to the side or front of the building; provided it is screened from public view with landscaping materials or a masonry wall in accordance with **Section 521**.
2. Pedestrian connections to and from buildings and associated parking areas and adjacent sidewalks shall be provided.

C. Number of Parking Spaces Required.

1. Parking shall be provided in accordance with the number of spaces required in this section; parking shall not exceed nor be less than the Required Spaces Per Unit of Measure for new uses. The Planning Commission may approve additional or fewer spaces, provided the applicant demonstrates that adequate parking will be provided, excessive parking will be avoided, and snow storage is accommodated.
2. A portion of the required parking area may be deferred until some future date, provided that adequate space on the property is reserved for future parking, and provided that the reserved area is used as open landscaped space until parking is constructed. A permit shall be required prior to construction of a deferred parking area.
3. For uses not specifically listed, off-street parking shall be provided as required for the most similar use, as determined by the Zoning Administrator. The Zoning Administrator may reference industry standards to establish such requirements.
4. When calculations determining the number of required parking spaces result in a fractional space, any fraction up to and including $\frac{1}{2}$ shall be disregarded and fractions over $\frac{1}{2}$ shall require 1 additional parking space.
5. Handicapped spaces and loading spaces shall count toward the required number of spaces.
6. For nonresidential uses and developments on a parcel within 500 feet of a trail or sidewalk, one bicycle rack capable of locking at least 2 bicycles shall be provided within 100 feet of a building's main entrance for every 10,000 square feet of building footprint.

7. Up to a 20% reduction of the number of spaces required may be permitted by the Zoning Administrator or Planning Commission for a new or expanding nonresidential use that dedicates carpool spaces, vanpools, covered bicycle spaces or lockers, and similar alternative means of transportation, for its employees, and where such reduction will not result in inadequate parking area.

D. Required per unit of measure:

Residential	Minimum Parking Required
Accessory Dwelling	One (1) space per accessory dwelling
Dwelling, One-Family, Two-Unit or Multiple Unit	Two (2) spaces per dwelling unit
Day Care Facility	One (1) for each four (4) persons cared for

Commercial	Minimum Parking Required
Bed and Breakfast or Boarding House	One (1) for each guest room plus two for the owner's dwelling unit
Car Wash	Five (5) per premises plus sufficient waiting space to accommodate twenty-five percent (25%) of the hourly rated capacity
Catering Establishment	One (1) for five hundred (500) square feet of gross floor area
Convenience Store, Gasoline Station	One (1) space per three hundred (300) square feet of gross floor area
Drive-through business, other than restaurant	One (1) per three hundred (300) square feet of ground floor area
Drive-through restaurant	One (1) per two hundred (200) square feet of ground floor area, plus queuing for 9 vehicles
Dry Cleaning and Laundry Establishment	One (1) for each two (2) washing machines
Eating and Drinking Establishment	One (1) for each two (2) seats
Funeral Home / Mortuary	One (1) space for every one hundred (100) square feet of floor area used for services

Commercial, cont'd	Minimum Parking Required
Golf Course	Nine (9) spaces per hole
Greenhouse	One (1) space per two thousand (2,000) square feet of gross floor area plus one (1) per five hundred (500) square feet of indoor display area
Gun and Archery Club	One (1) per ten (10) members, minimum of ten (10) spaces
Hotel/Motel	One (1) for each guest room
Kennel/Animal Day Care	One (1) for each six-hundred (600) square feet of floor area
Open Air Business	One (1) for each eight-hundred (800) square feet of lot area used for display
Place of Public Assembly	One (1) space for each four seats of legal capacity.
Retail Business	One (1) for each three hundred (300) square feet of gross floor area
Sexually Oriented Business	One (1) space per 300 square feet of gross floor area
Tattoo or Piercing Parlor	One (1) for each five hundred (500) square feet of gross floor area
Theater	One (1) for each four (4) seats
Tavern	Two (2) for each three (3) seats
Animal Grooming Facility	One (1) for each grooming station, plus one (1) for each two hundred (200) square feet of gross floor area
Stable/Riding Academy	One (1) for each riding horse, minimum of five (5) spaces
Miniature Golf Course	One space per each hole
Mine, Sand and Gravel	One (1) per employee in the largest shift
Gallery/Museum, Studio for graphic or performing arts	One (1) for each five hundred (500) square feet of gross floor area

Institutional and Related Uses	Minimum Parking Required
Adult Foster Care Facility	One (1) space per each three (3) beds
Hospital	Four (4) spaces for each patient bed
Veterinary Clinic	One (1) space per five hundred (500) square feet gross floor area

Institutional and Related Uses, cont'd.	Minimum Parking Required
Airport	Two (2) spaces per each hanger space or tie-down, minimum of ten (10) spaces
Educational Facility	One (1) per four (4) students
Library	One (1) for each five hundred (500) square feet of gross floor area

Office and Service	Minimum Parking Required
Clinic, Medical or Dental Office	One per two hundred (200) square feet of gross floor area
Professional Office	One (1) space for each three hundred fifty (350) square feet of gross floor area.
Professional Service Establishment	One (1) per four hundred (400) feet of gross floor area
Personal Service Establishment	One (1) for each four hundred (400) square feet of gross floor area
Governmental Offices	One (1) per three hundred (300) feet of gross floor area
Financial Institution	One (1) space per four hundred (400) square feet of gross floor area

Industrial, Storage and Related Uses	Minimum Parking Required
Automobile Repair Facility	One (1) space per five hundred (500) square feet of gross floor area including service bays
Assembly processing and manufacturing	One (1) parking space for each thirteen hundred (1,300) square feet of gross floor area
Mini/Self-Storage Facility	One (1) space per seventy-five (75) storage units
Warehouse	One (1) space between two-thousand (2,000) square feet of gross floor area

Industrial, Storage and Related Uses, cont'd.	Minimum Parking Required
Wholesale Facility	One (1) space per four hundred (400) square feet of gross floor area
Marina	Two (2) for each slip, no less than ten (10) total spaces
Contractor's Facility	One (1) space five hundred (500) square feet of gross floor area, minimum five (5) spaces for customers
Campground	One and one-tenth (1.1) space for each campsite
Boat Launch	Five (5) per premises plus sufficient space to accommodate twenty-five percent (25%) of the hourly rated capacity

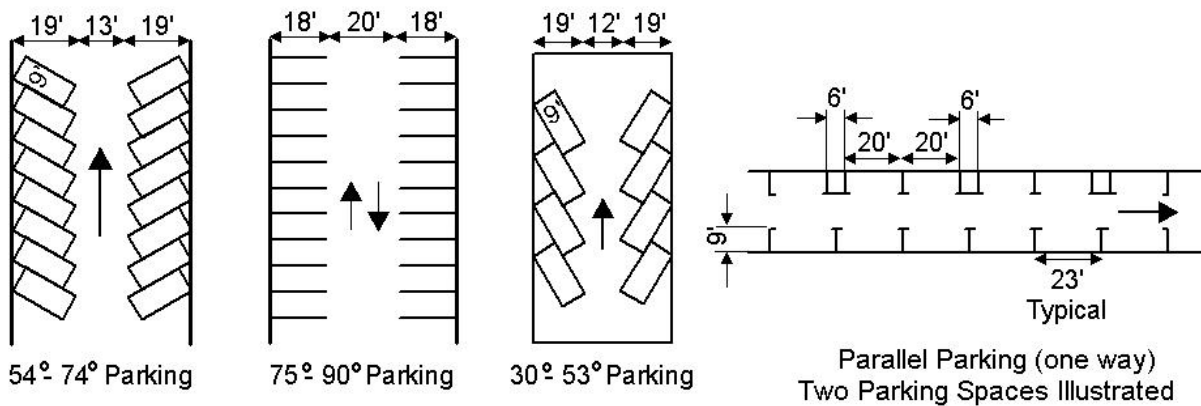
E. Dimensional Requirements.

1. All off-street parking spaces shall be provided adequate access by means of maneuvering lanes; access directly onto a street or public right-of-way shall be prohibited.
2. Maneuvering lanes for 90° parking patterns shall accommodate two-way traffic.
3. Parking spaces and maneuvering lanes shall be provided in accordance with the requirements below.

Minimum Parking Space and Maneuvering Lane Standards

Parking Pattern	Lane Width		Parking Space		Total Width of Two Tiers Plus Lane	
	One-way (ft)	Two-way (ft)	Width ⁽¹⁾ (ft)	Length ⁽²⁾ (ft)	One-way (ft)	Two-way (ft)
Parallel	11	18	9	23	40	36
30°-53°	12	18	9	19	50	56
54°-74°	13	19	9	19	51	57
75°-90°	15	20	9	18	51	56

- (1) Measured Perpendicular to the space centerline.
- (2) Measured along the space centerline.



**Parking Area Dimensions
(for standard-size vehicles)**

F. Design Requirements.

1. All off-street parking areas, maneuvering lanes, access drives, and loading spaces shall be bituminous, concrete or approved pavers. All such areas shall be paved within 8 months from the date a permit is issued to install the parking area. The Planning Commission may waive this requirement if it finds that porous pavement would significantly reduce stormwater runoff and blowing dust would be prevented. Moreover, all parking areas shall meet applicable drainage standards of the Barry County Drain Commissioner.
2. New access points to off-street parking lots shall be located a minimum of 100 feet from a street intersection measured from the edge of the respective rights-of-way and if not located on a property line as a shared driveway, shall be located a minimum of 10 feet from a property line. The area between the driveway and the property line shall be landscaped to provide a buffer between motor vehicles and the adjacent property, in accordance with **Section 521, B.**

3. If provided, parking area lighting shall comply with **Section 523**. The Planning Commission or Zoning Administrator may restrict hours of illumination.
4. Parking areas shall have barriers such as concrete bumpers or curbs to prevent vehicles from extending over or into any public sidewalk, walkway, right-of-way or adjacent property. Parking areas shall include striping delineating each individual parking space.
5. Shared access drives between separate parking areas shall be provided where appropriate and reasonable, as determined by the Planning Commission.

G. Shared Parking Requirements for Nonresidential Uses.

1. Two or more buildings or uses may collectively provide the combined and 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. In the instance of such dual use of off-street parking spaces where operating hours of uses do not conflict or overlap, the Planning Commission may grant an exception to the preceding standard and permit a consolidation of the combined sum of required parking.
2. Shared parking areas may be located on a different lot than the subject building or use that it serves, where the following conditions are met:
 - a. The parking area is located no more than 300 feet from the main entrance of the subject building or use it serves.
 - b. The sharing of parking shall be guaranteed via a legally binding and recorded agreement between the owner of the parking area and the owner of the building or use which is located on a different lot served by the parking area. Such agreement shall be submitted to the County for review and approval and address the issue of how parking will be shared and adequate if the parties modify operating hours or other factors. The Planning Commission may waive the requirement for a recorded agreement where it finds sufficient alternative documentation of an assured long-term shared parking arrangement.

H. Loading Spaces.

1. Loading spaces shall be provided on the same property as any nonresidential use involving the receipt or distribution of materials or merchandise.
2. Loading spaces shall be provided adequate access by means of maneuvering lanes; access directly onto a street or public right-of-way shall be prohibited.
3. Loading spaces shall be located within the rear yard or side yard in any Zoning District. Landscaping and buffering, in addition to that required by **Section 521**, shall be provided to fully screen loading spaces from public view.
4. Loading spaces shall be at least 10 feet in width, 25 feet in length, and 14 feet in height.
5. Loading spaces shall be provided in accordance with the minimum requirements below. The Planning Commission may approve modification of the requirements, if it finds that adequate loading and unloading space will be provided.

<u>Square feet of Principal Permitted Building on a Property</u>	<u>Minimum Number of Loading Spaces Required</u>
Up to 5,000	0
5,001 to 20,000	1
20,001 to 100,000	2

1 additional space is required per additional 50,000 square feet

6. Loading spaces shall be located so loading and unloading activities do not interfere with pedestrian or private motor vehicle movement.

SECTION 528 PERFORMANCE GUARANTEE FOR COMPLIANCE

In approving any variance, any conditional, temporary or special approval permits, any site plan, or any planned unit development, the Zoning Administrator may recommend and the Planning Commission, the Zoning Board of Appeals, or the County Board of Commissioners may require, that a performance guarantee be furnished pursuant to Section 2710 of this Ordinance.

SECTION 529-30 RESERVED

SECTION 531 PRIVATE ROADS

A. Application Process.

1. Preliminary Private Road Permit. The owner or agent of the owner of the land proposed for a private road shall submit an application for a preliminary private road permit to the Zoning Administrator on forms approved by the Zoning Administrator. Construction of the private road shall not begin before a preliminary private road permit is issued by the Barry County Planning Department. Further, no zoning permits or building permits shall be issued for properties served by the private road prior to the issuance of a final private road permit. The application shall be accompanied by, at a minimum:
 - a. Detailed construction plans (sealed by a licensed engineer).
 - b. A site plan illustrating the location of the road, adjacent properties, existing grade of the site, proposed grade of the road and adjacent portions of the site, drainage, water bodies, and proposed improvements.
2. Final Private Road Permit. Once a preliminary private road permit has been issued and construction of the private road has been completed, the owner or authorized agent shall submit the following documentation to the Barry County Planning Department:
 - a. A certification signed by a licensed engineer, that the road has been completed in accordance with the requirements of this Ordinance.

- b. A survey and legal description completed by a licensed surveyor, illustrating the location of the private road and its easement.
- c. A fee to be set by the Barry County Board of Commissioners.

B. General Provisions.

- 1. A private road shall include all roads, streets, easements and right-of-ways for ingress and egress which are non-public and which are used to calculate or measure the required frontage or lot width for the zoning districts in which it is located.
- 2. Private roads shall be permitted in all Zoning Districts, except CR and A. Private roads serving more than 7 dwelling units, more than one commercial or industrial use, or any use in the CR and A districts, shall require a special land use permit authorized by the Barry County Planning Commission, subject to **Section 2362**.
- 3. A maintenance agreement for the maintenance and upkeep of the private road shall be submitted and approved prior to the issuance of any permit associated with a private road.

C. Design and Construction Requirements.

- 1. Every private road shall be constructed within a right-of-way or easement not less than 66 feet in width and not more than 100 feet in width, and shall be parallel to the centerline of the easement or right-of-way.
- 2. All private roads shall be constructed with sufficient slopes and grades as to provide adequate stormwater and road drainage and shall provide adequate culverts and ditches at all drainage courses and waterways.
- 3. All private roads shall have a surface layer of not less than 6 inches of bank run gravel and 3 inches of compacted processed gravel, unless the private road is paved. If the private road is paved, it shall comply with Barry County Road Commission specifications for public roads.
- 4. All private roads serving up to six (6) parcels of land shall have a finished road surface width of at least 18 feet. All private roads serving seven (7) or more parcels of land shall have a finished road surface width of at least 24 feet. All paved roads shall have a surface finish of at least 1½ inches thick.
- 5. Maximum street grades shall be 10%.
- 6. Cul-de-sacs shall have a minimum turnaround radius of 35 feet.
- 7. "T" intersections shall slope between -0.6% and -0.2% in a direction away from the through street for a distance of at least 50 feet from the centerline of the through street.
- 8. All private roads shall be uniquely named throughout the County so as not to confuse emergency responders.
- 9. Where a proposed private road will intersect a public road, the owner, developer or agent shall receive approval from the Barry County Road Commission and/or the Michigan Department of Transportation prior to any County permits being issued.

10. All private roads shall be designed and constructed to accommodate vehicle speeds of not less than 25 mph or more than 35 mph.
11. A private road with a single connection to a public street shall not exceed 1,250 feet in length, measured along the centerline.

D. Preservation Requirements.

1. Significant natural features or vegetation that would be adjacent to the private street or within the right-of-way shall be preserved to the extent possible. Mass clearing or grading prior to the installation of a private street shall be prohibited.
2. This Ordinance requires the consideration of natural features in placement of a proposed private road, with the purpose of preserving natural features and resources, and maintaining the County's rural and natural character.
3. Where the Zoning Administrator determines that modifying the standards of this Section would further the objectives of the County Master Plan in connection with subparagraphs 1, and 2, above, the Zoning Administrator may forward an application for a private road to the Planning Commission to request Commission review and approval of the private road application, together with a written explanation of the private road application and a recommendation and justification for departing from the standards. In determining whether to approve or to require modified standards, the Planning Commission shall consider whether grade and road design would provide for the efficient and safe movement of vehicular and pedestrian traffic. The Administrator or Commission may seek advice of the Barry County Road Commission, the County Sheriff, other local agencies or experts in coming to a decision.

E. Prior Non-Conforming Private Roads. All private roads, which were lawful on the effective date of this Ordinance, shall continue to be lawful. It is the intent of this Ordinance that the use of such non-conforming private roads shall not be enlarged, expanded or extended, except in conformance with this Section 531.

F. Shared Driveway. A driveway shared by not more than three (3) parcels may be considered, subject to the following standards

1. A shared driveway shall not be considered a Private Road, providing such shared driveway shall:
 - a. Be located within a recorded easement which shall govern its use,
 - b. Be located within an easement not less than twenty (20) feet in width.
 - c. Be no more than three hundred (300) feet in maximum length, measured from the edge of the public road right-of-way to the point where the shared nature of the driveway ceases.
 - d. Be approved for emergency vehicle access by the appropriate emergency services agency.

2. The width of lots located on a shared driveway may be measured either along the shared driveway easement, or perpendicular to the shared driveway easement and essentially parallel to the public road from which the driveway takes its access.

SECTION 532 RAZING AND MOVING OF BUILDINGS

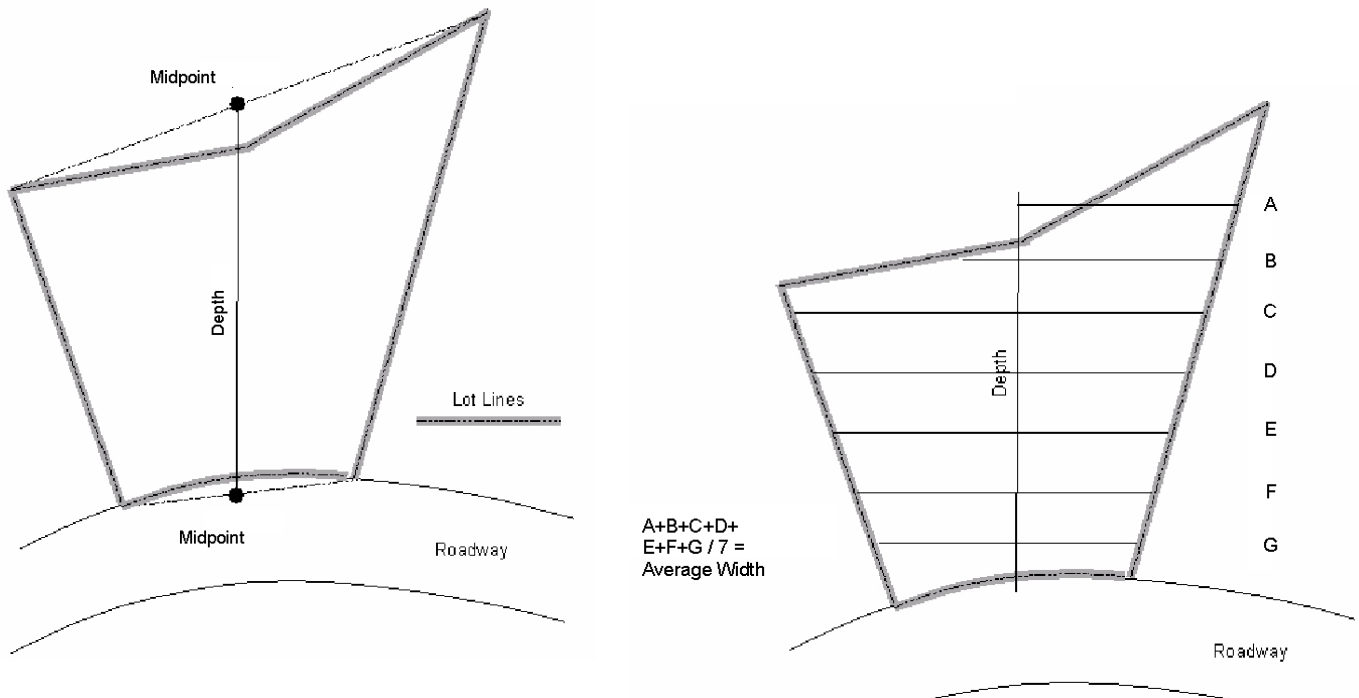
- A. No building or structure other than buildings or structures accessory to a farm shall be razed except in accordance with a permit from the Building Official. Said permit shall be conditioned on the applicant completing the razing within such reasonable time period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Official may prescribe including filling of excavations and proper termination of utility connections.
- B. The owner of any building or structure which has been damaged or destroyed by fire, windstorm or other casualty shall repair such damage within one year after its occurrence. In the event the building or structure is damaged beyond repair, any part left standing after such damage or destruction shall be razed pursuant to a permit from the Building Official.
- C. A building shall not be moved from one property in Barry County to another property in Barry County; from a property outside of Barry County to a property in Barry County; or from a property in Barry County to a property outside of Barry County; except in accordance with the provisions of the Barry County General Law Ordinance pertaining to the movement of buildings.

SECTION 533 SPATIAL AND PHYSICAL REQUIREMENTS

- A. The continuing maintenance of required spatial relationships and physical requirements of this Ordinance for a use, structure, building, and/or parcel shall be the obligation of the owner of the use, structure, building and parcel.
- B. Required spatial relationships and physical requirements of this Ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following may be located anywhere on a parcel:
 1. Those parts of a building which are unroofed porches and decks, including steps, which do not exceed 70 square feet in area, handicapped ramps, terraces, patios and awnings and nonpermanent canopies, but built no closer than 6 feet from the property line. All roofed porches and decks and those unroofed porches and decks, including steps, which are larger than 70 square feet, will be considered part of the structure and the building area and will be governed by the yard requirements of the Zoning District in which the parcel is located. Provided, however, that on parcels with steep slopes exterior steps may be located within a required yard when the Zoning Administrator finds that such location is necessary for the practical use of the property.
 2. Flag poles;
 3. Hydrants;

4. Arbors, trellises, trees, plants, shrubs, subject to the provisions of **Section 507** pertaining to clear vision areas.
 5. Sidewalks, private driveways and walkways.
- C. Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or water's edge toward the center of the parcel. For non-platted parcels, where the front lot line is the roadway centerline, setbacks shall be measured from the edge of the right-of-way. Building setback lines shall parallel the parcel line from which they are measured.
- D. No structure shall be placed within the required setback area (required yard). Setbacks shall be measured from the property line, or the ordinary high water mark, to the foundation of the structure (including porches and steps), unless an upper portion of the structure projects beyond the foundation, then the setback shall be measured from the property line to a point which is perpendicular to the furthest most point of the projections, exclusive of any eaves. Further, at no time will the eaves be permitted to extend into the required setback area more than two (2) feet.
- E. Parcel depth measurements shall be taken from the midpoints of straight lines, one connecting the front property corners and the second connecting the rear property corners. For the purposes of this section, property corners shall be determined by the Zoning Administrator as the points at which the side parcel lines intersect the front and rear lines, regardless of the shape of the property. Parcel width shall be measured at the front yard setback line. Provided that for irregularly-shaped parcels, the Zoning Administrator may determine an average parcel width as the average width measured at right angles to its depth, with no fewer than 5 equally spaced measurements. **See Figure 533.**

Figure 533



- F. Land filling and other contour changes to create a buildable area shall not be undertaken, except in conformance with the requirements of this Ordinance and applicable State and Federal requirements. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires Site Plan Review and approval until the proposed use or structure is authorized by a Zoning Permit.
- G. A parcel established after the effective date of this Ordinance shall have a maximum lot width to depth ratio of 1:4, unless another ratio is approved as part of a planned unit development.

SECTION 534 SWIMMING POOLS AND SWIMMING POOL FENCES

An in-ground private or public swimming pool shall be considered an accessory structure for purposes of this Ordinance and shall therefore require issuance of a permit. All in-ground outdoor swimming pools shall be enclosed by a fence, wall or other structure which shall be at least 4 feet in height as measured from the outside. Any opening under the fence or wall enclosure shall be of a type that impedes climbing by small children and shall be equipped with a gate that is self-closing and latching type with the latch on the pool side of the gate. Said entrance way shall lead to the shallow end of the pool. If the entire area is enclosed by a fence or wall, this requirement may be waived. The pool shall be fenced in before final approval is given for use of the pool. Above ground swimming pools with a depth in excess of thirty-six (36) inches need not be fenced provided that any steps providing access to the pool are secured to prevent uncontrolled access.

SECTION 535 - 536RESERVED

SECTION 537 TEMPORARY DWELLINGS AND USES

Unoccupied parking or storage of temporary dwellings, recreational vehicles, trailers, etc. on a street or front yard is prohibited for periods in excess of 48 hours at a time. Occupied recreational vehicles or units shall meet the requirements of this section. No person shall use or permit the use of any temporary dwellings, recreational vehicle or trailer as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except:

- A. As temporary quarters during the construction and installation of a dwelling conforming to this Ordinance; or as temporary buildings, trailers or construction trailers used incidental to construction work for equipment storage or construction offices, when the following conditions are met:
 - 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this Ordinance.
 - 2. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
 - 3. The temporary dwelling or trailer shall be connected to a water supply and sewer disposal system approved by the Barry-Eaton Health Department.
 - 4. The temporary dwelling shall, at all times, have a clear and unoccupied space of at least seven (7) feet on all sides.
 - 5. The use of the temporary dwelling or trailer shall be limited to six (6) months beginning with the issuance of a permit. The permit may be renewed for not more than six (6) months at a time upon approval of the Administrator for good cause shown. The temporary dwelling or trailer permit shall expire with the building permit for the installation of the permanent dwelling.
- B. As part of a campground licensed by the Michigan Department of Public Health.
- C. As a temporary condition, not more than one (1) recreational unit per parcel may be used for lodging or housekeeping purposes as authorized by applicable Barry County General Law Ordinance, and subject to the following conditions:
 - 1. The location of the temporary dwelling shall comply with all setback requirements of this Ordinance.
 - 2. The use of the temporary dwelling shall not be contrary to the public health, safety or welfare.
 - 3. The temporary dwelling shall be connected to a water supply and sewer disposal system approved by the Barry-Eaton Health Department.
 - 4. The temporary dwelling shall, at all times, have a clear and unoccupied space of at least seven (7) feet on all sides.

5. The use of the temporary dwelling shall be limited to six (6) month for properties where the owner of the property resides on the same parcel or forty-five (45) days for non-owner-occupied property, beginning with the issuance of a permit. The permit may be renewed for one (1) additional period of six (6) months for properties where the owner of the property resides on the same parcel or forty-five (45) days for non-owner-occupied property, upon approval of the Administrator for good cause shown.
 6. Use of the temporary dwelling shall cease as soon as the use for which the original permit was issued is no longer viable. Upon such cessation, another application for use of a temporary dwelling or trailer as a principal or seasonal dwelling shall not be approved for a period of at least six (6) months.
- D. For family camp outings, reunions or similar activities extending not more than seven (7) days in any thirty (30) day period.

SECTION 538 UNCLASSIFIED USES

The Planning Commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district. In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by special use permit, a report outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which, although permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features which were not contemplated or specified herein, such use shall be prohibited.

SECTION 539 WATER PROTECTION

- A. Where any building, structure or improvement is proposed for property abutting a lake or river, additional waterfront setbacks shall be provided as required by each respective Zoning District. Provided, that these increased setback standards shall not apply to walkways, decks, boat docks, boat slips, and boat launches. The increased setback areas shall be designed to provide additional protection for the water bodies.

- B. For any use requiring a site plan pursuant to **Article 27**, where the subject property abuts a lake or river, a 10-foot deep strip of land shall be provided along the ordinary high watermark, within which no building or structure shall be erected, constructed or placed. In said 10-foot deep strip, natural shoreline and existing vegetation shall be preserved where appropriate, as determined by the Zoning Administrator. It shall be the landowner's responsibility to maintain (and establish, if necessary) this vegetation belt in a healthy state. This provision shall not prohibit seawalls or docks.
- C. No building or structure shall be built, located or constructed within a 100-year flood plain, as may be determined by the Michigan Department of Natural Resources or the Federal Emergency Management Agency, unless constructed according to the Michigan Construction Code, as it applies to construction in flood plains, consistent with criteria set forth in Section 1910 of National Flood Insurance Program Regulations, promulgated under the National Flood Insurance Act of 1968, as amended.
- D. Where buildings and structures are proposed to be located within or adjacent to floodplains and areas of high-risk erosion, techniques shall be implemented to mitigate any impact on water bodies and bluff lines. The mitigation techniques shall also be designed to minimize the economic hardships that individuals and the County may face in the event of property loss due to severe erosion or flooding. The Planning Commission may require an applicant to submit an Environmental Assessment on the condition of the floodplain or the bluff line. Where a bluff is determined to be eroding or in danger of eroding, structures and buildings shall be setback a minimum of 10 feet in addition to the respective minimum waterfront yard setback, from the bluff line; provided, that a minimum of 30 years protection from shore land or bluff erosion is provided by said setback, as determined by the Department of Natural Resources.
- E. No stormwater collection facility shall cause water from impervious surfaces to enter into a water body without first being filtered of pollutants.
- F. The Administrator may require from an applicant or property owner documentation illustrating compliance with the above standards.

SECTION 540 RESERVED

SECTION 541 WATER SUPPLY AND SEWAGE FACILITIES

A structure or building intended or used for human occupancy, including residential and non-residential uses, shall be connected to a public sewer and water supply or to such private facilities in compliance with the Barry-Eaton Health Department, the Barry County Drain Commissioner, and other applicable requirements.

SECTION 542 TRANSFERABLE DEVELOPMENT RIGHTS

A. Intent. The Transferable Development Rights (TDR) program is voluntary for property owners and is provided as a means to further the objectives of the Master Plan. A TDR program provides flexibility to encourage the preservation of farmland and resource areas by allowing transferable development credits in connection with a site that has features deserving

protection and a site in a designated receiving or development zone, generally being the LDR, MDR, HDR and MU Districts. In order to protect agricultural and natural areas and provide the owners of such property an alternative to development, or a means to recover some of the value from an undevelopable residential lot, transferable development credits may be utilized in accordance with any Barry County General Law Ordinance which pertains to such credits.

- B. Density and Lot Area Standards. In the LDR, MDR and HDR districts and in the GC district within a PUD or in other districts as permitted by this ordinance, certain minimum lot area and width standards in this ordinance shall be reduced, or residential density may be increased, as set forth herein where recognized transferable development credits (TDC) have been voluntarily acquired from lands located elsewhere in Barry County or Michigan in accordance with the Barry County Transferable Development Rights Ordinance.

SECTION 543 SMALL WIND ENERGY CONVERSION SYSTEM

The purpose of this Section is to promote the safe, effective, and efficient use of small wind energy conversion systems installed to reduce the on-site consumption of utility-supplied electricity. Small wind energy conversion systems shall be considered a permitted accessory use in all Zoning Districts, subject to the requirements of **Section 2701, A**, and the following requirements:

- A. Small wind energy conversion systems may be attached to existing structure or mounted on a tower structure with the following height limitation, measured from grade directly below the turbine to uppermost component of the system with its blade in a vertical position:
 - 1. For parcels of less than two (2) acres in area, the tower height shall be limited to thirty-five (35) feet.
 - 2. For parcels of at least two (2) acres and not more than five (5) acres in area, the tower height shall be limited to sixty (60) feet.
 - 3. For parcels greater than five (5) acres in area, tower height shall be limited to eighty (80) feet.
- B. The minimum vertical blade tip clearance from grade shall be twenty (20) feet.
- C. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the combined height of the installation measured to the vertical tip of its blade.
- D. Small wind turbines shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. Small wind turbines shall be equipped with an automatic braking, governing or a feathering system to prevent uncontrolled rotation or over-speeding. Small wind turbines and towers shall be equipped with lightning protection.

- F. Building permit applications for small wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall be provided.
- G. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations in close proximity to an airport.
- H. No small wind energy conversion which is proposed to be connected to a public electric utility grid system shall be approved until evidence has been given indicating that the utility company has approved such installation.

SECTION 544 SMALL PIT MINE, SAND AND GRAVEL

A Sand and Gravel Mine as defined herein may be established as Small Pit functioning as an accessory use to another permitted or special use in the A and RR districts on parcels of five (5) acres or greater, subject to the standards of this **Section 544**.

- A. The total land area devoted to a Small Pit Sand and Gravel Mine shall not exceed 2½ acres, or 108,900 square feet. The determination of total area shall be cumulative incorporating any areas on the same parcel from which material is extracted. A Sand and Gravel Mine that exceeds 2½ acres in area shall be subject to the terms of **Section 2351**.
- B. No Sand or Gravel Mine shall commence operations until a land use permit has been issued therefore pursuant to **Section 3002** based on a Sketch Plan prepared in accordance with **Section 2703, C**. A duly issued land use permit shall remain in effect for a period of two years providing satisfactory compliance with its terms.
- C. The Zoning Administrator shall require satisfactory evidence that the operation and restoration of a Small Pit Sand and Gravel Mine shall at all times be safe.
- D. Excavation below the grade of adjacent roads or property lines shall not take place within fifty (50) feet from any property line or road right-of-way.
- E. A Small Pit Sand and Gravel Mine shall be graded to a safe and stable slope when excavation operations cease for any period in excess of seven (7) days.
- F. A land use permit for a Small Pit Sand and Gravel Mine shall expire upon the earlier of six (6) months following cessation of operations, or two years. A land use permit may be extended for additional intervals of not more than two (2) years each, upon application and determination by the Zoning Administrator of continued satisfactory operation.

ARTICLE SIX- RESERVED

**ARTICLE SEVEN
DISTRICTS, DIMENSIONAL STANDARDS
USES TABLE AND ZONING MAP**

SECTION 700 ESTABLISHMENT OF DISTRICTS

The County is hereby divided into the following Zoning Districts as shown on the Official Zoning Map:

Conservation Reserve (CR)	Natural Lakes and River (NLR)
Recreation Lakes (RL)	Rural Residential (RR)
Low Density Residential (LDR)	Moderate Density Residential (MDR)
High Density Residential (HDR)	Mixed Use (MU)
General Commercial (GC)	Light Industrial (LI)
General Industrial (GI)	Agriculture (A)

SECTION 701 OFFICIAL ZONING MAP

- A. For the purposes of this Ordinance the Zoning Districts as provided in this Ordinance are bounded and defined as shown on a map entitled "Official Zoning Map of Barry County", a copy of which accompanies this Ordinance and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this Ordinance by reference.
- B. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Commissioners, attested by the County Clerk, with the following certification: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Barry County", together with the effective date of this Ordinance, or any amendments thereto.
- C. If, in accordance with the procedures of this Ordinance and Michigan law a change is made in a zoning district boundary, such change shall be made by or under the direction of the Planning Director promptly after the amendment authorizing such change shall have been adopted and published.
- D. 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 Barry County Planning Department shall be the final authority as to the current zoning status of any land, parcel, lot, Zoning District, use, building or structure in the County.
- E. Where uncertainty exists as to the boundaries of Land Use Districts as shown on the Official Zoning Map, the following rules of interpretation shall apply:

1. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such line.
2. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.
3. A boundary indicated as approximately following the corporate boundary line of any City, Village, Township or the County shall be construed as following such line.
4. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right of way.
5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
6. A boundary indicated as following the centerline of a water body shall be construed as following such centerline at the time of interpretation.
7. A boundary indicated as parallel to, or an extension of, a feature indicated in subsections 1 through 6 above shall be so construed.
8. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
9. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstance not covered by subsections 1 through 8 above, or question in interpreting subsections 1 through 8 above, the Zoning Board of Appeals shall interpret the Zoning District boundary.
10. In the event a local unit of government in Barry County elects to bring some or all of its area of jurisdiction under the scope of this Zoning Ordinance, such area shall be treated as falling into the RR district, until such time as the Planning Commission may amend the official Zoning Map set forth herein to apply to such area.

INSERT ZONING MAPS

BACK OF ZONING MAP

SECTION 702 APPLICATION OF REGULATIONS

The regulations established by this Ordinance within each Zoning District shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each Zoning District.

SECTION 703 ZONING DISTRICT REGULATIONS

The Schedule of District Regulations set forth as Table 703 provides an overview of the dimensional requirements of this Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance.

SECTION 704 TABLE OF LAND USES

Table 704, Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this ordinance.

Table 703 Dimensional Standards Summary

District	Lot Area (sq. ft, except where noted)				Width (in feet)				Setbacks (in feet)			
	Without Sewer		With Sewer		Without Sewer		With Sewer		Front	Side	Rear/ Waterfrt	
	w/ TDC*	w/o TDC	w/ TDC	w/o TDC	w/ TDC	w/o TDC	w/ TDC	w/o TDC				
Conservation Reserve (CR)	20 Acre				660		N/A		50	20	20/50	
Natural Lakes & River (NLR)	24,000				150		N/A		35	20	20/30	
Recreational Lakes (RL)	12,000		8,250.		75		60		30	10	20/30	
Rural Residential (RR)	1 Acre				150		N/A		50	20	20/30	
Low Density Residential (LDR)	10,000	12,000	7,200	9,350	90	100	60	85	35	10	20/NA	
Moderate Density Residential (MDR)	1 unit	10,000	12,000	5,000	8,250	90	100	50	75	30	6	20/NA
	2 unit	15,000	18,700	9,000	15,000	90	100	90	100			
High Density Residential (HDR)	1 unit	10,000	12,000	5,000	8,250	90	100	50	75	30	6	20/NA
	2 unit	15,000	18,700	9,000	15,000	90	100	90	100			
	Multi unit	N/A		2,000/DU	5,000/DU	N/A	N/A	90	100			
Mixed Use (MU)	Res.	Same as MDR				Same as MDR				20	6	20/NA
	Comm or Instit.	lesser of 60% lot coverage or 15,000 sq. ft bldg. envelope ^(c)				Maximum 4:1 depth to width ratio				0	0 or 6	20/NA
General Commercial (GC)	60% lot coverage ^(c)				Maximum 4:1 depth to width ratio				50	20 ^(a)	40	
Light Industrial (LI)	Governed by width and setback				100' and Max. 4:1 depth to width ratio				50	20 ^(a)	20 ^(b)	
General Industrial (GI)	Governed by width and setback				200' and Max. 4:1 depth to width ratio				50	20 ^(a)	20 ^(b)	
Agriculture (A)	Farm	1 Ac. Min & No Max.				150				50	20	20/30
	Non Farm	1 Ac. Min & 2 Ac. Max. ^(d)										

Notes:

- * TDC: Transferable Development Credits
- (a) Side yards shall be 50' if contiguous to another zoning district
- (b) Side yards shall be 40' if used for storage of vehicles or 50' contiguous to a residential zoning district
- (c) The development intensity may be increased through a PUD with a minimum of 20 acquired development credits
- (d) Subject to the adoption and implementation of a Transferable Development Rights Program pursuant to Section 542

Table 704 Land Uses Summary

“R” = Uses permitted by Right; “S” = Uses that may be permitted as special land uses; all subject to the terms of this Zoning Ordinance

USE	CR	NLR	RL	RR	LDR	MDR	HDR	MU	GC	LI	GI	A
Accessory Building and Structure	R	R	R	R	R	R	R	R	R	R	R	R
Accessory Bldg. with footprint in excess of 150% of the principal structure	R	S	S	R	S	S	S	S	S	R	R	R
Accessory Dwelling			S	S		S	S	S				S
Accessory Use, when accessory to a permitted use	R	R	R	R	R	R	R	R	R	R	R	R
Accessory Use, when accessory to a special land use	S	S	S	S	S	S	S	S	S	S	S	S
Adult Foster Care Facility					S	S	S	S	S			
Airport				S								S
Assembly Operation				S						R	R	S
Animal Grooming Facility				R				R	R			R
Automobile Repair Facility				S					R	R	R	
Bed and Breakfast			S	R	S	S	S	S				
Boarding House						S	S	S				
Boat Launch		S	S									
Campground				S								
Car Wash								S	R			
Catering Establishment								R	R			
Cemetery				S	S	S	S					S
Clinic				S	S	S	S	S	R			S
Contractor’s Facility				S						R	R	
Convenience Store	S		S	S			S	R	R			
Day Care, Family (6 clients)	R	R	R	R	R	R	R	R				
Day Care, Commercial (13+ clients)								S	R			

USE	CR	NLR	RL	RR	LDR	MDR	HDR	MU	GC	LI	GI	A
Day Care, Group (7-12 clients)	S		S		S	S	S	S				
Drive-through Business								S	S	S		
Dry Cleaning and Laundry Establishment									R	R		
Dwelling, One-Family	R	R	R	R	R	R	R	R				R
Dwelling, Two-Unit						R	R	R				
Dwelling, Multiple-Unit						R	R	R				
Eating and Drinking Establishment				S		S		R	R			
Educational Facility				S	S							
Farm	R			R								R
Farm Operation	R			R								R
Farm Product Processing Facility				S							R	R
Farm Worker Housing				R								R
Financial Institution								R	R	R		
Funeral Home/Mortuary									R			
Gasoline Station				S				S	R	R		
Gallery/Museum	S					S	S					
Golf Course			S	S								
Governmental Offices	R	S	S	R	R	R	S	S	R	R		R
Greenhouse				R					S			R
Gun and Archery Club	S			S								S
Home Occupation, Major	S	S	S	S	S	S	S	S				S
Home Occupation, Minor	R	R	R	R	R	R	R	R				R
Hospital								S				
Hotel/Motel								R	R			
Junkyard/Salvage Operation				S							S	
Kennel/Animal Day Care	S			S						R	R	S

USE	CR	NLR	RL	RR	LDR	MDR	HDR	MU	GC	LI	GI	A
Library					S			R	S			
Manufactured Housing Community							R					
Marina			S									
Mechanical Repair and Machining Facility				S						R	R	S
Medical or Dental Office								R	R			
Mine, Sand and Gravel	S			S								S
Mini/Self-Storage Facility				S					S	R	R	
Miniature Golf Course			R					R	R			
Open Air Business				S				S	S			
Park or Parkland	S	R	R	R	R							
Personal Service Establishment								R	R			
Personal Storage Building (w/o principal bldg.)	S	S	S	S								S
Place of Public Assembly, Small			S	R	R	R	R	S	S			
Place of Public Assembly, Large				S	S	S	S	S	S			
Planned Unit Development		S	S	S	S	S	S	S	S			
Private Road	S	S	R	S	R	R	R	R	R	R	R	S
Processing and Manufacturing										S	R	
Professional Office								R	R	R	R	
Professional Service Establishment									R	R	R	
Research, Laboratory and Testing										S	R	
Retail Business								R	R			
Roadside Stand				S								S
Sawmill	S			S						R	R	S
Sexually Oriented Business									S			
Solid Waste Disposal and Handling Site				S						S	S	

USE	CR	NLR	RL	RR	LDR	MDR	HDR	MU	GC	LI	GI	A
Stable/Riding Academy	R			R								R
Studio for Performing and Graphic Arts									R	R		
Subdivision/Site Condo, Conservation		S	R	S								S
Subdivision/Site Condo, Conventional		S	R	S	R	R	R	R				S
Subdivision/Site Condo, Open Space			R		R	R	R	R				
Tattoo or Piercing Parlor								S	S			
Tavern								S	R			
Theater								R	R			
Uses Similar to Uses Permitted as Special Land Uses	S	S	S	S	S	S	S	S	S	S	S	S
Veterinary Clinic	S			S				R	R	R		R
Warehouse									S	R	R	
Water Access Lot	S		S	S								
Well, Extraction	S			S						S	S	S
Wholesale Facility									S	R	R	S
Wind Energy Conversion Systems				R						S	S	R
Wireless Communication Antenna				S					S	S	S	S
Zoo	S											

**ARTICLE EIGHT
CR CONSERVATION RESERVE DISTRICT**

**ARTICLE EIGHT
CR CONSERVATION RESERVE**

SECTION 800 PURPOSE AND INTENT

The intent of this district is to protect the large tracts of environmentally sensitive and/or public lands that are crucial to the unique natural character of the County, such as the Yankee Springs State Park and the Barry and Middleville State Game Areas. This district is characterized by large tracts of woodlands, meadows, controlled preserves, wildlife areas and regulated wetlands. A large portion of land in the CR district is under public or quasi-public ownership and permanently protected. Low intensity and environmentally sensitive development will be appropriate in this district when arranged to protect the significant contributing features. When feasible, the transfer of development rights to more appropriate portions of the site, or to the county, will be encouraged.

SECTION 801 RESERVED

**SECTION 802
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Building with footprint in excess of 150% of the principal building.
- ◆ Accessory Use to a permitted use, subject to Section 504
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Farm
- ◆ Farm operation
- ◆ Governmental office
- ◆ Home Occupation, Minor
- ◆ Stables/Riding Academy

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

**SECTION 803
SPECIAL LAND USES**

- ◆ Accessory Use to a special land use, subject to Section 2306
- ◆ Convenience Store, subject to Section 2321
- ◆ Day Care, group, subject to Section 2324
- ◆ Gun and Archery Club, subject to Section 2337
- ◆ Gallery or Museum, subject to Section 2332
- ◆ Home Occupation, Major, subject to Section 2339
- ◆ Kennel, subject to Section 2343
- ◆ Mine; Sand, Gravel, subject to Section 2351
- ◆ Park or parkland, subject to Section 2356
- ◆ Personal Storage Building, subject to Section 2357
- ◆ Private Road, subject to Section 2362
- ◆ Sawmill, subject to Section 2368
- ◆ Veterinary Clinic, subject to Section 2379
- ◆ Water Access Lot, subject to Section 2381
- ◆ Wells, Extraction, subject to Section 2383
- ◆ Zoo, subject to Section 2387

**SECTION 804
DIMENSIONAL STANDARDS**

LOT AREA (sq. feet, except where noted)

Without Sewer

- ◆ With TDC 20 Acres
- ◆ Without TDC 20 Acres

With Sewer

- ◆ With TDC 20 Acres
- ◆ Without TDC 20 Acres

SETBACKS (IN FEET)

- ◆ Front 50
- ◆ Side 20
- ◆ Rear/Waterfront 20/50

WIDTH (IN FEET)

Without Sewer

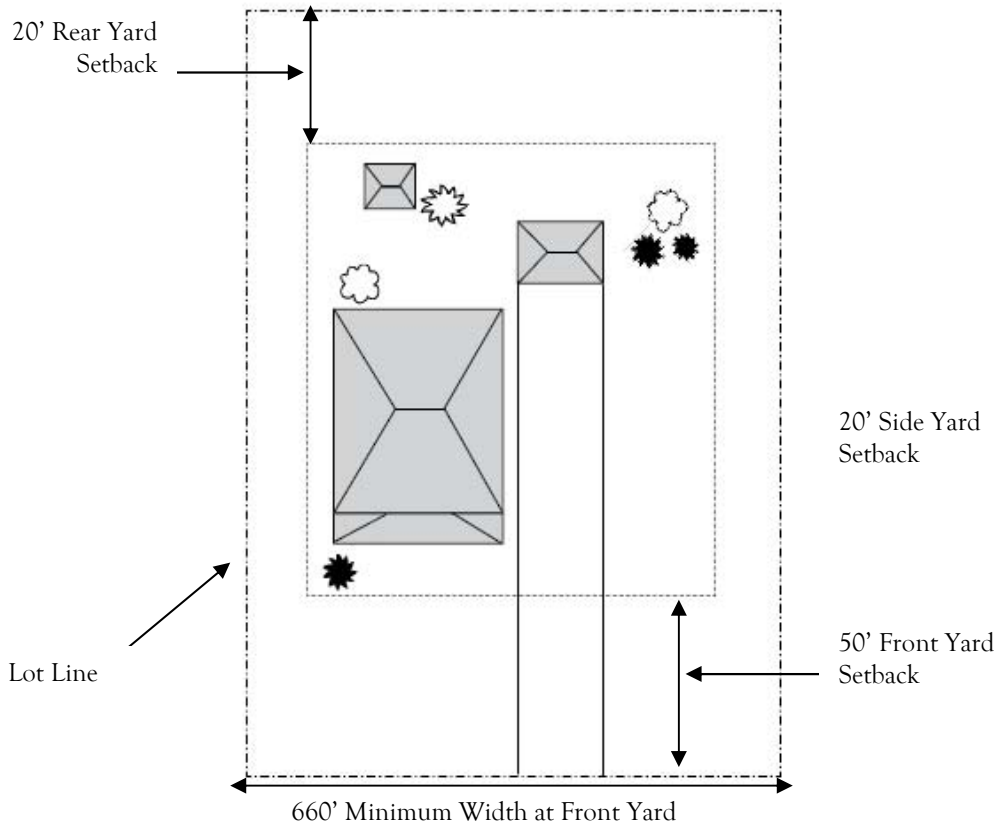
- ◆ With TDC 660
- ◆ Without TDC 660

With Sewer

- ◆ With TDC N/A
- ◆ Without TDC N/A

BUILDING HEIGHT

45 FT.



SECTION 805 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The minimum lot area in the CR Conservation-Reserve District shall be twenty (20) acres.
2. **Minimum Lot Width.** The minimum lot width shall be six hundred sixty (660) feet wide at the front setback line.
3. **Public Sewer & Water.** The CR Conservation-Reserve District does not require a public sewer or water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than fifty (20) feet in depth.
 - e. **Waterside Setback.** No building or structure shall be built closer than fifty (50) feet from the ordinary high water mark of any lake, stream or water course, excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long.
6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Five percent (5%)

ARTICLE NINE
NLR NATURAL LAKES AND RIVER DISTRICT

**ARTICLE NINE
NLR NATURAL LAKES AND RIVER**

SECTION 900 PURPOSE AND INTENT

The intent of this district is to promote the preservation of natural features around and near lakefronts that are characterized by their current natural state, to protect water quality, and regulate development that has water frontage along important bodies of water. Land in the NLR district hosts many unique ecological areas that are key characteristics of Barry County. Environmentally sensitive, low intensity land uses may be considered in this district where appropriate and when feasible, the transfer of development rights to more appropriate portions of the site, or to the county, will be encouraged.

SECTION 901 RESERVED

<p>SECTION 902 <u>PERMITTED USES</u></p> <ul style="list-style-type: none"> ◆ Accessory Building, subject to Section 501 ◆ Accessory Use to a permitted use, subject to Section 504 ◆ Day Care, Family ◆ Dwelling, Single Family ◆ Home Occupation, Minor ◆ Parks or parkland
--

<p>SECTION 903 <u>SPECIAL LAND USES</u></p> <ul style="list-style-type: none"> ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304 ◆ Accessory Use to a special land use subject to section 2306 ◆ Boat Launch, subject to section 2314 ◆ Governmental office, subject to section 2335 ◆ Home Occupation, Major, subject to section 2339 ◆ Personal Storage Building, subject to section 2357 ◆ Planned Unit Development, subject to section 2360 ◆ Private Road, subject to Section 2362 ◆ Subdivision, conservation, subject to section 2372 ◆ Subdivisions, conventional, subject to section 2373
--

<p><u>Additional Standards</u></p> <ul style="list-style-type: none"> ◆ Outdoor Lighting, subject to Section 523 ◆ Parking, subject to Section 527 ◆ Signage, subject to Article 25 ◆ Site Plan, subject to Article 27

**SECTION 904
DIMENSIONAL STANDARDS**

LOT AREA (sq. feet, except where noted)

Without Sewer

- ◆ With TDC 24,000 sq. ft.
- ◆ Without TDC 24,000 sq. ft.

With Sewer

- ◆ With TDC 24,000 sq. ft.
- ◆ Without TDC 24,000 sq. ft.

SETBACKS (IN FEET)

- ◆ Front 35
- ◆ Side 20
- ◆ Rear/Waterfront 20/30

WIDTH (IN FEET)

Without Sewer

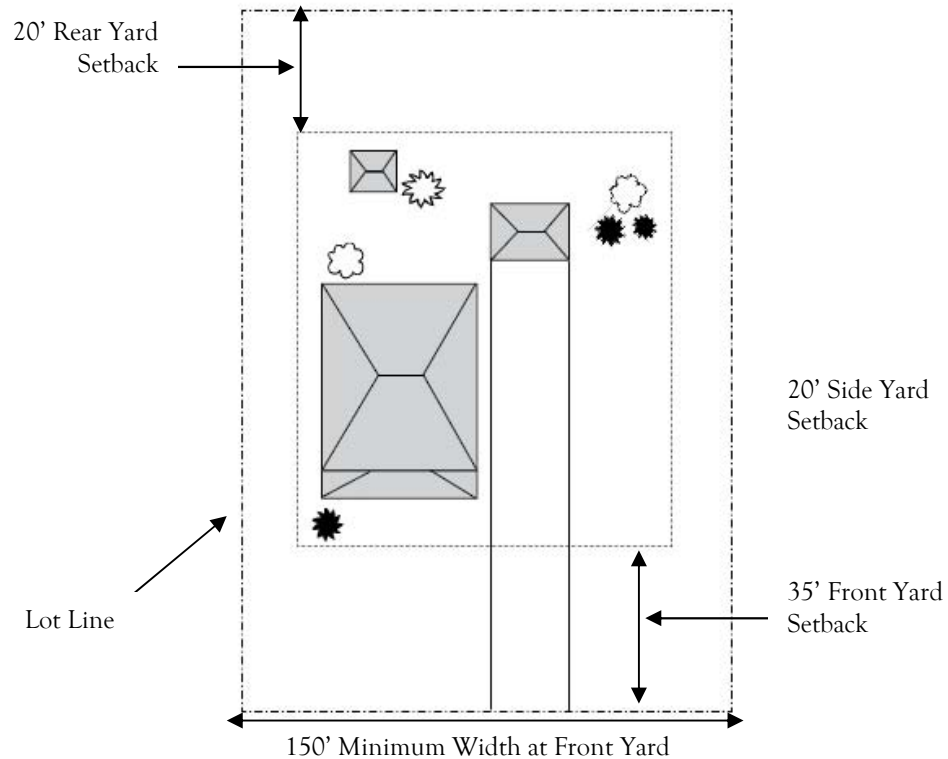
- ◆ With TDC 150
- ◆ Without TDC 150

With Sewer

- ◆ With TDC N/A
- ◆ Without TDC N/A

BUILDING HEIGHT

45



SECTION 905 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The minimum lot area in NLR Natural Lakes & Rivers District shall be twenty-four thousand (24,000) square feet.
2. **Minimum Lot Width.** The minimum lot width shall be one hundred-fifty (150) feet wide at the front setback line.
3. **Public Sewer & Water.** NLR Natural Lakes & Rivers District does not require a public sewer or water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than thirty-five (35) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
 - e. **Waterside Setback.** No building or structure shall be built closer than thirty (30) feet from the ordinary high water mark of any lake, stream or water course, excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long.
6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Ten percent (10%).

**ARTICLE TEN
RL RECREATIONAL LAKES DISTRICT**

ARTICLE TEN

RL RECREATIONAL LAKES

SECTION 1000 PURPOSE AND INTENT

The intent of this district is to promote responsible development around developing lake areas in Barry County. This district is characterized by developed or developing lakefront properties that are primarily residential in nature. Where public wastewater systems are installed or planned, greater development intensity may be considered. Development should be appropriate for the body of water on which it is located, to balance reasonable development intensity with the long-term health of the lake or stream. Where appropriate, additional regulations may be applied to protect native vegetation and wildlife, and minimize human impact.

SECTION 1001 **PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use, subject to Section 504
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Home Occupation, Minor
- ◆ Miniature Golf Course
- ◆ Parks or parkland
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, conventional

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1002 **SPECIAL LAND USES**

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Dwelling, subject to section 2305
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Bed and Breakfast, subject to section 2311
- ◆ Boat Launch, subject to section 2314
- ◆ Convenience Store, subject to section 2321
- ◆ Day care, group, subject to section 2324
- ◆ Golf course (park, private), subject to section 2334
- ◆ Governmental office, subject to section 2335
- ◆ Home Occupation, Major, subject to section 2339
- ◆ Marina, subject to section 2347
- ◆ Personal Storage Building, subject to section 2357
- ◆ Place of Public Assembly, small, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360
- ◆ Water Access Lot, subject to Section 2381

SECTION 1003 DIMENSIONAL STANDARDS

LOT AREA (sq. feet, except where noted)

Without Sewer

- ◆ With TDC 12,000
- ◆ Without TDC 12,000

With Sewer

- ◆ With TDC 8,250
- ◆ Without TDC 8,250

SETBACKS (IN FEET)

- ◆ Front 30
- ◆ Side 10
- ◆ Rear/Waterfront 20/30

WIDTH (IN FEET)

Without Sewer

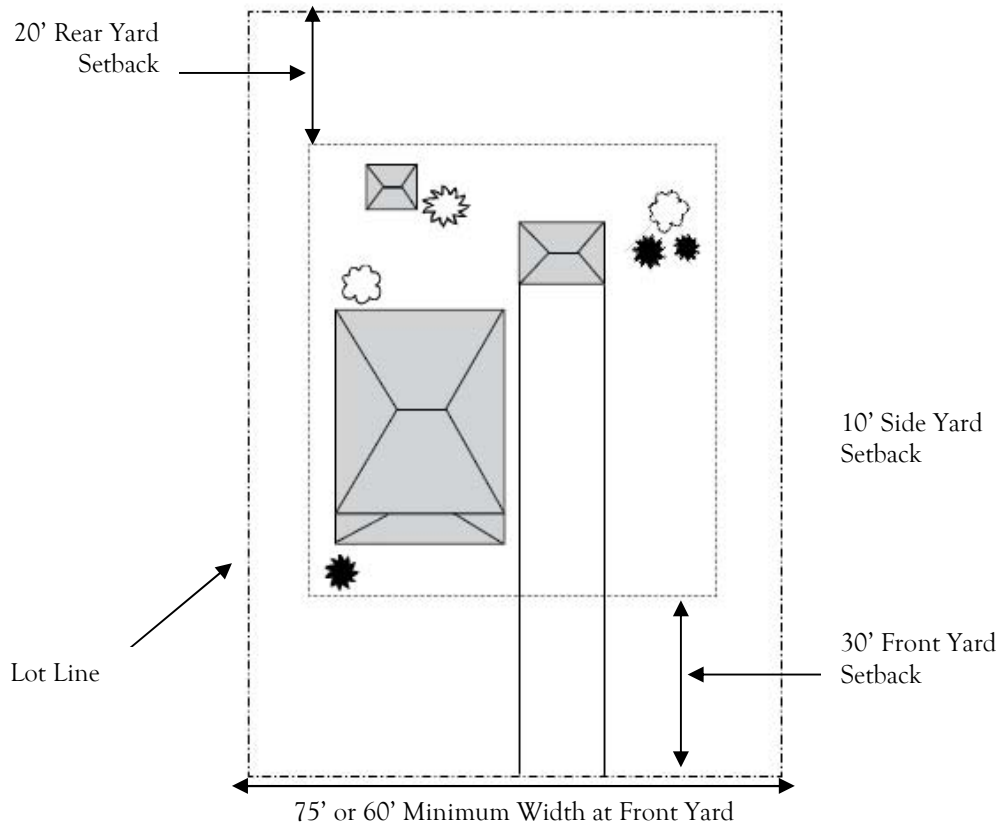
- ◆ With TDC 75
- ◆ Without TDC 75

With Sewer

- ◆ With TDC 60
- ◆ Without TDC 60

BUILDING HEIGHT (IN FEET)

- ◆ Max 45



SECTION 1004 RESERVED

SECTION 1005 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The minimum lot area in RL Recreational Lakes District shall be twelve thousand (12,000) square feet in areas not served with a sewer system, and eight thousand two hundred fifty (8,250) square feet in areas served by a sewer system.

2. **Minimum Lot Width.** The minimum lot width shall be seventy-five (75) feet at the front setback line in areas not served with a sewer system, and sixty (60) feet in areas served by a sewer system

3. **Public Sewer & Water.** The RL Recreational Lakes District does not require a public sewer or water hookup.

4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.

5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than thirty (30) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a ten (10) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
 - e. **Waterside Setback.** No building or structure shall be built closer than thirty (30) feet from the ordinary high water mark of any lake, stream or water course, excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long.

6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.

7. **Maximum Lot Coverage.** Thirty percent (30%)

ARTICLE ELEVEN
RR RURAL RESIDENTIAL DISTRICT

**ARTICLE ELEVEN
RR RURAL RESIDENTIAL**

SECTION 1100 PURPOSE AND INTENT

The intent of this district is to promote a range of low intensity land uses including low-density residential, farming and farm-related activities, light industrial and resource extraction. Those lands with important wood stands, lakes, streams or wetlands or with important wildlife or view corridors should be carefully developed to protect these contributing features, while enabling a reasonable degree of low intensity development. The transfer of development rights to more appropriate portions of the site, or the county, will be encouraged.

**SECTION 1101
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Animal Grooming Facility
- ◆ Bed and Breakfast
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Farm
- ◆ Farm Operation
- ◆ Farm Worker Housing
- ◆ Governmental Office
- ◆ Greenhouse
- ◆ Home Occupation, Minor
- ◆ Parks or parkland
- ◆ Place of Public Assembly, Small
- ◆ Stable/Riding Academy
- ◆ Wind Energy Conversion Systems

Additional Standards

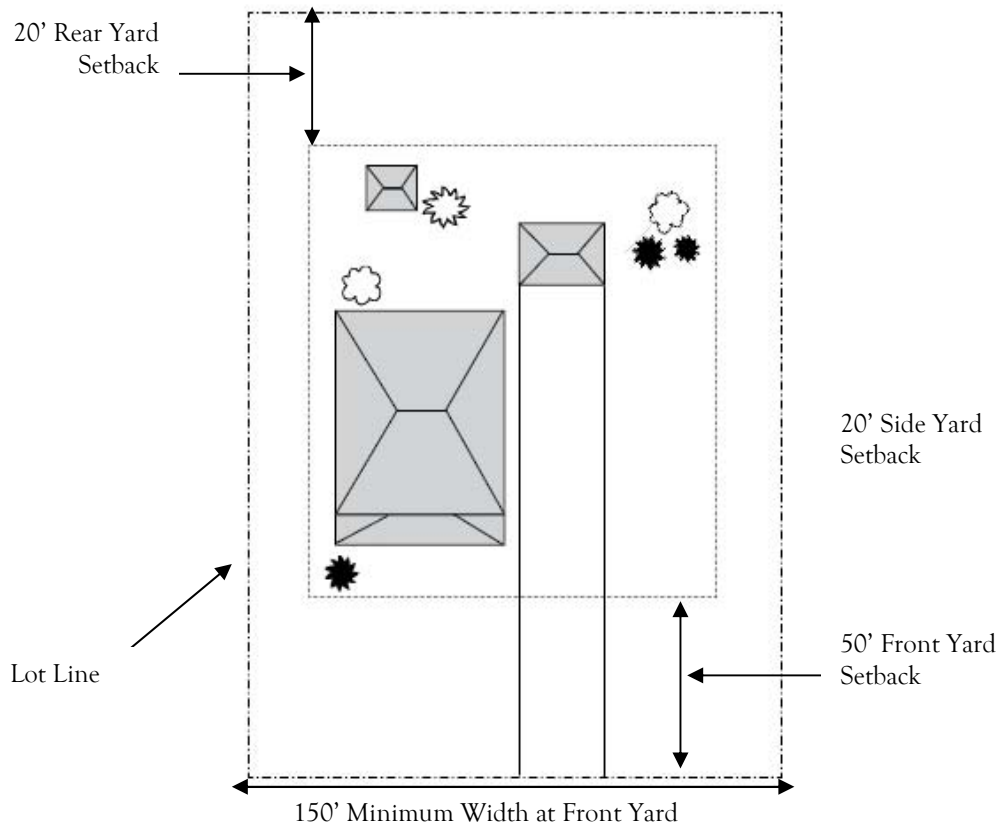
- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1102 SPECIAL LAND USES

- ◆ Accessory Dwelling, subject to Section 2305
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Airport, subject to section 2308
- ◆ Assembly Operation, subject to section 2309
- ◆ Automobile Repair, subject to section 2310
- ◆ Campground, subject to section 2315
- ◆ Cemetery, subject to section 2317
- ◆ Clinic, subject to section 2318
- ◆ Contractor’s Facility, subject to section 2319
- ◆ Convenience Store, subject to Section 2321
- ◆ Eating and Drinking Establishment, subject to section 2328
- ◆ Educational Facility, subject to section 2329
- ◆ Farm Product Processing Facility, subject to section 2330
- ◆ Gasoline Station, subject to section 2333
- ◆ Golf Course, subject to section 2334
- ◆ Gun/Archery Club, subject to Section 2337
- ◆ Home Occupation, Major, subject to section 2339
- ◆ Junkyard/Salvage Operation, subject to Section 2342
- ◆ Kennel/Animal Day Care, subject to Section 2343
- ◆ Mechanical Repair Facility, subject to Section 2349
- ◆ Mine, Sand and Gravel, subject to section 2351
- ◆ Mini/Self-Storage Facility, subject to section 2352
- ◆ Open Air Business, subject to section 2354
- ◆ Personal Storage Building, subject to section 2357
- ◆ Place of Public Assembly, Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360
- ◆ Private Road, subject to section 2362
- ◆ Roadside Stand, subject to section 2366
- ◆ Sawmill, subject to section 2368
- ◆ Solid Waste Disposal, subject to Section 2371
- ◆ Subdivision, conservation, subject to section 2372
- ◆ Subdivisions, conventional, subject to section 2373
- ◆ Veterinary Clinic, subject to section 2379
- ◆ Water Access Lot, subject to section 2381
- ◆ Well, extraction, subject to Section 2383
- ◆ Wireless communication antenna, subject to section 2386

SECTION 1103 DIMENSIONAL STANDARDS

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	1 acre	◆ With TDC	150
◆ Without TDC	1 acre	◆ Without TDC	150
With Sewer		With Sewer	
◆ With TDC	1 acre	◆ With TDC	n/a
◆ Without TDC	1 acre	◆ Without TDC	n/a
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	50	◆ Max*	45
◆ Side	20	* Excludes farm buildings	
◆ Rear/Waterfront	20/30		



SECTION 1104 RESERVED

SECTION 1105 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The minimum lot area in RR Rural Residential District shall be one (1) acre in areas.
2. **Minimum Lot Width.** The minimum lot width shall be one hundred-fifty (150) feet wide at the front setback line.
3. **Public Sewer & Water.** The RR Rural Residential District does not require a public sewer or water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
 - e. **Waterside Setback.** No building or structure shall be built closer than thirty (30) feet from the ordinary high water mark of any lake, stream or water course, excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long.
6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Twenty percent (20%).

ARTICLE TWELVE
LDR LOW DENSITY RESIDENTIAL DISTRICT

ARTICLE TWELVE LDR LOW DENSITY RESIDENTIAL

SECTION 1200 PURPOSE AND INTENT

The intent of this district is to provide for areas of suburban scale development consisting primarily of single-family detached homes. Development should occur in logical patterns in or near emerging suburban or urban areas where utilities are available or may become available in the near term. Development should be scaled for both automobile and pedestrian travel. Streets should be interconnected to enhance walkability. Development should occur near institutional and commercial services where feasible.

SECTION 1201 PERMITTED USES

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Governmental Office
- ◆ Home Occupation, Minor
- ◆ Parks or parkland
- ◆ Place of Public Assembly, Small
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, conventional

ADDITIONAL STANDARDS

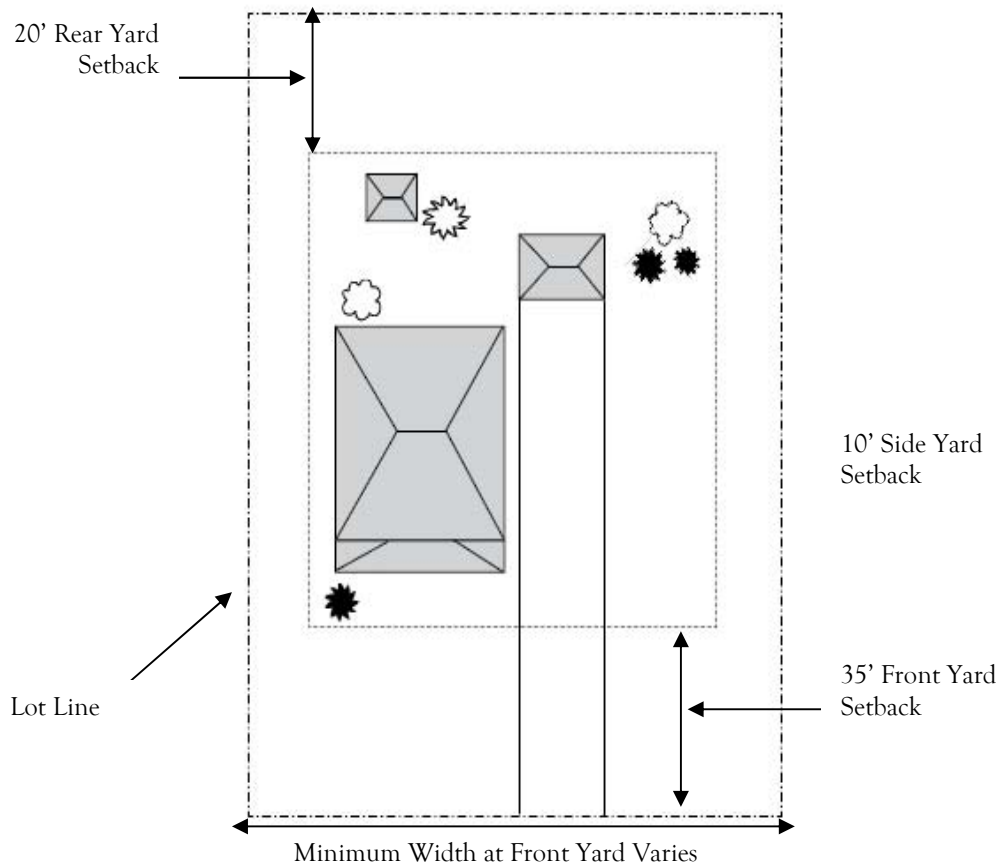
- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1202 SPECIAL LAND USES

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Adult Foster Care Facility, subject to section 2307
- ◆ Bed and Breakfast, subject to section 2311
- ◆ Cemetery, subject to section 2317
- ◆ Clinic, subject to section 2318
- ◆ Day Care, Group, subject to section 2324
- ◆ Educational Facility, subject to section 2329
- ◆ Home Occupation, Major, subject to section 2339
- ◆ Library, subject to section 2345
- ◆ Place of Public Assembly, Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360

SECTION 1203 DIMENSIONAL STANDARDS

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	10,000	◆ With TDC	90
◆ Without TDC	12,000	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	7,200	◆ With TDC	60
◆ Without TDC	9,350	◆ Without TDC	85
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	35	◆ Max	45
◆ Side	10		
◆ Rear/Waterfront	20/NA		



SECTION 1204 RESERVED

SECTION 1205 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The minimum lot area in LDR Low Density Residential District shall be ten thousand (10,000) square feet in areas without sewer systems but with Transferable Development Credits, twelve thousand (12,000) square feet in areas without sewer systems and without Transferable Development Credits, seven thousand two hundred (7,200) square feet in areas with sewer systems and with Transferable Development Credits, and nine thousand three hundred fifty (9,350) square feet in areas with sewer systems but without Transferable Development Credits..
2. **Minimum Lot Width.** The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, sixty (60) feet in areas with sewer systems and with Transferable Development Credits, and eighty-five (85) feet in areas with sewer systems but without Transferable Development Credits.
3. **Public Sewer & Water.** The LDR Low Density Residential District does not require a public sewer or water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than thirty-five (35) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a ten (10) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Twenty-five percent (25%)

ARTICLE THIRTEEN
MDR MODERATE DENSITY RESIDENTIAL DISTRICT

**ARTICLE THIRTEEN
MDR MODERATE DENSITY RESIDENTIAL**

SECTION 1300 PURPOSE AND INTENT

The intent of this district is to accommodate well-designed residential development in proximity to services for people of varying ages and income levels. Development in the MDR district may be in the form of attached or detached structures. Flexible design guidelines are encouraged to establish open space preserves and neighborhood recreational areas. Development should be scaled for both automobile and pedestrian travel. Streets should be interconnected to enhance walkability. Development should occur near recreational areas, such as parks and playgrounds, as well as institutional and commercial services. Greater densities will be encouraged through the application of transfer of development rights.

**SECTION 1301
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, Single Family
- ◆ Dwelling, two-unit
- ◆ Dwelling, Multi-Unit
- ◆ Governmental Office
- ◆ Home Occupation, Minor
- ◆ Place of Public Assembly, Small
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, Conventional

**SECTION 1302
SPECIAL LAND USES**

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Dwelling, subject to section 2305
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Adult Foster Care Facility, subject to section 2308
- ◆ Bed and Breakfast, subject to section 2311
- ◆ Boarding House, subject to section 2313
- ◆ Cemetery, subject to section 2317
- ◆ Clinic, subject to section 2318
- ◆ Day Care, Group, subject to section 2324
- ◆ Eating and Drinking establishment, subject to Section 2328
- ◆ Galleries or Museums, subject to section 2332
- ◆ Home Occupation, Major, subject to section 2339
- ◆ Place of Public Assembly, Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

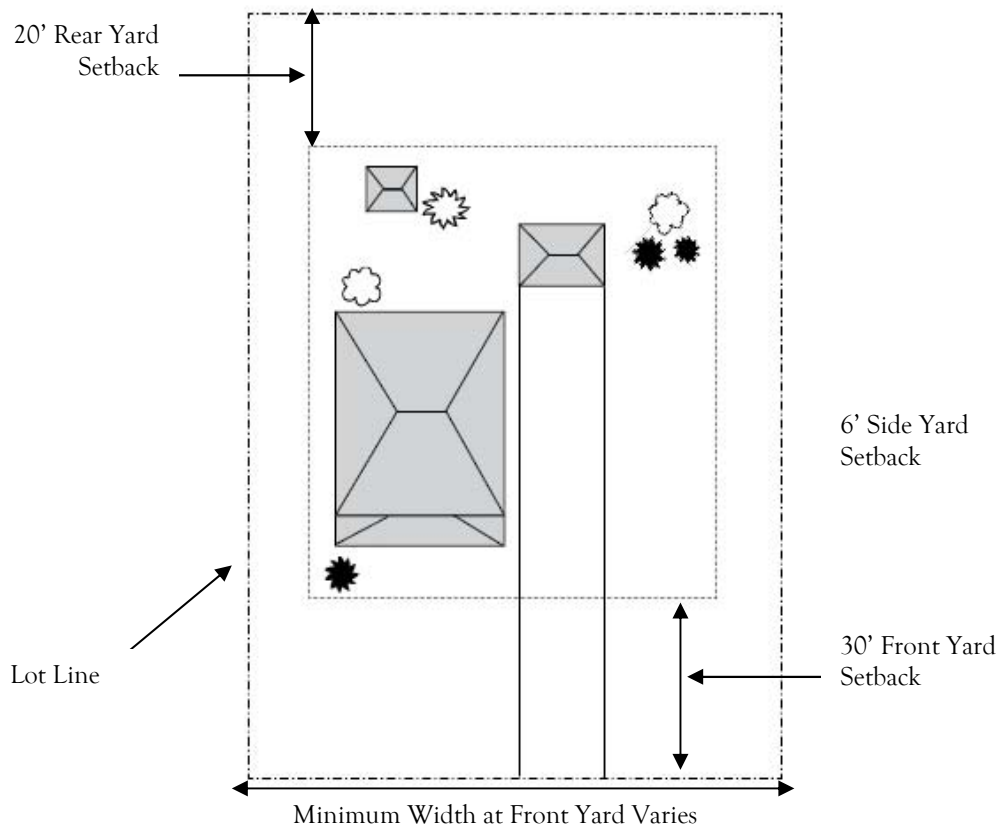
SECTION 1303 DIMENSIONAL STANDARDS

One Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	10,000	◆ With TDC	90
◆ Without TDC	12,000	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	5,000	◆ With TDC	50
◆ Without TDC	8,250	◆ Without TDC	75
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	30	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		

Two-Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	15,000	◆ With TDC	90
◆ Without TDC	18,700	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	9,000	◆ With TDC	90
◆ Without TDC	15,000	◆ Without TDC	100
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	30	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		



SECTION 1304 RESERVED

SECTION 1305 DISTRICT REGULATIONS

1. Minimum Lot Area

One Unit. The minimum lot area in the MDR Moderate Density Residential District shall be ten thousand (10,000) square feet in areas without sewer systems but with Transferable Development Credits, twelve thousand (12,000) square feet in areas without sewer systems and without Transferable Development Credits, five thousand (5,000) square feet in areas with sewer systems and with Transferable Development Credits, and eight thousand two hundred fifty (8,250) square feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot area in the MDR Moderate Density Residential District shall be fifteen thousand (15,000) square feet in areas without sewer systems but with Transferable Development Credits, eighteen thousand seven hundred (18,700) square feet in areas without sewer systems and without Transferable Development Credits, nine thousand (9,000) square feet in areas with sewer systems and with Transferable Development Credits, and fifteen thousand (15,000) square feet in areas with sewer systems but without Transferable Development Credits.

2. **Minimum Lot Width**

One Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, fifty (50) feet in areas with sewer systems and with Transferable Development Credits, and seventy-five (75) feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, ninety (90) feet in areas with sewer systems and with Transferable Development Credits, and one hundred (100) feet in areas with sewer systems but without Transferable Development Credits.

3. **Public Sewer & Water.** Public sewer and water connection shall be required to realize increased densities pursuant to Section 1303.

4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.

5. **Minimum Building Setbacks:**

- a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
- b. **Front.** Each lot shall have a front yard of not less than thirty (30) feet in depth from the right-of-way line.
- c. **Side.** All lots shall maintain a six (6) foot side yard along each side lot line.
- d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear

yard not less than twenty (20) feet in depth.

6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Thirty percent (30%)

**ARTICLE FOURTEEN
HDR HIGH DENSITY RESIDENTIAL DISTRICT**

ARTICLE FOURTEEN

HDR HIGH DENSITY RESIDENTIAL

SECTION 1400 PURPOSE AND INTENT

The intent of this district is to promote attractive and well-designed living environments in close proximity to services, possibly with limited commercial services. Where feasible, development in this district should be pedestrian oriented and well-designed, scaled for both automobile and pedestrian travel. Streets should be interconnected to enhance walkability. Development should occur near recreational areas, such as parks and playgrounds, as well as institutional and commercial services. Greater densities will be encouraged through the application of transfer of development rights.

SECTION 1401 PERMITTED USES

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Day Care, Family
- ◆ Dwelling, multiple family
- ◆ Dwelling, Single Family
- ◆ Dwelling, two-unit
- ◆ Home Occupation, Minor
- ◆ Manufactured Housing Community
- ◆ Place of Public Assembly, Small
- ◆ Private Road
- ◆ Subdivision, Open Space
- ◆ Subdivision, conventional

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1402 SPECIAL LAND USES

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Dwelling, subject to section 2305
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Adult Foster Care Facility, subject to section 2308
- ◆ Bed and Breakfast, subject to section 2311
- ◆ Boarding House, subject to section 2313
- ◆ Cemetery, subject to section 2317
- ◆ Clinic, subject to section 2318
- ◆ Convenience Store, subject to Section 2321
- ◆ Day Care, Group, subject to section 2324
- ◆ Galleries or Museums, subject to section 2332
- ◆ Governmental Office, subject to section 2335
- ◆ Home Occupation, Major, subject to Section 2339
- ◆ Place of Public Assembly, Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360

SECTION 1403
DIMENSIONAL STANDARDS

One Unit

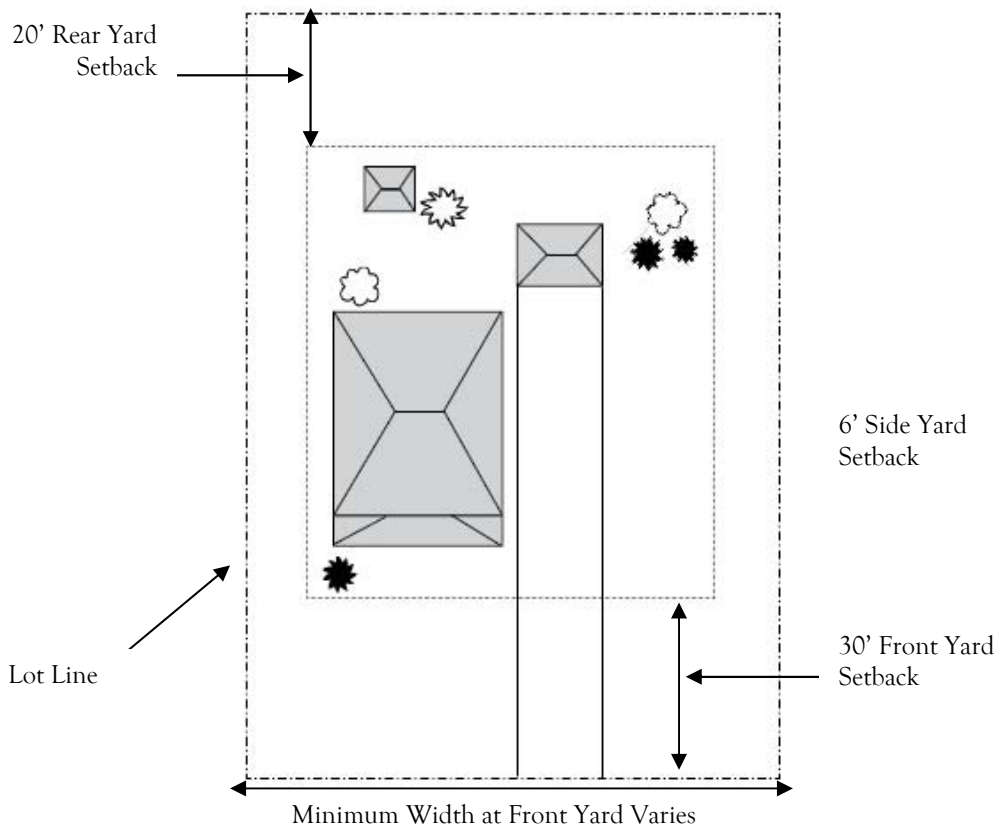
<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	10,000	◆ With TDC	90
◆ Without TDC	12,000	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	5,000	◆ With TDC	50
◆ Without TDC	8,250	◆ Without TDC	75
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	30	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		

Two-Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	15,000	◆ With TDC	90
◆ Without TDC	18,700	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	9,000	◆ With TDC	90
◆ Without TDC	15,000	◆ Without TDC	100
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	30	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		

Multiple-Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	N/A	◆ With TDC	N/A
◆ Without TDC	N/A	◆ Without TDC	N/A
With Sewer		With Sewer	
◆ With TDC	2,000/DU	◆ With TDC	90
◆ Without TDC	5,000/DU	◆ Without TDC	100
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	30	◆ Max	50
◆ Side	6		
◆ Rear/Waterfront	20/NA		



SECTION 1404 RESERVED

SECTION 1405 DISTRICT REGULATIONS

1. **Minimum Lot Area**

One Unit. The minimum lot area in the HDR High Density Residential District shall be ten thousand (10,000) square feet in areas without sewer systems and with Transferable Development Credits, and twelve thousand (12,000) square feet in areas without sewer systems and without Transferable Development Credits, five thousand (5,000) square feet in areas with sewer systems and with Transferable Development Credits, and eight thousand two hundred fifty (8,250) square feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot area in the HDR High Density Residential District shall be fifteen thousand (15,000) square feet in areas without sewer systems but with Transferable Development Credits, eighteen thousand seven hundred (18,700) square feet in areas without sewer systems and without Transferable Development Credits, nine thousand (9,000) square feet in areas with sewer systems and with Transferable Development Credits, and fifteen thousand (15,000) square feet in areas with sewer systems but without Transferable Development Credits.

Multiple Unit. The minimum lot area in the HDR High Density Residential District shall be two thousand (2,000) square feet per dwelling unit in areas with sewer systems and with Transferable Development Credits, and five thousand (5,000) square feet per dwelling unit in areas with sewer systems but without Transferable Development Credits.

2. **Minimum Lot Width**

One Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, fifty (50) feet in areas with sewer systems and with Transferable Development Credits, and seventy-five (75) feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, ninety (90) feet in areas with sewer systems and with Transferable Development Credits, and one hundred (100) feet in areas with sewer systems but without Transferable Development Credits.

- Multiple Unit.** The minimum lot width shall be ninety (90) feet with Transferable Development Credits, one hundred (100) feet in areas without Transferable Development Credits.
3. **Public Sewer & Water.** Multiple-unit structures in the HDR High Density Residential District require a public sewer and water hookup.
 4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for multiple-unit dwellings or for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
 5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than thirty (30) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a six (6) foot side yard along each side lot line.
 - d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
 6. **Minimum Floor Area.** All dwellings shall contain a minimum of six hundred (600) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
 7. **Maximum Lot Coverage.** Forty percent (40%)

**ARTICLE FIFTEEN
MU MIXED USE DISTRICT**

**ARTICLE FIFTEEN
MU MIXED USE**

SECTION 1500 PURPOSE AND INTENT

The intent of the Mixed Use district is to promote well-designed neighborhoods including residential, commercial, and institutional uses, allowing for flexible development of both attached and detached dwellings. This district should offer walkable living and shopping opportunities when residential and commercial uses are safely linked with sidewalks, trail or pathways. Neighborhoods should be designed for the pedestrian rather than the automobile. Greater densities will be encouraged through the application of transfer of development rights.

**SECTION 1501
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Animal Grooming Facility
- ◆ Catering Establishment
- ◆ Convenience Store
- ◆ Day Care, Family
- ◆ Dwelling, multiple family
- ◆ Dwelling, Single Family
- ◆ Dwelling, two-unit
- ◆ Eating and Drinking Establishment
- ◆ Financial institution
- ◆ Home Occupation, Minor
- ◆ Hotel/Motel
- ◆ Library
- ◆ Medical / Dental Office
- ◆ Miniature Golf Course
- ◆ Personal Service Establishment
- ◆ Private Road
- ◆ Professional Office
- ◆ Retail business
- ◆ Subdivision, Open Space
- ◆ Subdivision, conventional
- ◆ Theater
- ◆ Veterinary Clinic

**SECTION 1502
SPECIAL LAND USES**

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Dwelling, subject to section 2305
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Adult Foster Care Facility, subject to section 2307
- ◆ Bed and Breakfast, subject to section 2311
- ◆ Boarding House, subject to section 2313
- ◆ Car Wash, subject to section 2316
- ◆ Clinic, subject to section 2318
- ◆ Day Care, Commercial, subject to section 2323
- ◆ Day care, Group, subject to section 2324
- ◆ Drive-through Business, subject to section 2326
- ◆ Gasoline Station, subject to section 2333
- ◆ Governmental Office, subject to section 2335
- ◆ Home Occupation, Major, subject to section 2339
- ◆ Hospital, subject to section 2340
- ◆ Open Air Business, subject to Section 2354
- ◆ Place of Public Assembly, Small and Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360
- ◆ Tattoo or Piercing Parlor, subject to section 2375
- ◆ Tavern, subject to section 2376

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1503 DIMENSIONAL STANDARDS

Residential – One Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	10,000	◆ With TDC	90
◆ Without TDC	12,000	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	5,000	◆ With TDC	50
◆ Without TDC	8,250	◆ Without TDC	75
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	20	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		

Residential – Two Unit

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Without Sewer		Without Sewer	
◆ With TDC	15,000	◆ With TDC	90
◆ Without TDC	18,700	◆ Without TDC	100
With Sewer		With Sewer	
◆ With TDC	9,000	◆ With TDC	90
◆ Without TDC	15,000	◆ Without TDC	100
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	20	◆ Max	45
◆ Side	6		
◆ Rear/Waterfront	20/NA		

Commercial, Multiple-Unit Dwellings or Institutional

<u>LOT AREA (sq. feet, except where noted)</u>	<u>WIDTH (IN FEET)</u>
Lesser of 60% lot coverage or 15,000 square feet building envelope ⁱ	4:1 depth-to-width ratio
<u>SETBACKS (IN FEET)</u>	<u>BUILDING HEIGHT (IN FEET)</u>
◆ Front 0	◆ Max 50
◆ Side 0 or 6	
◆ Rear/Waterfront 20/NA	
¹ The development density may be increased through a PUD with a minimum of 20 acquired development credits	

SECTION 1504 RESERVED

SECTION 1505 DISTRICT REGULATIONS

1. **Minimum Lot Area**

One Unit. The minimum lot area in the MU Mixed Use District shall be ten thousand (10,000) square feet in areas without sewer systems but with Transferable Development Credits, twelve thousand (12,000) square feet in areas without sewer systems and without Transferable Development Credits, five thousand (5,000) square feet in areas with sewer systems and with Transferable Development Credits, and eight thousand two hundred fifty (8,250) square feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot area in the MU Mixed Use District shall be fifteen thousand (15,000) square feet in areas without sewer systems but with Transferable Development Credits, eighteen thousand seven hundred (18,700) square feet in areas without sewer systems and without Transferable Development Credits, nine thousand (9,000) square feet in areas with sewer systems and with Transferable Development Credits, and fifteen thousand (15,000) square feet in areas with sewer systems but without Transferable Development Credits.

Commercial or Institutional. The minimum lot area in the MU Mixed Use District shall be sixty percent (60%) lot coverage or fifteen thousand (15,000) square feet building footprint, whichever is less.

2. **Minimum Lot Width**

One Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, fifty (50) feet in

areas with sewer systems and with Transferable Development Credits, and seventy-five (75) feet in areas with sewer systems but without Transferable Development Credits.

Two Unit. The minimum lot width shall be ninety (90) feet in areas without sewer systems but with Transferable Development Credits, one hundred (100) feet in areas without sewer systems and without Transferable Development Credits, ninety (90) feet in areas with sewer systems and with Transferable Development Credits, and one hundred (100) feet in areas with sewer systems but without Transferable Development Credits.

Commercial or Institutional. The minimum lot width shall be such that a depth-to-width ratio no greater than four-to-one (4:1) is achieved.

3. **Public Sewer & Water.** Commercial or Institutional uses in the MU Mixed Use District require a public sewer and water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for multiple-unit dwellings or for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding fifty (50) feet if first approved by the Planning Commission.
5. **Minimum Building Setbacks:**

RESIDENTIAL

- a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
- b. **Front.** Each lot shall have a front yard of not less than twenty (20) feet in depth from the right-of-way line.
- c. **Side.** All lots shall maintain a six (6) foot side yard along each side lot line.
- d. **Rear.** Every dwelling or other principal building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.

COMMERCIAL OR INSTITUTIONAL

- a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
- b. **Front.** There is no minimum front yard setback required for commercial or institutional uses.
- c. **Side.** All lots shall maintain a six (6) foot side yard along each side lot line, unless constructed with a common wall, in which case the side setback shall be 0 feet.

- d. **Rear.** Every structure building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
6. **Minimum Floor Area.** All dwellings shall contain a minimum of six hundred (600) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Sixty percent (60%).

ARTICLE SIXTEEN
GC GENERAL COMMERCIAL DISTRICT

ARTICLE SIXTEEN

GC GENERAL COMMERCIAL

SECTION 1600 PURPOSE AND INTENT

The intent of this district is to promote a broad range of regional-scale wholesale and commercial uses with special standards for particular uses in specific areas. Development should occur in logical patterns in or near emerging suburban or urban areas or village centers where utilities are available and along key travel corridors. Design standards should be employed to avoid sprawling linear patterns.

SECTION 1601 PERMITTED USES

- ◆ Accessory Building, subject to section 501
- ◆ Accessory Use to a permitted use
- ◆ Animal Grooming Facility
- ◆ Automobile Repair Facility
- ◆ Car wash
- ◆ Catering Establishment
- ◆ Clinic
- ◆ Convenience Store
- ◆ Day Care, Commercial
- ◆ Dry-Cleaning/Laundry Establishment
- ◆ Eating and Drinking Establishment
- ◆ Financial institution
- ◆ Funeral Home/Mortuary
- ◆ Gasoline Station
- ◆ Governmental Offices
- ◆ Hotel/Motel
- ◆ Medical / Dental Office
- ◆ Miniature Golf Course, subject to Section
- ◆ Personal Service Establishment
- ◆ Private Road
- ◆ Professional office
- ◆ Professional Service Establishment
- ◆ Retail business
- ◆ Studio for Performing and Graphic Arts
- ◆ Tavern
- ◆ Theater
- ◆ Veterinary Clinic

SECTION 1602 SPECIAL LAND USES

- ◆ Accessory Building with footprint in excess of 150% of the principal building, subject to Section 2304
- ◆ Accessory Use to a special land use, subject to section 2306
- ◆ Adult foster care facility, subject to section 2308
- ◆ Drive-through Business, subject to section 2326
- ◆ Greenhouse, subject to section 2336
- ◆ Library, subject to section 2345
- ◆ Mini/Self-Storage Facility, subject to section 2352
- ◆ Open air business, subject to section 2354
- ◆ Place of public assembly, Small and Large, subject to section 2359
- ◆ Planned Unit Development, subject to section 2360
- ◆ Sexually oriented business, subject to section 2369
- ◆ Tattoo or Piercing Parlor, subject to section 2375
- ◆ Warehouse, subject to section 2380
- ◆ Wholesale facility, subject to section 2384
- ◆ Wireless Communication Antenna, subject to section 2386

SECTION 1603 DIMENSIONAL STANDARDS

LOT AREA (sq. feet, except where noted)

WIDTH (IN FEET)

60% lot coverage

4:1 depth-to-width ratio

SETBACKS (IN FEET)

BUILDING HEIGHT (IN FEET)

- ◆ Front 50
- ◆ Side 20
- ◆ Rear 40

- ◆ 50

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 523
- ◆ Site Plan, subject to Article 527

SECTION 1504 RESERVED

SECTION 1505 DISTRICT REGULATIONS

1. **Minimum Lot Area.** The structures in the GC General Commercial District shall occupy not more than sixty percent (60%) of the area of the lot on which it is located.
2. **Minimum Lot Width.** The minimum lot width shall be such that a depth-to-width ratio no greater than four-to-one (4:1) is achieved.
3. **Public Sewer & Water.** The GC General Commercial District requires a public sewer and water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of fifty (50) feet, subject to site plan approval.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.

- b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 - . **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every structure building hereafter erected shall have a rear yard not less than forty (40) feet in depth.
6. **Maximum Lot Coverage.** Sixty percent (60%).

**ARTICLE SEVENTEEN
LI LIGHT INDUSTRIAL DISTRICT**

**ARTICLE SEVENTEEN
LI LIGHT INDUSTRIAL**

SECTION 1700 PURPOSE AND INTENT

The intent of this district is to promote low-intensity manufacturing, assembly, warehousing, contracting, service, and open air and enclosed uses. Development in this district should include the use of design standards and specific site design criteria, including signage, landscaping, lighting, site utilization, access control and building façade design.

**SECTION 1701
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Use to a permitted use
- ◆ Assembly Operation
- ◆ Auto Repair Facility
- ◆ Contractor’s facility
- ◆ Dry Cleaning and Laundry
- ◆ Financial Institution
- ◆ Gasoline Station
- ◆ Governmental Offices
- ◆ Kennel/Animal Day Care
- ◆ Mechanical Repair and Machining Operation
- ◆ Mini self-storage
- ◆ Private Road
- ◆ Professional Offices
- ◆ Studio for Performing and Graphic Arts
- ◆ Professional Service Establishment
- ◆ Sawmill
- ◆ Veterinary Clinic
- ◆ Warehouse
- ◆ Wholesale Facility

**SECTION 1702
SPECIAL LAND USES**

- ◆ Accessory Use to a special land use, subject to Section 2306
- ◆ Drive-through Business, subject to Section 2326
- ◆ Processing and manufacturing, subject to Section 2363
- ◆ Research, laboratory and testing , subject to Section 2365
- ◆ Solid waste disposal and handling site, subject Section 2371
- ◆ Well, Extraction, subject to Section 2383
- ◆ Wind Energy Conversion System, subject to Section 2385
- ◆ Wireless Communication Antenna, subject to Section 2386

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1703 DIMENSIONAL STANDARDS

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Governed by width and setback		100' and 4:1 depth-to-width ratio	
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	50	◆ Max	45
◆ Side	20		
◆ Rear	20		

SECTION 1704 RESERVED

SECTION 1705 DISTRICT REGULATIONS

1. **Minimum Lot Area.** None, provided the minimum lot width, depth to width ratio and front, side and rear yard setback requirements of the district are met.
2. **Minimum Lot Width.** The minimum lot width shall be at least one hundred feet and such that a depth-to-width ratio of no greater than four-to-one (4:1) is achieved.
3. **Public Sewer & Water.** The LI Light Industrial District requires a public sewer and water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every structure building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
6. **Maximum Lot Coverage.** Thirty percent (30%).

**ARTICLE EIGHTEEN
GI GENERAL INDUSTRIAL DISTRICT**

**ARTICLE EIGHTEEN
GI GENERAL INDUSTRIAL**

SECTION 1800 PURPOSE AND INTENT

The intent of this district is to promote economic development and job creation in material processing and manufacturing and assembly operations. Development in this district should include the use of design standards and specific site design criteria, including signage, landscaping, lighting, site utilization, access control and building façade design. Development in the GI district should generally be served with public water and wastewater systems and good, all-season transportation linkages.

**SECTION 1801
PERMITTED USES**

- ◆ Accessory Building, subject to Section 501
- ◆ Accessory Building with footprint greater than principal building
- ◆ Accessory Use to a permitted use
- ◆ Assembly operation
- ◆ Automobile repair facility
- ◆ Contractor’s facility
- ◆ Farm Product Processing facility
- ◆ Kennel/Animal Day Care
- ◆ Mechanical Repair and Machining Operation
- ◆ Mini self storage
- ◆ Private Road
- ◆ Processing and Manufacturing
- ◆ Professional Offices
- ◆ Professional Service Establishment
- ◆ Research, laboratory and testing
- ◆ Sawmill
- ◆ Warehouse
- ◆ Wholesale Facility

**SECTION 1802
SPECIAL LAND USES**

- ◆ Accessory Use to a special land use, subject to Section 2306
- ◆ Junkyard/Salvage Operation, subject to Section 2342
- ◆ Solid Waste Disposal Site, subject to Section 2371
- ◆ Well, Extraction, subject to Section 2383
- ◆ Wind Energy Conversion Systems, subject to Section 2385
- ◆ Wireless Communication Antenna, subject to Section 2386

ADDITIONAL STANDARDS

- ◆ Outdoor Lighting, subject to Section 523
- ◆ Parking, subject to Section 527
- ◆ Signage, subject to Article 25
- ◆ Site Plan, subject to Article 27

SECTION 1803 DIMENSIONAL STANDARDS

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Governed by width and setback		200' & Max. 4:1 depth-to-width ratio	
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	50	◆ Max	45
◆ Side	20		
◆ Rear	20		

SECTION 1804 RESERVED

SECTION 1805 DISTRICT REGULATIONS

1. **Minimum Lot Area.** None, provided the minimum lot width, depth to width ratio and front, side and rear yard setback requirements of the district are met.
2. **Minimum Lot Width.** The minimum lot width shall be at least two hundred (200) feet and such that a depth-to-width ratio of no greater than four-to-one (4:1) is achieved.
3. **Public Sewer & Water.** The GI General Industrial District requires a public sewer and water hookup.
4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet.
5. **Minimum Building Setbacks:**
 - a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 - b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 - c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
 - d. **Rear.** Every structure building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
6. **Maximum Lot Coverage.** Thirty percent (30%).

**ARTICLE NINETEEN
A - AGRICULTURE DISTRICT**

**ARTICLE NINETEEN
A - AGRICULTURE**

SECTION 1900 PURPOSE AND INTENT

The purpose of this district is to promote field crop, conventional livestock, and related farming activities as well as agriculture support activities, including commodity sales, supply, transport and processing operations and extraction. The Agriculture district is characterized by large tracts of lands devoted to agricultural uses or related activities, and contains some of the best agricultural soils in the region. Large-scale residential uses are not anticipated in this district, but may be permitted on non-farming sites and located so as to minimize conflicts with farming activities. The transfer of development rights to more appropriate portions of the site, or to the county, will be encouraged.

SECTION 1901 RESERVED

- | |
|--|
| <p>SECTION 1902
PERMITTED USES</p> <ul style="list-style-type: none"> ◆ Accessory building, subject to Section 501 ◆ Accessory building with footprint greater than principal building ◆ Accessory Use to a permitted use ◆ Animal Grooming facility ◆ Dwelling, single family ◆ Farm ◆ Farm operation ◆ Farm Product Processing ◆ Farm Worker Housing ◆ Governmental Office ◆ Greenhouse ◆ Home Occupation, Minor ◆ Stable and Riding Academy ◆ Veterinary Clinic ◆ Wind Energy Conversion System |
|--|

- | |
|---|
| <p>SECTION 1903
SPECIAL LAND USES</p> <ul style="list-style-type: none"> ◆ Accessory Dwelling, subject to Section 2305 ◆ Accessory Use to a special land use, subject to Section 2306 ◆ Airport, subject to Section 2308 ◆ Assembly Operation, subject to Section 2309 ◆ Cemetery, subject to Section 2317 ◆ Clinic, subject to Section 2318 ◆ Gun/Archery Club, subject to Section 2337 ◆ Home Occupation, Major, subject to Section 2339 ◆ Kennel/Animal Day Care, subject to Section 2343 ◆ Mechanical Repair, subject to Section 2349 ◆ Mine, Sand and Gravel, subject to Section 2351 ◆ Personal Storage Building, subject to Section 2357 ◆ Private Road, subject to Section 2362 ◆ Roadside Stand, subject to Section 2366 ◆ Sawmill, subject to Section 2368 ◆ Subdivision, conservation, subject to Section 2372 ◆ Subdivision, conventional, subject to Section 2373 ◆ Well, extraction, subject to Section 2383 ◆ Wholesale Facility, subject to Section 2384 ◆ Wireless Communication Antenna, subject to Section 2386 |
|---|

- | |
|--|
| <p>ADDITIONAL STANDARDS</p> <ul style="list-style-type: none"> ◆ Outdoor Lighting, subject to Section 523 ◆ Parking, subject to Section 527 ◆ Signage, subject to Article 25 ◆ Site Plan, subject to Article 27 |
|--|

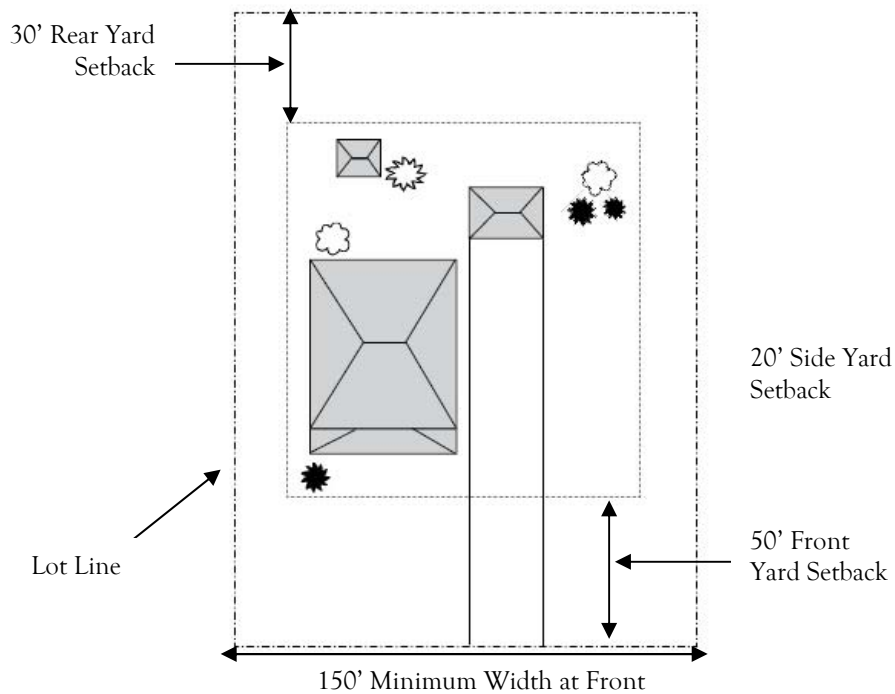
SECTION 1904 DIMENSIONAL STANDARDS

Farms

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Minimum: 1 acre Maximum: None		◆ Min.	150
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	50	◆ 45 ft. Max; None for farm buildings	
◆ Side	20		
◆ Rear/Waterfront	20/30		

Non-Farm uses

<u>LOT AREA (sq. feet, except where noted)</u>		<u>WIDTH (IN FEET)</u>	
Minimum: 1 acre Maximum: 2 acres (subject to adoption and implementation of a Transferable Development Rights program pursuant to Section 542)		◆ Min.150 & Max. 4:1 depth to width ratio	
<u>SETBACKS (IN FEET)</u>		<u>BUILDING HEIGHT (IN FEET)</u>	
◆ Front	50	◆ Max.	45
◆ Side	20		
◆ Rear/Waterfront	20/30		



SECTION 1905 DISTRICT REGULATIONS

1. **Minimum Lot Area.**

Farms: The minimum lot area in Agriculture District shall be one (1) acre.

Non-Farm Uses. The minimum lot area in Agricultural District shall be one (1) acre, and for non-farm uses the maximum area shall be two (2) acres; provided, that a larger maximum may be permitted if

- a. The area in excess of two acres is restricted from development through a conservation easement recognized through a Transferable Development Rights program pursuant to Section 542, or other restriction satisfactory to the Planning Commission to assure against an expansion of residential land uses that would undermine the intent of the CR and A districts; or
- b. If no transferable Development Rights program has been adopted pursuant to Section 542, the maximum lot area requirements of this Section shall be waived.

2. **Minimum Lot Width.** The minimum lot width shall be at least one hundred-fifty (150) feet.

3. **Public Sewer & Water.** Connection to a public sewer and/or water system shall not be required in the Agriculture District.

4. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty-five (45) feet, except that buildings and structures permitted in this district under this Ordinance for non-dwelling purposes may be erected, altered or moved on any land or premises in this district to any height.

5. **Minimum Building Setbacks:**

- a. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
- b. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
- c. **Side.** All lots shall maintain a twenty (20) foot side yard along each side lot line.
- d. **Rear.** Every structure building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
- e. **Waterside Setback.** No building or structure shall be built closer than thirty (30) feet from the ordinary high water mark of any lake, stream or water course,

excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long.

6. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
7. **Maximum Lot Coverage.** Ten percent (10%).

**ARTICLE TWENTY
FLOOD HAZARD OVERLAY**

ARTICLE TWENTY FLOOD HAZARD OVERLAY

SECTION 2000 PURPOSE AND INTENT

It is the purpose of the Article to significantly reduce hazards to persons and damage to property as a result of flood conditions in Barry County, and to comply with the provisions and requirements of the Natural Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactment and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44 FR 31177, May 31, 1979. Further, the objectives of this Article include:

- A. The protection of human life, health and property from the dangerous and damaging effects of flood conditions.
- B. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair or flood damaged public facilities and utilities, and redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas.
- C. The prevention of private and public economic loss and social disruption as a result of flood conditions.
- D. The maintenance of stable development patterns not subject to the blighting influence of flood damage.
- E. To ensure that the public has access to information indicating the location of land areas subject to periodic flooding.
- F. To preserve the ability of floodplains to carry and discharge a base flood.

SECTION 2001 DELINEATION OF THE FLOOD HAZARD OVERLAY ZONE

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official Barry County Zoning Map. The boundaries of the flood hazard area zone (zone A) shall coincide with the boundaries of the area of special flood hazard designated by FEMA in flood insurance studies and flood hazard boundary maps for certain communities or from other floodplain data for Barry County. The most recent Flood Insurance Study for Castleton Township and other designated townships and other available floodplain data for Castleton Township, Barry County is adopted by reference, appended and declared to be a part of this Ordinance. The term “flood hazard area” is used in this Ordinance shall mean the designated regulatory floodway.
- B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute in accordance with Article 31.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Article shall be necessary

for all development occurring within the flood hazard area zone. Conflicts between the requirements of this Article and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this Article 20, except where the conflicting requirement is more stringent and would further the objectives of this Article. In such cases the more stringent requirement shall be applied.

SECTION 2002 DEVELOPMENT

Development, including the erection of structures and placement of manufactured homes, within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accordance with the requirements of Article 30:

- A. The requirements of this Article shall be met;
- B. The requirements of the underlying zoning districts and applicable general provisions of this Ordinance shall be met;
- C. All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit approval, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 197, Public Acts 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

SECTION 2003 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

- A. All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and manufactured homes shall:
 - 1. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - 2. Be constructed with materials and utility equipment resistant to flood damage;
 - 3. Be constructed by methods and practices that minimize flood damage;
- B. All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems;
 - 1. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding;
 - 2. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage;
 - 3. Adequate drainage shall be provided to reduce exposure to flood hazards;

4. The Barry County Building Official or his representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his determination to the Zoning Administrator or Assistant Zoning Administrator;
5. Land shall not be divided in a manner creating parcels or lots, which cannot be used in conformance with the requirements of this Article;
6. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained;
7. Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.

SECTION 2004 SPECIFIC BASE FLOOD ELEVATION STANDARDS

- A. On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:
 1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
 2. All new construction and substantial improvements of non-residential structures shall have either:
 - a. The lowest floor, including basement, elevated to or above the base flood level, or
 - b. Be constructed such that at or above base flood level, together with attendant utility sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and the hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in section and shall indicate the elevation to which to structure is floodproofed.
- B. The most recent base flood elevation data received from FEMA shall take precedence over data from other sources.

SECTION 2005 MANUFACTURED HOME STANDARDS

- A. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 1. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per site at intermediate locations, except that on manufactured homes less than fifty (50) feet in length one (1) tie per side shall be required.

2. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on manufactured homes less than fifty (50) feet in length four (4) ties per side shall be required.
 3. All components of the anchoring system shall be capable of carrying a force of four thousand-eight hundred (4,800) pounds (lbs.).
 4. All additions to a manufactured home shall be similarly anchored.
- B. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with Barry County Emergency Management for manufactured home parks and manufactured home subdivisions.
- C. New manufactured homes, manufactured home parks and manufactured home subdivisions shall be prohibited within zones AI-30 on the FIRM. With regard to manufactured homes, manufactured home parks and manufactured home subdivisions in existence at the time this subsection is adopted and located within zones AI-30 on the Flood Insurance Rate Map and where repair, reconstruction or improvement of streets, utilities and pads equal or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, the following standards shall be met:
1. All manufactured homes shall be placed on stands or lots, which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level.
 2. Adequate surface drainage away from all structures and access for a manufactured home hauler shall be provided.
 3. In the instance of elevation on piling, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for piers more than six (6) feet above ground level.

SECTION 2006 FLOODPLAIN PROTECTION STANDARDS

- A. New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered AI-30 on the FIRM, except where it is demonstrated to the Zoning Administrator that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, in compliance with Public Act 245 of 1929, as amended by Public Act 167 of 1968, shall be required, provided that the allowable increase shall not exceed one (1) foot. The placement of manufactured homes shall be prohibited except by variance.
- B. All development occurring within the regulatory floodway shall comply with the following standards.
1. Encroachment, including fill, new construction, substantial improvements and other development shall be prohibited. Exception to this prohibition shall only be made upon

certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968.

2. Development which is permitted in the regulatory floodway shall meet the requirements of **Sections 2002 and 2005.**
- C. The uses of land permitted in underlying zoning districts shall be construed as being permitted within the regulatory floodway, except upon compliance with the provisions on this section.

SECTION 2007 DISCLAIMER OF LIABILITY

- A. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. This Ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This Ordinance does not create liability on the part of Barry County or any officer or employees thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- B. The Building Inspector shall obtain, review, and reasonably utilize flood elevation data available from federal, state, or other sources pending receipt of data from the Federal Emergency Management Agency. The most recent flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.
- C. The Building Inspector shall ensure that all necessary permits have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 245, P.A. 1929, as amended by Act 167, P.A. 1968.
- D. The Building Inspector shall review all permit applications to determine whether the proposed building will be reasonably safe from flooding. Where it is determined that the building will be located in an area subject to flooding as identified in Section 2, the Building Inspector shall implement the appropriate portions of the 1986 Supplement to Section 1313.0 of the 1984 edition of the BOCA Basic/Natural Building Code entitled Flood Resistant Construction; or the appropriate portions of Section 2102.0 - Flood Resistant Construction of the 1987 edition of the BOCA Basic/National Building Code; or the appropriate flood resistant construction standards in succeeding editions of the BOCA Basic/National Building Code.
- E. The Building Inspector shall maintain a record of new structures or substantial improvements erected in the flood hazard area indicating the actual elevation of the lowest structural member required to be elevated or as an alternative, in non-residential structures, the elevation to which the structure has been floodproofed.

ARTICLE 21 – HASTINGS AREA OVERLAY DISTRICT

ARTICLE 22 - RESERVED

ARTICLE TWENTY THREE STANDARDS AND REQUIREMENTS FOR SPECIAL USES

SECTION 2300 SPECIAL USES

A Special Use is a use that is permitted within a specified zone district after meeting specific requirements listed in this **Article 23**. Such uses may not be appropriate in all circumstances, but with certain restrictions or conditions can be made compatible in others. It is the purpose of this Article to name, describe, and list any additional requirements for each individual conditional land use. Due to the nature of the use, Special Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

SECTION 2301 SPECIAL USE PROCEDURES

A Special Use application shall be submitted and processed according to the following procedures:

- A. Submission of Application. Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee and any applicant escrow payments in accordance with the schedule of fees adopted by the County Commission to cover the costs of processing the application. An application shall be submitted to the Zoning Administrator on a Special Use application form. A Special Use application shall be placed on the agenda of the Planning Commission by the Zoning Administrator within sixty (60) days of the submission of a complete application prepared in accordance with this Ordinance. 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 and escrow payments paid in full.
- B. Data Required. Twelve (12) copies of an application for a Special Use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information.
 1. A complete Special Use permit application including the following information:
 - a. Name and address of applicant and owner(s).
 - b. Legal description, property parcel number, and street address of the subject parcel of land.
 - c. Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
 - c. Present zoning classification of the parcel.
 - d. Present and proposed land use.
 - e. A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.

- f. Applicant's statement of the expected effect of the special use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes.
 - g. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this ordinance, by the Zoning Administrator or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment.
 - h. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special use under consideration.
2. A Basic Site Plan or a Detailed Site Plan as defined by Article 27, containing all the applicable data required by said **Article 27**, Site Plans, as may be modified by the provisions of this **Article 23**.
 3. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Use permit applications as provided in **Section 2302**.
 4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, a traffic impact analysis as described in **Section 2703, G, 2**, an environmental assessment as described in **Section 2703, G, 1**, a market study as described in **Section 2703, G, 3**, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
 5. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.
- C. Special Use Review Procedures. An application for Special Use Approval shall be processed as follows:
1. Planning Commission Public Hearing. The Zoning Administrator shall forward a copy of the complete application for the Special Use request to the Planning Commission and shall set a public hearing within sixty (60) days of receiving the completed application. At the time the application is submitted to the Planning Commission, the Zoning Administrator shall provide an advisory copy of the application to the Supervisor of the affected Township and advise of the date(s) on which the Planning Commission may consider the application. At such meeting, the Planning Commission may review the application, receive public input, and question the applicant about the special use.

2. Public Hearing Procedures. Notice of the public hearing shall be processed pursuant to the requirements of **Section 3004**.
 3. Planning Commission Action. After the Public Hearing and upon review of the merits of the Special Use permit application, the Planning Commission shall review the application and any reports of County planning personnel, planning or engineering or other consultants and reach a decision to approve, approve with conditions, or deny the application. Such decision shall be reached within sixty (60) days following the public hearing on the application, unless the applicant and the Planning Commission mutually agree to extend the time allowed for the Planning Commission to reach a decision. The Planning Commission's decision shall be incorporated in a motion containing the findings of fact and the conclusions reached relative to the proposed Special Use which motion shall provide the basis for the decision and any conditions imposed.
 4. Basis for Action. In arriving at their decision, the Planning Commission shall refer to and be guided by those standards set forth in this Article. If the facts regarding the Special Use do not establish by a preponderance of the evidence that the standards and requirements set forth in this Article can and will be met, the application shall be denied.
 5. Attachment of Conditions. Subject to the terms of **Section 2302, B**, the Planning Commission may prescribe conditions of approval deemed necessary for the protection of the general welfare, individual property rights, and to ensure that the purposes of this Ordinance are met.
- D. Issuance of a Special Use Permit. Upon approval by the Planning Commission, the Zoning Administrator shall issue the Special Use permit. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Use permit and take any enforcement action necessary in the event of a violation of the Special Use permit or any conditions attached thereto.
- E. Appeals. Subject to **Section 3107, B**, pertaining to interpretation of the provisions of this Ordinance, no decision or condition related to a Special Use application shall be appealed to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to Circuit Court.
- F. Duration of Approval. The Special Use permit shall become effective upon Planning Commission approval.
1. The Zoning Administrator or Building Official shall not issue a Building Permit and Land Use Permit until approval of such Special Use permit and the satisfaction of any conditions pertaining to such approval.
 2. Until a building permit has been granted pursuant to the Special Use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the Special Use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.
 3. Land subject to a Special Use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions of this

Ordinance, or the approval of the Zoning Administrator has been granted for uses not subject to the requirements for a certificate of occupancy.

- G. Amendments. Amendments to Special Use permits shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan in accordance with **Section 2708, A**, pertaining to minor site plan amendments, may be made to an existing Special Use permit with the approval of the Zoning Administrator.
- H. Transfers. Prior to completion of construction related to a special use, the Special Use permit, with any and all associated benefits, conditions and required security may be transferred to a new owner only upon the sale or transfer of the property in question and only upon the approval of the Planning Commission. Such approval shall not be unreasonably withheld if the Planning Commission is satisfied that the proposed owner has similar qualifications and capabilities as the approved owner. The responsibility for affecting the transfer shall be the original owner. The original owner, upon transferring the Special Use permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit, compliance with security, and other conditions. Following completion of construction and commencement of the special use, the special use permit shall run with the land, subject to **Section 2301, I, 4**, pertaining to abandonment.
- I. Expiration. A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:
 - 1. If replaced or superseded by a subsequent permitted use or Special Use permit.
 - 2. If the applicant requests and the Planning Commission approves the rescinding of the Special Use permit.
 - 3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
 - 4. If the use is abandoned, moved or vacated for a period of one (1) year.
- J. Violations. Any violation or breach of the terms, conditions or limitations of a Special Use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).

SECTION 2302 SPECIAL USE REVIEW STANDARDS

- A. General Review Standards. The Planning Commission, before acting on a Special Use permit application, shall employ and be guided by standards which shall be consistent with and

promote the intent and purpose of this Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The Planning Commission shall review each application and take action to approve a special use application only if it finds that such Special Use meets each of the following standards, together with any and all Special Use standards reflected for the zoning district, and any and all applicable specific review standards found in this Article. The Planning Commission shall find adequate facts and evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the County and shall comply with the following standards:

1. The Special Use shall be consistent with the adopted Barry County Master Plan.
 2. The Special Use shall be designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
 3. The Special Use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
 4. The Special Use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
 5. The Special Use shall not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
 6. The Special Use shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, toxic emissions, fumes, glare, or odors.
 7. The Special Use shall meet the intent and purpose of the Zoning Ordinance; be related to the standards established in the Ordinance for the land use or activity under consideration; and will be in compliance with these standards.
- B. Conditions and Approval Standards. The Planning Commission may establish reasonable conditions of approval for a Special Use permit. The conditions may include, but are not limited to, 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. Further, the Planning Commission may adopt specific review standards for any proposed Special Use proposed if this **Article 23** does not provide such specific review standards for such use. Any such conditions imposed or specific review standards employed shall:

1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and land owners in the vicinity of the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- C. Specific Review Standards. In addition to the general review standards set forth in **Section 2302, A**, of this Ordinance, the Planning Commission shall apply the specific review standards set forth in this **Article 23** for each named Special Use. In the event this **Article 23** does not set forth specific review standards for the Special Use under consideration, pursuant to **Section 538**, the Zoning Administrator may propose, and the Planning Commission may incorporate specific review standards for such use. Provided, however, that any such standards adopted and any such conditions applied shall conform with the requirements of **Section 2302, B**, herein.

SECTION 2303 RESERVED

**SECTION 2304 ACCESSORY BUILDINGS WITH FOOTPRINT IN EXCESS OF
150% OF THE PRINCIPAL STRUCTURE**

- A. Definition. An accessory structure, as defined herein, which is a supplementary building on the same parcel as the principal building, or part of the principal building, with a ground floor area or building footprint in excess of 150% of the ground floor area or building footprint of the principal building on the parcel.
- B. Regulations and Conditions.
1. On parcels of less than one (1) acre, the floor area of all accessory buildings as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than one hundred fifty percent (150%).
 2. In all zoning districts where Accessory Buildings with footprint in excess of 150% of the principal structure are treated as special land uses under this Ordinance, the following standards shall be applied:
 - a. On parcels of more than one (1) acre, but less than five (5) acres, the floor area of all accessory buildings as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than two hundred percent (200%).
 - b. On parcels of five (5) acres, or more, the floor area of all accessory building as defined in this Section shall not exceed the ground floor area or building footprint of the principal building by more than three hundred percent (300%)

3. The floor area limitations of this Section shall be applied cumulatively for all accessory buildings on a parcel.
4. Accessory buildings as defined in this Section shall comply with all yard, setback and building height standards of this Ordinance.
5. Accessory buildings with a footprint in excess of 150% of the principal structure used in connection with an active farm operation shall not be subject to this Section.
6. A Basic Site Plan pursuant to **Section 2701, A**, shall be required for approval of accessory building.

SECTION 2305 ACCESSORY DWELLINGS

- A. Definition. A dwelling located in an accessory structure on the same parcel as another, single unit dwelling.
- B. Regulations.
 1. Intent. The intent of this Section is to permit the use of accessory buildings as an accessory dwelling unit where such use will not be out of character with the surrounding neighborhood. In the RL, MDR, HDR and MU districts, the Planning Commission may approve the use of an existing accessory structure as a dwelling unit subject to the following requirements.
 2. A proposed accessory dwelling shall be located on a parcel with not less than 10,000 square feet in area and not less than 75 feet of width.
 3. Such accessory dwellings shall conform to all dimensional, structural and maintenance requirements of this ordinance, the Barry County Building Code and the Housing Code.
 4. Accessory dwellings shall have a minimum of 400 square feet, and no more than 1,000 square feet of living area.
 5. Not more than one (1) accessory dwelling shall be permitted on any one (1) parcel.
 6. At least one (1) off-street parking space shall be provided for an accessory dwelling.
 7. Emergency housing as governed by the Barry County Ordinance _____, shall not be subject to the provisions of this **Section 2305**.
 8. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2306 ACCESSORY USE, WHEN ACCESSORY TO A SPECIAL LAND USE

- A. Definition. A use which is clearly incidental to, customarily found in connection with, and located on the same lot as a principal use permitted as a special land use.
- B. Regulations and Conditions.
 1. For purposes of interpreting Accessory Uses Related to Permitted Special Uses;

- a. A use may be regarded as incidental or insubstantial if the viability of the special use is not dependent in any significant way on the accessory use.
 - b. To be commonly associated with a special use it is not necessary for an accessory use to be connected with such special use more times than not, but only that the association of such accessory use with such special use takes place with sufficient frequency that there is common acceptance of their relatedness.
2. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the principal use of the property.
 3. Where an Accessory Use Related to a Permitted Special Use is proposed, and regulations are contained in this Ordinance for said use, those regulations shall be met; provided, the Planning Commission may impose additional conditions on approval, to protect the health, safety, and welfare of the County and its residents.
 4. The Planning Commission may require site or performance measures pertaining to an accessory use related to a permitted special use to address on-site or off-site impacts or potential impacts resulting from said accessory use or the combination of the accessory use and the principal permitted special use.
 5. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2307 ADULT FOSTER CARE FACILITY

- A. Definition. A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An Adult Foster Care Small Group Home shall be an adult foster care facility with the approved capacity of more than six (6) and not more than twelve (12) adults who shall be provided foster care. An adult foster care large group home shall be an adult foster care facility with the approved capacity of thirteen (13) or more adults who shall be provided foster care. Adult foster care does not include any of the following:
1. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;
 2. Hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
 3. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
 4. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;

5. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
 6. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.
- B. Regulations and Conditions.
1. Adult Foster Care Facilities serving more than six (6) residents shall not be considered a single family dwelling.
 2. Adult Foster Care Facilities shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
 3. An adult foster care facility shall not be located within fifteen hundred (1,500) feet of any other adult foster care facility.
 4. All outdoor lighting shall be in accordance with **Section 523** hereof.
 5. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 6. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 7. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 8. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.
 9. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.

SECTION 2308 AIRPORT

- A. Definition. Any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established.
- B. Regulations and Conditions.
1. A site plan submitted in conjunction with the Special Land Use for an Airport shall illustrate areas where aircraft operations occur such as a terminal, hangers, aircraft parking areas, runways, taxiways, flight school or club, flight viewing area, fueling areas, aircraft maintenance, administrative, charter, customs or other similar aircraft use areas.
 2. Apron, runway, taxiway, and tie-down, approach/departure clearance specifications established by the Federal Aviation Administration shall apply.
 3. A minimum setback of fifty (50) feet shall apply from any buildings to the boundary of the airport property.
 4. Drives and service roads to commercial and industrial buildings must be paved.
 5. All utilities shall be placed underground.

6. All outdoor lighting shall be in accordance with **Section 523** hereof.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
9. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.
11. The applicant shall demonstrate compliance with all applicable state and federal standards, including those of the Federal Aeronautical Administration and the Michigan Aeronautical Commission.

SECTION 2309 ASSEMBLY OPERATION

- A. **Definition.** Buildings, structures and premises used for the combining of parts into finished products and/or sub-assembly components for subsequent finishing on or off site and for the packaging, shipping and receiving of such products.
- B. **Regulations and Conditions.**
 1. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.
 2. Noise generated on site from any source shall not exceed sixty (60) decibels measured at any property line.
 3. The applicant shall disclose any hazardous, flammable or corrosive materials proposed to be stored, used or handled on the site. Use and handling shall be conducted in accordance with applicable State and federal requirements.
 4. Federal, state and local agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate State and County permits and approvals.
 5. Any storage facilities shall provide adequate security and signage to notify the public of any hazardous materials and to prevent trespass.
 6. Outdoor storage of materials, substances, products or component parts shall be permitted if screened from view with fencing, native vegetation or landscaping.
 7. The Planning Commission may require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance where it finds such measures necessary to mitigate adverse impacts on adjoining properties or public lands.
 8. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 9. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2310 AUTOMOBILE REPAIR FACILITY

- A. **Definition.** An establishment engaged in the general repair, engine rebuilding, transmission rebuilding, overhaul or reconditioning of motor vehicles, including automobiles, trucks, farm implements, recreational vehicles and including; collision repair services, such as body, frame or fender straightening and repair; major welding activities; and overall painting and undercoating of automobiles.
- B. **Regulations and Conditions.**
1. Not more than four (4) dismantled, wrecked or inoperable vehicles of any kind shall be parked or stored where visible from any adjoining property or right-of-way. Regardless of any screening, no dismantled, wrecked or inoperable vehicle or vehicle parts may be stored outdoors for longer than ninety (90) days. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an evergreen landscape buffer not less than eight (8) feet in height at time of planting to screen any vehicles from neighboring uses or passers-by.
 2. Not more than two (2) vehicles shall be parked on site at any time for the purpose of selling or renting such vehicles.
 3. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building.
 4. All repair and maintenance activities shall be performed entirely within an enclosed building.
 5. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 6. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.

SECTION 2311 BED AND BREAKFAST

- A. **Definition.** An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day for overnight guests only.
- B. **Regulations and Conditions.** The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:
1. **Basic Standards.** It is the intent to establish reasonable standards for Bed and Breakfast establishments to assure that:
 - a. The property is suitable for transient lodging facilities. In this connection, a Bed and Breakfast establishment shall meet the requirements of the Barry County Rental Property Code (Section ___ of the Barry County Code of Ordinances) and shall be subject to periodic inspections as provided in said code.
 - b. The use is not incompatible with other allowed uses in the vicinity.

- c. The impact of the establishment is no greater than that of a private home with houseguests.
 - d. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - e. All signs shall be in accordance with **Article 25** of this Ordinance.
 - f. All parking shall be in accordance with **Section 527** of this Ordinance.
 - g. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 - h. The number of sleeping rooms rented to transient guests within a Bed and Breakfast Establishment shall not exceed the following standards:
 - Within the RL: 4 sleeping rooms
 - Within the LDR, MDR and HDR: 5 sleeping rooms
 - Within the MU District: 6 sleeping rooms
 - i. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.
2. Specific Standards. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
- a. The minimum lot size shall be consistent with the District minimum for Single Family Dwellings.
 - b. Parking; Two (2) for the use of the owner/occupant and one (1) off-street space per rental sleeping room. Parking shall be located within two hundred (200) feet of the building.
 - c. The establishment shall have at least two (2) exits to the outdoors.
 - d. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - e. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that carriage houses in existence as of the effective date of this section, and located on the same parcel as a Bed & Breakfast may be utilized for sleeping rooms, in accordance with this Section.
 - f. The Bed and Breakfast shall not alter the residential character of the building or structure.
 - g. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.

- h. Special Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
- i. A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1" = 8' that shows the specific layout of the proposed facility in accord with the provisions of this Ordinance.
- j. The permit holder shall secure and maintain all required state and local permits.
- k. No conference/meeting room facilities will be permitted.
- l. The Bed and Breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.
- m. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

SECTION 2312 RESERVED

SECTION 2313 BOARDING HOUSE

- A. Definition. A dwelling unit or part thereof in which, for compensation, lodging and more than one meal is provided.
- B. Regulations and Conditions.
 - 1. No separate cooking facilities shall be allowed in guestrooms.
 - 2. Lavatories and bathing facilities shall be provided for guests at the Boarding House operation at a ratio of not less than one bathroom per two (2) guest bedrooms.
 - 3. The permit holder shall secure and maintain all required state and local permits.
 - 4. The establishment shall have at least two (2) exits to the outdoors.
 - 5. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - 6. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that accessory dwellings in existence as of the effective date of this section, and located on the same parcel as a Boarding House may be utilized for sleeping rooms, in accordance with this Section.
 - 7. The Boarding House shall not alter the residential character of the building or structure.
 - 8. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2314 BOAT LAUNCH

- A. Definition. A public or privately-owned facility designed and used for boat access to, and removal from, a lake or stream, using trailers drawn by motor vehicles. A Boat Launch may include a public road.
- B. Regulations and Conditions.
1. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 3. All off-street parking shall be in compliance with **Section 527** of this Ordinance, except; however, the Planning Commission may require additional lane width, parking spaces, and loading areas for vehicles and trailers.
 4. The applicant shall provide a circulation plan which identifies vehicular cueing areas, loading areas, sufficient areas for vehicular and trailer turnaround, and designated pedestrian circulation areas.
 5. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 6. Solid waste disposal facilities shall be provided. The applicant shall provide a mechanism for dumping such waste containers.
 7. Public restrooms shall be provided and shall be maintained in clean, workable order. If required, the Barry-Eaton Health department may review such facilities. The applicant shall provide a mechanism for maintaining public restrooms.
 8. Any proposed electrical and water hook ups shall conform to the County approved building, electrical and maintenance codes.
 9. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2315 CAMPGROUND

- A. Definition. A tract of land, designated, maintained and used by the public for active and/or passive recreation and which is owned and controlled by a public or private entity or unit of government.
- B. Regulations and Conditions.
1. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 3. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 4. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

6. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
7. The Planning Commission may establish, as a condition of approval, hours of operation for the Campground.
8. If provided, restrooms and/or shower facilities shall be maintained free from debris and in working order at all times.
9. The Campground shall maintain any and all necessary permits from the Barry-Eaton Health Department and any other applicable local, state or federal agency.
10. Electrical and water hook ups, if provided, shall conform to the County approved building, electrical and maintenance codes.
11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2316 CAR WASH

- A. Definition. Any facility or premises or portions thereof used for washing automobiles, including, manual wash facilities, coin washes, and those with automatic and semiautomatic application of cleaner, brushes, rinse water, and forced air and/or heat for drying.
- B. Regulations and Conditions.
 1. All such facilities shall be connected to a public sewer system and all wastewater discharge facilities shall be designed to properly manage excess loading to the public wastewater collection and treatment system.
 2. All washing activities shall be carried out within a building.
 3. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
 4. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
 5. Adequate drainage shall be provided, to prevent flooding, freezing of runoff, and environmental damage.
 6. Manual and coin Car Washes shall provide adequate space for drying and waxing vehicles.
 7. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
 8. The applicant shall demonstrate that no litter and debris will travel off-site. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

9. All exterior lighting shall be in accordance with **Section 523** hereof.
10. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
11. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.

SECTION 2317 CEMETERY

- A. Definition. Any one (1) or a combination of more than one (1) of the following (as per MCL 456.522): a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.
- B. Regulations and Conditions.
 1. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, Public Act 88 of 1875, as amended, and other applicable state laws.
 2. A proposed cemetery that provides a chapel or other enclosure for graveside, internment and committal services shall be appropriately designed to accommodate occasional gatherings, including necessary restroom facilities and utilities.
 3. A landscape buffer of ten (10) feet shall be provided where a Cemetery abuts a residentially zoned or used parcel.
 4. The use shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
 5. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
 6. No building shall be located closer than fifty (50) feet from a property line that abuts any residentially used or zoned property.
 7. All parking areas shall comply with the provisions of **Section 527** of this Ordinance.
 8. All signs shall comply with **Article 25** of this Ordinance.
 9. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2318 CLINIC

- A. Definition. A facility for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm and injured persons and those who are in need of medical, dental, or minor surgical care attention, but who are not kept on the premises for more than eight (8) hours.
- B. Regulations and Conditions.

1. Within the LDR, MDR, and HDR districts, a clinic shall not exceed seven thousand (7,000) square feet in gross floor area.
2. As a condition of approval, the Planning Commission may establish hours of operation for the Clinic, if in the judgment of the Planning Commission such restrictions are needed to assure the compatibility of the facility with neighboring uses.
3. The exterior of the building shall be compatible with neighboring uses.
4. All exterior lighting shall be in accordance with **Section 523** hereof.
5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. Any disposal of biohazardous waste shall be in conformance with state and local requirements.
6. All signs shall be in accordance with **Article 25** of this Ordinance.
7. All parking shall be in accordance with **Section 527** of this Ordinance.
8. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
9. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2319 CONTRACTOR'S FACILITY

- A. Definition. A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly or staging areas.
- B. Regulations and Conditions.
 1. Any outdoor storage area shall conform to the yard, setback, and height standards of the zoning district in which it is located. Within the RR district, the Planning Commission may require that outdoor storage be screened with fencing or landscaping to mitigate impacts on neighboring residential properties in existence at the time of application.
 2. Uses shall produce no detectable objectionable dust, fumes, or odors at any property line.
 3. All travel surfaces shall be paved or otherwise provided with a dust-free surface.
 4. All exterior lighting shall be in accordance with **Section 523** hereof.
 5. Cranes, booms or other extensions on equipment, trucks or other vehicles parked on site shall be stored in the lowest possible configuration.
 6. There shall be no off-site discharge of storm water except to an approved drainage system in accord with the County's engineering requirements.
 7. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
 8. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

9. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.
10. All signs shall be in accordance with **Article 25** of this Ordinance.
11. All parking shall be in accordance with **Section 527** of this Ordinance.
12. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
13. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2320 RESERVED

SECTION 2321 CONVENIENCE STORE

- A. Definition. Any retail establishment offering for sale good such as but not limited to prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads and sandwiches, and beverages for on-site or off-site consumption, as well as motor vehicle fuels, lubricants and similar supplies.
- B. Regulations and Conditions.
 1. The Planning Commission may establish hours of operation for Convenience Stores to protect the character of the land uses in the vicinity.
 2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
 3. Dismantled, wrecked, or immobile vehicles shall not be permitted to be stored on site. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
 4. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
 5. All exterior lighting shall be in accordance with **Section 523** hereof.
 6. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate, and shall not be visible from lot lines.
 7. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 8. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 9. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 10. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2322 RESERVED

SECTION 2323 DAY CARE, COMMERCIAL

- A. Definition. A commercial facility which is not a private home and in which at least thirteen (13) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian.
- B. Regulations and Conditions.
1. All required state and local licensing shall be maintained at all times.
 2. All outdoor areas used for care and play area shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
 3. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 4. Such facilities shall be located at least 1,500 feet from any one of the following:
 - a. A licensed or pre-existing operating group or commercial day-care home.
 - b. An adult foster care facility.
 - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - d. A community correction center resident home halfway house or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.
 5. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 6. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
 7. All parking areas shall comply with the provisions of **Section 527** of this Ordinance.
 8. Commercial Day Care facilities shall front on and be accessed from a paved county road.
 9. All signs shall comply with **Article 25** of this Ordinance.
 10. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2324 DAY CARE, GROUP

- A. Definition. A private home in which at least seven (7), but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.
- B. Regulations and Conditions.
1. All required state and local licensing shall be maintained at all times.
 2. All outdoor areas used for care and play area shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
 3. Such facilities shall be located at least 1,500 feet from any one of the following:
 - a. A licensed or pre-existing operating group or commercial day-care home.
 - b. An adult foster care facility.
 - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - d. A community correction center, resident home, halfway house or similar facility under jurisdiction of the Department of Corrections.
 4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 5. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
 6. All parking areas shall comply with the provisions of **Section 527** of this Ordinance.
 7. All signs shall comply with **Article 25** of this Ordinance.
 8. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 9. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2325 RESERVED

SECTION 2326 DRIVE-THROUGH BUSINESS

- A. Definition. A business that by design, physical facilities, services or by packaging procedures encourages or permits some or all customers to receive services or goods while remaining in their vehicles.
- B. Regulations and Conditions.
 - 1. All automobile queuing for a drive-through window shall be separated from other on-site traffic patterns.
 - 2. Pedestrian areas shall be clearly marked.
 - 3. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a recreation-vehicle trailer.
 - 4. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
 - 5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 - 6. All exterior lighting shall be in accordance with **Section 523** hereof.
 - 7. Any commercial establishment with a drive-through facility which adjoins a property zoned or used for residential purposes shall be effectively screened from view from such property.
 - 8. All parking areas shall comply with the provisions of **Section 527** of this Ordinance.
 - 9. All signs shall comply with **Article 25** of this Ordinance.
 - 10. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 - 11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2327 RESERVED

SECTION 2328 EATING AND DRINKING ESTABLISHMENT

- A. Definition. A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.
- B. Regulations and Conditions.
 - 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.

2. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels shall be carried onto adjoining property zoned for, or occupied by, residential uses.
3. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the CR, NLR, RL, LDR, or MDR districts.
4. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate, so that any refuse or dumpster shall not be visible from any building, dwelling, adjacent property, or street. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
5. The Planning Commission may establish reasonable hours of operation for eating and drinking establishments.
6. All exterior lighting shall be in accordance with **Section 523** hereof.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. All parking shall be in compliance with the provisions of **Section 527** of this Ordinance.
9. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2329 EDUCATIONAL FACILITY

- A. Definition. Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a pre-school, an elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.
- B. Regulations and Conditions.
 1. An education facility shall have its primary access directly from a paved, all-season road.
 2. All outdoor play areas, if provided, shall be enclosed with a durable fence six (6) feet in height, or four (4) feet in height if adjoining a right-of-way. Provided, however, the Planning Commission may permit chain link or wrought iron fences up to six (6) feet in height adjoining a right-of-way upon a finding that such fences are necessary for the safety of pupils of the facility.
 3. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
 4. The Planning Commission may establish standards to limit noise generated by an Educational Facility to no more than 60 decibels at the property line, taking into account the nature of the facility, the surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use.
 5. All exterior lighting shall be in accordance with **Section 523** hereof.

6. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
7. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
8. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
9. An Educational Facility that incorporates any gymnasium, stadium, theater, auditorium, or large meeting space meeting the definition of a Large Place of Public Assembly, it shall also comply with the requirements pertaining to Large Places of Public Assembly, **Section 2359** herein.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2330 FARM PRODUCT PROCESSING FACILITY

- A. Definition. A facility involved in the complete or partial conversion of any agricultural product into a commercial product of any kind, or in the processing of agricultural-related waste products. A Farm Product Processing Facility may include, but shall not be limited to, ethanol processing plants, grain mills, slaughter operations, production of processed dairy products, canning operations, methane processing and refining plants, and similar facilities.
- B. Regulations and Conditions.
 1. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 3. The applicant shall demonstrate that the proposed use does not significantly affect traffic circulation and transportation safety in the area in which it is proposed.
 4. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 5. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 6. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 7. Such processing facilities which are regulated at the state or national level shall provide verification that such use and facilities conform to all applicable laws and regulations.
 8. The County shall be provided copies of all required permits from any local, state, or federal agency. It shall be the applicant's responsibility to ensure that permits do not expire without renewal.
 9. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels shall be carried onto adjoining property zoned for, or occupied by, residential uses.
 10. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the CR, NLR, RL, LDR, MDR, HDR, or MU districts.
 11. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate, so that any refuse or dumpster shall not be visible from any building,

dwelling, adjacent property, or street. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.

12. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2331 RESERVED

SECTION 2332 GALLERY OR MUSEUM

- A. Definition. Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.
- B. Regulations and Conditions.
 - 1. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 - 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 - 3. The applicant shall demonstrate that the proposed use does not significantly affect traffic circulation and transportation safety in the area in which it is proposed.
 - 4. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 - 5. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 - 6. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 - 7. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2333 GASOLINE STATION

- A. Definition. Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels, lubricants and similar products for motor vehicles.
- B. Regulations and Conditions.
 - 1. The Planning Commission may establish hours of operation for Gasoline Stations to protect the character of the land uses in the vicinity.
 - 2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
 - 3. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.

4. Dismantled, wrecked, or immobile vehicles stored shall be completely screened from any adjoining parcel or right-of-way.
5. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
6. All exterior lighting shall be in accordance with **Section 523** hereof.
7. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate, and shall not be visible from any lot line. The site plan shall include measures satisfactory to the Planning Commission to contain blowing dust, trash and debris from leaving the site.
8. A Gasoline Station that includes a convenience store shall also comply with the provisions of **Section 2328**.
9. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
10. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.
11. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
12. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
13. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
14. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2334 GOLF COURSE

- A. **Definition.** A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards such as waterways, which may include such accessory uses as a pro shop, a clubhouse, driving range, practice greens and service buildings. For the purposes of this Section, a golf course may be fully open to the public, open to the public on a limited basis or a membership-only club.
- B. **Regulations and Conditions.**
 1. The design and layout of a golf course shall be configured to prevent stray golf shots from traveling off the site and onto rights-of-way, neighboring properties or lands within the golf course development designed for uses other than the playing of golf.
 2. All off-street parking shall be in compliance with **Section 527** of this Ordinance, to provide for adequate parking for banquets, weddings, golf tournaments, conferences, etc.
 3. Any accessory uses and buildings associated with the Golf Course, and any buildings on the site shall conform to setback and dimensional requirements of the underlying zoning district.

4. A new golf course development shall include stormwater management facilities satisfactory to the County Engineer and/or the Michigan Department of Environmental Quality intended to prevent the runoff of stormwater carrying excess concentrations of fertilizer or nutrients from entering natural streams.
5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
6. All exterior lighting shall be in accordance with **Section 523** hereof.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
9. A golf course that includes a Place of Public Assembly shall also meet the requirements of **Section 2359**.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2335 GOVERNMENTAL OFFICE

- A. Definition. The offices of any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.
- B. Regulations and Conditions.
 1. The Planning Commission may approve buildings taller than permitted in the applicable zoning district provided that the building
 2. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
 3. All exterior lighting shall be in accordance with **Section 523** hereof.
 4. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 5. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 6. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2336 GREENHOUSE

- A. Definition. Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. A Greenhouse may be used to raise flowers, shrubs, and plants for commercial sale or personal enjoyment.
- B. Regulations and Conditions.

1. All storage of materials shall take place in an enclosed building, bin or other enclosure satisfactory to the Planning Commission to contain blowing dust and debris.
2. All exterior lighting shall be in accordance with **Section 523** hereof.
3. Refuse and waste shall be disposed of in a manner which precludes any odors and fumes from being perceptible at any lot line; and any pesticides, fertilizers, or other chemicals shall be handled in a manner which precludes pollution of the environment and the County's water resources.
4. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
5. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
6. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
7. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
8. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2337 GUN AND/OR ARCHERY CLUB

- A. Definition. A property, location or land use established as a business or organized club and used for recreational shooting, including target practice with firearms, bow and arrow or other means; and similar activities for recreational shooting purposes. A gun and archery club may include improvements such as buildings used for permitted purposes.
- B. Regulations and Conditions.
1. Gun and/or Archery Clubs may include the following activities or elements:
 - a. Sales and rental of firearms, archery equipment, ammunition, clays, targets, gun and archery accessories or other hunting and shooting accessory equipment; provided, however, such sales and rental shall comply with the following conditions:
 - b. No more than 20%, but in any event not more than 2,000 square feet, of the total floor area of the principal building may be used for the sales and rental of firearms, archery equipment, ammunition, clays, targets, gun and archery accessories or other hunting and shooting accessory equipment. Access during regular business hours shall be granted to the County for inspections to ensure compliance with this section. Such access shall be a condition to the special land use.
 - c. No firearms, ammunition or other hunting and shooting equipment and accessories shall be sold, used or stored on the premises, except in full compliance with all federal, state and local requirements.
 - d. Meetings of gun clubs, sport-shooting clubs and other clubs established for recreational shooting or archery purposes are considered a customary and permitted part of the activities associated with this land use.

- e. Provision of light or convenience foods for the persons engaged in the permitted hunting and shooting and other permitted uses on the premises. Gun and/or, Archery Clubs that include facilities of an eating and drinking establishment shall also meet the requirements of **Section 2328**, provided however, that consumption or sale of alcoholic beverages of any kind on the premises shall be prohibited.
2. Buildings and outdoor shooting or archery areas shall be designed and constructed to prevent projectiles of any kind from carrying off the premises.
3. The Planning Commission may establish hours of operations to assure compatibility with surrounding land uses.
4. The Planning Commission may establish additional setback, lighting, landscaping/screening and building requirements for the property to ensure that the agricultural, rural character of the area is preserved in a manner consistent with the other agricultural district uses in the area.
5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
6. The regulations of this Section shall not place any additional restrictions on hunting, provided that any hunting which may take place in conjunction with a gun and/or archery range shall comply with all local, state and federal laws, as applicable.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
9. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
10. All exterior lighting shall be in accordance with **Section 523** hereof.
11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2338 RESERVED

SECTION 2339 HOME OCCUPATION, MAJOR

- A. Definition. A Major Home Occupation as defined herein is a Home Occupation that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.
- B. Provisions. A Major Home Occupation shall be subject to the provisions of **Section 517**, and to the following additional standards:
 1. In addition to the occupants of the residence and not more than two non resident employees on site, a Major Home Occupation may employ other persons, provided their work activities are generally undertaken at locations other than the location of the dwelling.

2. The applicant shall disclose the nature, size and number of any vehicles or other equipment associated with the Major Home Occupation and the Planning Commission may establish limits on the outdoor storage and parking of such equipment or vehicles to preserve the essential character of the neighborhood. Any outdoor storage of materials or scrap shall be effectively screened from view from neighboring properties.
3. The operator of a proposed Major Home Occupation shall attach an operational plan for the Major Home Occupation to the application for a zoning permit for the Major Home Occupation. The operational plan shall provide the following information:
 - a. The hours the Major Home Occupation will operate.
 - b. A description of employee parking and workforce staging plans.
 - c. A site plan in accord with **Article 27** indicating the location of any storage of materials, vehicles and equipment as well as any employee or customer parking.
 - d. A description of the shipping and delivery requirements of the Major Home Occupation.
 - e. A description of any material used in the Major Home Occupation which will be stored on the premises.
4. The Planning Commission shall review the application for a Major Home Occupation and take action to approve it, if it finds that the proposed Major Home Occupation shall meet the requirements of this Section and **Section 517**, hereof.
5. Any change or alteration in the nature or activities of a Major Home Occupation shall be regarded as a new Major Home Occupation and shall require a new application hereunder.
6. A failure to fulfill the terms of the Major Home Occupation, the site plan and its attachments shall be grounds for revocation of Planning Commission approval of a Major Home Occupation.
7. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2340 HOSPITAL

- A. Definition. A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.
- B. Regulations and Conditions.
 1. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.

2. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or federal requirements.
3. Helicopter landing pads may be permitted as accessory uses, subject to Federal Aviation Administration requirements.
4. All exterior lighting shall be in accordance with **Section 523** hereof.
5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. Any disposal of biohazardous waste shall be in conformance with state and local requirements.
6. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
7. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
8. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
10. A hospital shall be served by public sewer.
11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2341 RESERVED

SECTION 2342 JUNKYARD/SALVAGE OPERATION

- A. Definition. Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk; and including any premises upon which 2 or more inoperable or junk motor vehicles are kept, parked or stored outside a building for a period of 15 days or more within any 12 month period.
- B. Regulations and Conditions.
 1. The Planning Commission may establish hours of operation for Junkyards to protect the character of the land uses in the vicinity.
 2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
 3. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
 4. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.
 5. All materials stored on site shall be located in the side or rear yards. All materials shall be screened with an eight (8) foot tall opaque fence. Stored materials shall not be stacked higher than eight (8) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
 6. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.

7. A management office shall be provided on site. A residence may be permitted for security personnel or an on-site operator.
8. The minimum area for a junkyard facility shall be two (2) acres, maximum lot area shall be twenty (20) acres.
9. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
10. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
11. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
12. All exterior lighting shall be in accordance with **Section 523** hereof.
13. The following groundwater protection standards shall apply to Junk or Salvage Operations in the County.
 - a. Sites shall be designed to prevent spills and discharges into the surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - b. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the salvage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
 - c. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - d. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
 - e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
14. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2343 KENNEL/ANIMAL DAY CARE

A. Definition. Any lot or premise on which three (3) dogs, cats, or more domesticated animals more than six (6) months in age, are either permanently or temporarily boarded or trained for remuneration, but not including trophies or awards.

B. Regulations and Conditions.

1. The minimum lot area shall be one (1) acre for the first three (3) animals, and an additional one-thousand (1,000) square feet for each animal in addition to the first four (4). The maximum number of animals that may be kept at the facility shall be established by the Animal Control Officer and shall be incorporated as a condition of approval.

2. Buildings where animals are kept, dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling and shall be set back at least seventy-five (75) feet from any LDR, MDR, or HDR district.
3. Dog runs and exercise areas shall not be located in any front yard or required side or rear yard setback area.
4. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.
5. Any dumpsters used by a medical office shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines. Any disposal of bio-hazardous waste shall be in conformance with state and local requirements.
6. Any activities shall not generate a noise level of greater than 60 decibels for more than 4 hours in any 24 hour period at any property line.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
9. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
10. All exterior lighting shall be in accordance with **Section 523** hereof.
11. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2344 RESERVED

SECTION 2345 LIBRARY

- A. Definition. A public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.
- B. Regulations and Conditions.
 1. A Library that includes Day Care facilities for more than six (6) children shall be required to comply with the special land use standards for Group or Commercial Day Care set forth in this **Section 2323 and 2324**.
 2. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
 3. The Planning Commission may establish standards for hours of operation taking into account the nature of the facility and general compatibility with the surrounding uses and zoning.
 4. Off street parking shall be arranged so the area for book drop-off and bus loading and unloading of students will not be in the path of vehicular traffic.

5. Sidewalks shall be required connecting the off-street parking area to the main entrance of the Library, and to the required sidewalk along the adjacent road right-of-way line.
6. A Library with a Place of Public Assembly shall comply with the special land use standards for Place of Public Assembly set forth in **Section 2359**.
7. A library shall be served by public sewer.
8. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
9. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
10. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
11. All exterior lighting shall be in accordance with **Section 523** hereof.
12. A Detailed Site Plan pursuant to Section 2701, B, shall be required.

SECTION 2346 RESERVED

SECTION 2347 MARINA

- A. Definition. A commercial facility, including three (3) or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina, provided there are three or more waterfront slips under a single control.
- B. Regulations and Conditions.
 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
 2. Marinas shall be located only on parcels contiguous to, and with direct access to, navigable water.
 3. Marinas shall not interfere with riparian interests or the integrity and quality of the water body.
 4. Vehicular ingress and egress to the marina shall be within the riparian owner's interest area, or written authorization shall be secured from an adjacent property owner granting such access.
 5. A Marina shall be similar in scale and character to adjacent structures and activities in the vicinity.
 6. The increased use of the water body associated with the marina shall not create congestion, reduce safety, or aggravate existing congestion and safety problems currently recognized. Marinas shall not constitute any navigational hazards, as determined by the Planning Commission.
 7. All Marinas shall provide watercraft sanitary holding tank pump out services, per Section 5 of Act 167 of 1970.

8. Onshore storage of boats and/or trailers may only be incorporated in a Marina special use approval where the Planning Commission is satisfied that such storage will be effectively screened from view from adjoining properties and rights-of-way.
9. A recreation carrying capacity analysis shall be required for the body of water where the marina is proposed. The analysis shall be conducted by a firm, organization, or group approved by the Barry County Planning Commission, and shall include the following information:
 - a. Estimated number of motorized boats that would utilize the proposed marina.
 - b. Number of motor boats greater than 25 horsepower that would utilize the proposed marina.
 - c. The lake use rate as determined by an aerial flyover done on both a Saturday and a Sunday, with at least 14 days between the two flyovers, done during the months of June, July, or August, but not on a national holiday, and with the outside ground temperature above 65 degrees and the weather not raining or overcast. One of these flyovers shall be conducted between 10:00 AM and Noon, the other flyover shall be conducted between 2:00 PM and 4:00 PM. Color photos shall be used to illustrate the survey of both flyovers.
 - d. Shallowness ratio.
 - e. Plant biomass.
 - f. Usable lake area.
 - g. Boat density per lake acre.
 - h. Topographic map of the lake.
 - i. Total shoreline length.
 - j. Unimproved shoreline footage for each parcel owner with 10 acres or more of land on the lake.
10. Such recreation carrying capacity shall demonstrate to the satisfaction of the Planning Commission that the proposed marina with the number of motorized boats proposed shall not exceed the carrying capacity of the lake.
11. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
12. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
13. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
14. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a Special Use permit for a Marina.
15. All exterior lighting shall be in accordance with **Section 523** hereof.
16. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.

17. A Marina that includes eating and drinking facilities shall also comply with the requirements of **Section 2328** hereof.
18. A Detailed Site Plan pursuant to Section 2701, B, shall be required.

SECTION 2348 RESERVED

SECTION 2349 MECHANICAL REPAIR AND MACHINING

- A. Definition. A facility for metal working using power-driven machine tools, such as a lathe, milling machine, grinder and other equipment, for the manufacturing or repair of metal products.
- B. Regulations and Conditions
 1. The applicant shall disclose the nature and quantity of all chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with any applicable local, state or federal requirements.
 2. No toxic or hazardous materials shall be discharged to groundwater or surface waters.
 3. All repair and machining activities shall take place inside a fully enclosed building or structure. Outdoor storage of materials, substances, products or component parts shall not be permitted unless it is effectively screened from view from adjoining property and rights-of-way.
 4. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.
 5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
 6. In addition to the provisions of **Section 521**, the Planning Commission may require additional open space and landscape buffer screening the proposed special use from adjacent property.
 7. All exterior lighting shall be in accordance with **Section 523** hereof.
 8. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 9. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 10. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.
 12. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity.

SECTION 2350 RESERVED

SECTION 2351 MINE, SAND AND GRAVEL

- A. Definition. A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.
- B. Regulations and Conditions.
1. Small Pits Exemption. Sand and Gravel Mines of nor more than 2½ acres in total area shall not be regulated under this Section 2351, but shall be governed by the terms of **Section 544**.
 2. General Site Plan Requirements: In addition to the regular application for a Special Use and payment of fees, the application shall be accompanied by a General Site Plan. The plan shall be drawn to a scale of 1" - 100' and said plan shall include the following information:
 - a. Name and address of owner(s) of land which removal will take place.
 - b. Name, address and telephone number of person, firm, or corporation who will be conducting the actual removal operation.
 - c. Location, size and legal description of the total site area to be mined.
 - d. The means and routing of access and egress from the site to local, county and state roads.
 - e. Surface water drainage provisions and outlets.
 - f. The location and size of any structures on the site
 - g. A current aerial photograph displaying the area and all lands within 1320 feet of the site. The aerial map shall show the uses of the lands on the aerial map and the location of the various types and extent of existing natural features, such as soils, vegetation, and water bodies. Appropriate overlays at the scale of the aerial photograph may be used to depict topography, slope hazards, soils, vegetation, wildlife habitat, or any other information the County requires in order to assess the environmental impact of the proposed extraction activity and restoration plan.
 - h. A description of the various types and extent of existing major ground vegetation, particularly tree species, and endangered species found within the area proposed for mineral removal.
 - i. A detailed description of any known, anticipated or likely adverse or detrimental effect upon any aspect of the community or element of the natural and built environment, with respect to both the site of the mineral removal and the surrounding area.

- j. A description of the type, quality, and amount of the mineral material at this site and of the current and potential market for the mineral material to be removed.
- k. A plan for material extraction for the total project which shall include:
 - 1) Pre-mining soil survey indicating soil depths and types for future reclamation of the site.
 - 2) Surface overburden and topsoil stripping and stockpiling plans indicating erosion and runoff control measures, distance from property lines, length of storage time, and pile heights.
 - 3) Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, sedimentation and public safety problems.
 - 4) The estimated quantity of product in place and to be mined, an overall phasing plan and an approximate timetable for the facility.
 - 5) The location and types of noise and vibration mitigation including earth berms, fences, vegetation in the within the required setbacks and other features.
 - 6) The location and types of dust mitigation tools.
 - 7) Phasing plan illustrating the portions of the site to be worked and an approximate schedule for opening, operation and closing of each phase.
 - 8) The portions of the site (if any) that may be used for on-going operations, such as equipment staging, crew areas or other uses.
- l. A feasible and detailed plan for the re-use of the reclaimed site, consistent with the intent of the zoning district(s) in which the facility is located, including the following information:
 - 1) A narrative description of proposed land uses at the conclusion of mining activity.
 - 2) A site plan illustrating a conceptual layout of the site with a conceptual plan for internal vehicular circulation on the site (if any), any areas of open water anticipated, the nature of vegetation to be established.
- 3. Reclamation: All extraction areas shall be reclaimed progressively as they are worked out. Reclaimed sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All excavation shall be either to a water-producing depth or shall be graded or backfilled to ensure that the excavated area will not retain or collect stagnant stormwater. For the purposes of this subsection, a water-producing depth shall be defined as not less than ten (10) feet below the average summer level of groundwater in the excavation. All slopes and banks remaining above water level and below water level to a depth of six (6) feet shall be graded to slopes which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration. No more than fifteen (15) acres of the site shall be open at any time.

- a. In the event filling of the mined area is necessary in the course of reclamation, the fill material shall not consist of or contain any organic waste, hazardous materials, toxic materials, radioactive materials, agricultural waste, industrial waste, sludges or sewage residues, whether or not compounded, mixed, combined, bound or contained within any other material through any chemical or physical process or a combination thereof, or in any other fashion, and, moreover, such fill material shall not contain any machinery or equipment of parts thereof, or any material which will, or is likely to impair or harm the air water and natural resources, and public trust therein, and/or the public health and safety. Only material which will settle firmly without pockets shall be used.
 - b. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water consistent with soil makeup depths from pre-excavation samples.
 - c. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - d. Within twelve (12) months of cessation of mining operations, all plant structures, buildings, stockpiles and equipment shall be removed, provided, however, that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which the property is located may be retained.
4. Site Development Requirements:
- a. Setbacks in which no part of the mining operation may take place, except for ingress and egress shall be as follows:
 - 1) Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet from any adjacent property line or road right-of-way.
 - 2) No machinery will be erected or maintained within one hundred (100) feet of any property or road right-of-way line.
 - b. Fencing: If fencing is required, the Planning Commission shall specify the type, characteristics, and location of the required fencing.
 - c. Stockpiles of earth materials shall be limited to a height determined by the Planning Commission. Stockpiles shall not be located in any required yard area, unless by approval of the Planning Commission.
 - d. Interior access roads, stockpiles, parking lots, haul road, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind blown dust.
 - e. Hours of operation shall be established by the Planning Commission as part of the special use approval.

- f. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 65 decibels at any property line.
 - g. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls and natural planting screens. All equipment shall be maintained and operated in such manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
5. Failure to maintain all required State or Federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the Special Use permit may result in the immediate revocation of said Special Use permit and any and all other sanctions and/or penalties available to the County and/or State.
 6. Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.
 7. Financial Guarantees: A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the County Treasurer. The performance guarantee shall be in the form of a letter of credit, a certified check, a cash bond or a performance bond with the County named as the principal. The bond shall be returned when all conditions stipulated in the Special Use permit have been met and the Special Use permit revoked prior to its release. There shall be no partial release of the bond.
 8. Extraction Fees. The operator shall, as a condition of the special land use, comply fully with the County in the payment of any extraction fees that may be established either prior or subsequent to the application for the special land use permit.
 9. Issuance of a Special Use Permit: Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities and such successor is found by the Planning Commission to have experience and credentials substantially equivalent to those of the original applicant. At that time, the Special Use permit may be transferred.
 10. Permit Expiration: If approval for a Special Use permit is granted by the Planning Commission it shall extend for a specific period of time not to exceed five (5) years. Those

permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.

11. Annual Reports. Each year, the applicant shall provide an annual report to the Zoning Administrator indicating progress in implementation of the material extraction plan as outlined in **Section 2351, B, 2, k**. In the event the Zoning Administrator determines that progress on the site is not proceeding in general conformance with the material extraction plan or the Zoning Administrator finds that the operations on the site have departed in a material way from the approved Special Use permit, the Zoning Administrator shall require that the applicant submit, within ninety (90) days of being so notified, an amended special land use application pursuant to this Section which shall be reviewed by the Planning Commission as if it were a new application. No more frequently than every five (5) years, the Zoning Administrator may require that the applicant provide at its own expense, an independent certification by a licensed surveyor or engineer, of the quantity of materials removed in the period since the last certification, the quantity of materials imported (if any) and their location on the site, the quantity of materials stockpiled and their location on site, the approximate quantity remaining on site but not yet extracted, the condition of any areas previously mined and reclaimed and the approximate remaining life of the facility.
12. Modification of the General Site Plan: The General Site Plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight. The Planning Commission may require the modification of the General Site Plan when:
 - a) Modification of the plan is necessary so that it will conform to the existing laws.
 - b) It is found that the previously approved plan is clearly impractical to implement and maintain.
 - c) The approved plan is obviously not accomplishing the intent of the Ordinance.
13. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
14. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
15. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
16. All exterior lighting shall be in accordance with **Section 523** hereof.
17. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2352 MINI/SELF-STORAGE FACILITY

- A. Definition: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.
- B. Regulations and Conditions:
 1. The area of the proposed site shall be at least two (2) acres.

2. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
3. All outdoor storage areas shall be fenced and screened from view from adjoining roadways and residential properties.
4. All parking, maneuvering and drive lane areas shall be provided with a paved surface and all drive aisles shall be forty (40) feet in width. All outdoor storage areas shall be provided with a smooth and dust free surface.
5. All signs shall be in compliance with the provisions of Article 25 of this Ordinance.
6. All off-street parking shall be in compliance with Section 527 of this Ordinance.
7. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
8. Landscaping shall be provided in accordance with Section 521 of this Ordinance.
9. All exterior lighting shall be in accordance with **Section 523** hereof.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2353 RESERVED

SECTION 2354 OPEN AIR BUSINESS

- A. Definition. The display and sales of products and services primarily outside of a building or structure, including, but not limited to, vehicles, garden supplies, boats and aircraft, farm equipment, motor homes, burial monuments, manufactured housing, recreational vehicles, building and landscape materials, and lumber yards.
- B. Regulations and Conditions.
 1. Lot area, lot width, and other dimensional requirements of the zoning district shall be complied with; provided, that no item or items displayed outdoors shall be greater than thirty-five (35) feet in height.
 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 3. The Planning Commission may establish, as a condition of approval, hours of operation for the Open Air Business.
 4. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen landscaping, berms, and fencing; and such conditions may be in addition to the Landscaping and Screening standards of **Section 521** of this Ordinance to mitigate the visual impact of an Open Air Business.
 5. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.

6. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
7. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
8. The outdoor sales area shall be paved, or otherwise provided with a dust-free surface. The site plan shall include measure satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.
9. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
10. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
11. A Detailed Site Plan pursuant to Section 2701, B, shall be required.

SECTION 2355 RESERVED

SECTION 2356 PARK OR PARKLAND

- A. Definition. A tract of land, designated, maintained and used by the public for active and/or passive recreation and which is owned and controlled by a public or private entity.
- B. Regulations and Conditions.
 1. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 2. All exterior lighting shall be in accordance with **Section 523** hereof.
 3. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 4. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
 6. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
 7. The Planning Commission may establish, as a condition of approval, hours of operation for the Park or Parkland.
 8. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required. In addition to the requirements of **Section 2701, B**, such site plan shall include a detailed inventory of the natural features on the site and provide a detailed description of the management

standards to be implemented by the applicant to assure the long-term health and viability of the most important features.

SECTION 2357 PERSONAL STORAGE BUILDING

- A. Definition. A building used or intended to be used only for storage, collection, stockpiling or keeping of personal property or vehicles located on a lot parcel with no other principal buildings or dwellings.
- B. Regulations and Conditions.
 - 1. A personal storage building in excess of two hundred (200) square feet shall be subject to the requirements of all adopted building code(s) for Barry County.
 - 2. A personal storage building shall be located on a legal lot of record meeting all dimensional standards for the applicable zoning district including setbacks, height, and lot coverage. Driveways serving a personal storage building shall be sited in accord with the requirements of the Barry County Road Commission.
 - 3. The personal storage building shall be considered the principal use on the property and no other improvements shall be permitted, except in conformance with the requirements of this Ordinance. Provided, however, that in the event a dwelling or commercial building is proposed for construction on the same lot with a personal storage building, the personal storage building may be treated as an accessory building under the terms of this Ordinance.
 - 4. The applicant shall disclose the general nature of items to be stored in the personal storage building. The storage of hazardous, flammable or toxic materials, other than in vehicle fuel tanks or approved containers of not more than ten (10) gallon capacity, shall be prohibited.
 - 5. A personal storage building shall not be used as a dwelling nor shall any commercial or manufacturing activity be conducted in a personal storage building or on the lot.
 - 6. Personal storage facilities shall not be served by plumbing facilities; however, electricity may be provided.
 - 7. A Basic Site Plan pursuant to **Section 2701, A**, shall be required.

SECTION 2358 RESERVED

SECTION 2359 PLACE OF PUBLIC ASSEMBLY, LARGE AND SMALL

- A. Definitions.
 - 1. Place of Public Assembly: Buildings, structures and grounds, including churches, auditoriums, sports arenas, stadiums, lecture or reception halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering thirty (30) or more. A family gathering, reunion or similar event shall not be considered a place of public assembly.

2. Place of Public Assembly, Large: A place of public assembly shall be considered a large facility if it has either two thousand (2000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.
3. Place of Public Assembly, Small: A place of public assembly shall be considered a small facility if it has either less than two thousand (2,000) square feet in gross floor area or total seating capacity of no more than one hundred (100) in the largest room intended for public assembly.

B. Regulations and Conditions.

1. Large Places of Public Assembly.

- a. A Large Place of Public Assembly shall be served by public sewer.
- b. A Large Place of Public Assembly that includes an Eating and Drinking Establishment shall meet the standards of **Section 2328**, hereof.
- c. The Zoning Administrator may require the completion of a traffic impact study under the terms of **Section 2703, G, 2**, of this Ordinance.
- d. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
- e. All exterior lighting shall be in accordance with **Section 523** hereof.
- f. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
- g. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
- h. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.

2. Small Places of Public Assembly

- a. A Small Place of Public Assembly that includes an Eating and Drinking Establishment shall meet the standards of **Section 2328**, hereof.
- b. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
- c. All exterior lighting shall be in accordance with **Section 523** hereof.
- d. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
- e. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.

3. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required for Large and Small Places of Public Assembly.

SECTION 2360 PLANNED UNIT DEVELOPMENT (PUD)

- A. Definition. A special land use intended to accommodate developments with mixed or varied uses, innovative design features and/or sites with unusual topography or unique settings.
- B. Statement of Intent. It is the purpose of this section to permit flexibility in the regulation of land development, and to encourage innovation and variety in land use and design of projects. The basic provisions concerning Planned Unit Development are the subdivision, development, and use of land as an integral unit, combining more than one primary land use and which may provide for single-family residential, multi-family residential, education, business, commercial, recreation, park and common use areas, which are compatible with one another and provide for efficient use of land. The objectives of these Planned Unit Development standards shall be:
1. To permit flexibility in the regulation of land development.
 2. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
 3. To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities.
 4. To encourage useful open space, and to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the residents of the State and County.
 5. To encourage the innovative use, re-use, and improvement of existing sites and buildings.
- C. Regulations and Conditions: In its establishment and authorization as a special use, in addition to the foregoing provision, the following procedures, standards and conditions shall be observed. Where the Planning Commission determines it is necessary to allow a more flexible and innovative development to occur, it may recommend that the terms of the Barry County Zoning Ordinance and Subdivision Regulations be adjusted in accordance with the provisions of this Section. Planned Unit Developments shall meet the following general standards:
1. To qualify for a Planned Unit Development, the subject site shall be under single ownership.
 2. Any development under consideration as a PUD District shall be located in an area of the county where it appears reasonable that public water and sanitary sewer utility service can be provided within a reasonable time (as determined by the Planning Commission) period. In general, these areas will correspond to the indicated public water and sanitary sewer service areas adopted in any Barry County development plans, regulations or guidelines. The developer shall furnish all necessary public water and sanitary sewer facilities within the proposed development and shall supply a written agreement with the appropriate municipal utility authority stating the intention of that municipality to provide the necessary service. The requirement for furnishing public water and sanitary sewer service may be waived on an interim basis so long as an acceptable (as deemed by the Planning Commission and Barry-Eaton Health Department) interim method of providing such

service is detailed by the developer and the necessary legal arrangements are made to assure that the development will be provided with the required public water and sanitary sewer service as they become available.

3. All Planned Unit Developments shall provide for underground installation of available utilities, including telephone, electricity, cable TV, etc. In addition, provisions shall be made for acceptable design and construction of all necessary storm drainage facilities.
 4. The use shall be compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is consistent with the public health, safety and welfare of the residents of Barry County and the benefits of the development shall not be achievable under any single zoning classification.
 5. The use shall be consistent with the Barry County Master Plan and the Future Land Use Map.
 6. The use and development shall be warranted by the design and additional amenities made possible with and incorporated by the development proposal.
 7. The development shall consolidate and maximize usable open space.
 8. Landscaping shall be provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.
 9. Vehicular and pedestrian circulation, allowing safe, convenient, non-congested and well-defined circulation within and access to the development shall be provided.
 10. Existing important natural, historical and architectural features within the development shall be preserved.
- D. Dimensional and Use Standards. In acting upon the application, the Planning Commission may alter lot size standards, required facilities, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are reasonable and consistent with the intent, objectives, and standards set forth in **Section 2363, 2**. Further, the Planning Commission may also alter residential density limits, providing they are generally compatible with **Section 2363, B**, with adjacent land uses, and do not over burden roadway capacity.

The Planning Commission may authorize principal and other uses not permitted in the district where the land is located, provided that such uses are consistent with the intent of this section and the standards set forth herein. Dimensional and parking use restrictions of the underlying zoning shall not apply to the area within an approved PUD unless expressly retained in the permit.

- E. PUD Application. A planned unit development application shall be submitted to the Planning Commission for review, analysis, and recommendation. An application fee is required and shall be non-refundable. The application must be signed by all applicants and must contain the materials described in this Section. Failure of the applicant to provide such requested information in a timely manner may delay the process of review. The following shall

accompany a planned unit development special use application, unless waived by the Planning Commission:

1. A detailed narrative description of the applicant's intent and objectives (physical, social, and environmental).
2. A certified boundary survey and legal description of the property.
3. A statement of present ownership of all land contained in the PUD.
4. Population profile for the development.
5. Proposed financing.
6. Development staging.
7. Estimated impact of the proposed development on roads, and utilities, including water and sewer services.
8. Waste emissions and methods of handling smoke, dust, noise, odors, liquid and solid wastes, and vibrations, if applicable.
9. Market and economic feasibility.
10. Such other information pertinent to the development or use.
11. Twelve (12) copies of a Detailed Site Plan, that includes all the requirements of **Section 2701, B**, plus:
 - a. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, a certified boundary survey and legal description of the property.
 - b. Property parcel number (from the Assessment Roll of the County).
 - c. Existing and proposed topography of the site at two (2) foot contour intervals, its relationship to adjoining land, and proposed changes in topography.
 - d. Illustration of existing natural and man-made features, existing land use and zoning for the entire site and surrounding area within one hundred (100) feet.
 - e. All water features; springs, streams and creeks, lakes and ponds, wetlands, and flood plains.
 - f. Proposed setbacks from property lines and building separations distances.
 - g. Locations, heights and sizes of existing and proposed structures and other important features.
 - h. A rendering of the exterior elevation of the proposed buildings and structures, on-site parking, sidewalks, and travel lanes.
 - i. A land use tabulation summary shall be provided indicating types of uses, acreage for each land use, number of units, densities and land use intensities.

- j. The percentage of land covered by buildings, parking and landscape open space, or preserved open space.
 - k. Dwelling unit density where pertinent.
 - l. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
 - m. Curb-cuts, driving lanes, parking, and loading areas.
 - n. Location and type of drainage, sanitary sewers, storm sewers, and other facilities.
 - o. Location and nature of fences, landscaping and screening. The proposed landscape massing, open spaces and their intended use, active and passive recreation facilities pursuant to the landscaping standards of **Section 521**.
 - p. Signage characteristics and on-site illumination.
 - q. The location of all existing trees having five (5) inches or greater diameter at breast height, identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. Cluster of trees standing in closed proximity (3-5 feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number and average size shall be indicated.
 - r. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public, as may be requested by the Planning Commission, such as but not limited to copies of any applicable master deed, bylaws, design guidelines, and easements.
13. Police and fire protection statement: The developer shall provide a written statement defining how adequate police and fire protection will be provided to the proposed development. The statement shall be reviewed and signed with conditions and comments, if necessary, by the appropriate agency(ies) or municipalities providing police and fire protection to the development.
14. School impact statement: The planned unit developments proposed to contain residential uses shall state the anticipated impact the proposed development will have on public and private elementary, middle, and high schools in the area. The statement shall be based on acceptable standards of family sizes per dwelling unit types, the number and type of school age children per family. The statement shall define average walking distances to various schools and define what arrangements may be needed for busing students. The statement should be prepared in collaboration with local school officials and shall be signed, with comments if necessary, by the superintendent or official of all public and private school districts affected.
- F. Procedure. A public hearing by the Planning Commission shall be held on each planned unit development request properly filed under the terms of this ordinance. Notice of the public hearing shall conform to **Section 3004**.

G. Decisions.

1. If the Planning Commission determines that the PUD application is consistent with the intent of this Section and with the other standards and requirements herein contained, it shall adopt a resolution approving the proposed PUD in accordance with the application and material submitted, or approving the proposed PUD in accordance with the application and material submitted and subject to any conditions that the Planning Commission believes are necessary to carry out the intent and standards of this ordinance. Such conditions of approval shall:
 - a. Be designed to protect natural resources, the health, safety and welfare of the community, including those who will use the proposed development,
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed PUD, and
 - c. Be necessary to meet the intent and purpose of this Ordinance, the standards established for planned unit development and be necessary to assure compliance with this Ordinance.
 2. If the Planning Commission determines that the PUD application is not consistent with the intent of this Section, it shall adopt a resolution denying the application.
 3. In either event, the decision of the Planning Commission shall recite the findings of fact and the reasons upon which it is based.
- H. Effect. After approval of a PUD, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the PUD or only as authorized by the provisions of this Ordinance which would apply if the PUD order had not been issued.
- I. Phased PUD. Each phase of a PUD shall be planned, developed, and approved to exist as a complete development able to stand on its own in the event subsequent phases are not implemented.
- J. Amendments. An order approving a PUD may be amended as follows:
 1. Minor amendments. Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Zoning Administrator provided no such changes shall increase the size or height of structures, reduce the efficiency or number of public facilities serving the PUD, reduce usable open space, alter the land uses proposed, or encroach on natural features proposed by the plan to be protected.
 2. Major amendments. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be reviewed and authorized by the Planning Commission according to the procedures authorized by this section for approval of a planned unit development.
- K. Termination. The PUD order shall expire one year from date of final approval if the applicant has not commenced substantial construction and is not diligently proceeding to

completion. Upon written request stating the reasons therefore, the Planning Commission may extend the time for commencement of construction. An approved PUD may be rescinded at any time by the Planning Commission for violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the PUD area and after a hearing on the violation.

- L. Ordinance Amendment. A planned unit development approval shall not be considered an ordinance amendment or a rezoning of the property.
- M. Approval of Construction Plans. Approval of a special land use for planned unit development does not constitute approval to being construction. Detailed construction drawings shall be approved by the County Engineer and any applicable approving agencies including but not limited to the Barry County Road Commission, Barry County Drain Commission and the Barry-Eaton Health Department.

SECTION 2361 RESERVED

SECTION 2362 PRIVATE ROADS

- A. Definition. A road which is not publicly-owned, and which has not been accepted by the County or other governmental entity.
- B. Regulations and Conditions.
 - 1. In considering the application for a special land use permit for a private road the Planning Commission shall give consideration to the following factors:
 - a. The impact of the proposed private road and resulting developments on nearby properties.
 - b. The impact of the proposed private road and resulting development on the long range planning goals of the County, as expressed in the Barry County Master Plan.
 - c. In the CR and A districts, private roads may be considered to serve legal land division where the Planning Commission finds:
 - 1) The parcels to be served by the private road are without important natural features or prime or unique agricultural soils,
 - 2) The proposed private road will be no more extensive than necessary to provide access to the legal land divisions proposed to be created and will not be designed for future extension.
 - 3) The lot area of the legal land divisions proposed to be served by the private road shall be no greater than necessary to result in a useable parcel of the lesser of two acres or an area sufficient for a residence with on-site water and wastewater system. Provided, however, larger parcels may be served with the private road, if the area in excess of that two acres is restricted from development through a conservation easement or other restriction satisfactory to the Planning Commission to assure

against an expansion of residential land uses that would undermine the intent of the CR and A districts.

- d. The potential for conflicts between the proposed land uses and existing land uses (i.e. residential development in an agricultural area).
 - e. The health, safety, and general welfare of the surrounding community.
 - f. The impact on public roads created by the potential for traffic congestion or potential intersection interference or other similar or related problems.
2. Private roads shall conform to **Section 531**.
 3. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2363 PROCESSING AND MANUFACTURING

- A. Definition. Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.
- B. Regulations and Conditions.
 1. The applicant shall disclose the nature and quantity of all chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with any applicable local, state or federal requirements.
 2. No toxic or hazardous materials shall be discharged to groundwater or surface waters.
 3. Within one hundred (100) feet of a LDR, MDR and HDR district, all manufacturing and processing activities shall take place inside a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.
 4. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.
 5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
 6. In addition to the provisions of **Section 521**, the Planning Commission may require additional open space and landscape buffer screening the proposed special use from adjacent property.
 7. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.

8. All exterior lighting shall be in accordance with **Section 523** hereof.
9. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
10. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2364 RESERVED

SECTION 2365 RESEARCH LABORATORY AND TESTING

- A. Definition. An establishment or other facility for carrying on investigation in the natural, physical or social services, which may include engineering and product development.
- B. Regulations and Conditions.
 1. Any outside storage area shall be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent. The fence or wall shall be tall enough to screen the view of the contents of the storage area.
 2. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 3. All parking shall be in compliance with the provisions of **Section 527** of this Ordinance.
 4. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
 6. Any biohazard materials or byproducts shall be disposed of as required by the Barry-Eaton Health Department, the Michigan Department of Public Health, or other duly appointed authority.
 7. Uses shall be designed to prevent the discharge or emission of hazardous, contaminated or toxic gases, liquids or particulate matter in any quantity that may perceptible at lot lines.
 8. All experimentation and storage shall take place inside a secure building or structure.
 9. The laboratory shall be designed in accord with all required state and federal licensing and permitting requirements. All wastes produced within the facility shall be properly characterized and documented and disposed of in accord with applicable statutory and regulatory requirements. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.
 10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2366 ROADSIDE STAND

- A. Definition. A building or structure from which agricultural products produced on the premises is sold.
- B. Regulations and Conditions. Roadside Stands which exceed a floor area of two hundred (200) square feet or are operated for more than six (6) weeks in any twelve (12) month period shall be subject to the following requirements:
 - 1. Products sold in a roadside stand shall be limited to fresh fruit, cut flowers, shrubbery, vegetables and similar horticultural products produced on the premises.
 - 2. No part of the roadside stand, sales area or parking area shall be located within a road right-of-way.
 - 3. All structures associated with the roadside stand shall be portable and not permanently affixed to a foundation, and shall be removed when not in use.
 - 4. Only one roadside stand shall be permitted on any one parcel.
 - 5. The Planning Commission shall give due consideration to the nature of the proposed use and its potential impact on the surrounding land uses and may establish appropriate site conditions to assure that the use will generate no detrimental impacts on surrounding property.
 - 6. A roadside stand shall be permitted not more than two (2) signs with a combined surface area of thirty-two (32) square feet. Such signs shall not be lighted.
 - 7. A Basic Site Plan pursuant to **Section 2701, A**, shall be required.

SECTION 2367 RESERVED

SECTION 2368 SAWMILL

- A. Definition. A facility where logs or partially processed logs are sawn, split, shaved, stripped, dried, or chipped. For the purposes of this ordinance, this shall not include the processing of timber for use on the same lot by the owner or resident of that lot.
- B. Regulations and Conditions.
 - 1. The Planning Commission may require that outside storage area shall be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent.
 - 2. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 - 3. All parking shall be in compliance with the provisions of **Section 527** of this Ordinance.
 - 4. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.

5. Any dumpsters visible from the road right-of-way or from an adjoining parcel shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.
6. The applicant shall comply with the requirements of the Fire Marshall to incorporate provision to minimize fire risks on the site.
7. The Planning Commission may stipulate hours of operation.
8. Appropriate measures shall be incorporated in the proposed site plan to mitigate fugitive saw dust.
9. The Planning Commission may establish shipping and transport routes for trucks serving the facility to limit truck traffic on surrounding roads to those best suited, in the judgment of the Planning Commission, to accommodate such traffic.
10. All parking areas and truck maneuvering areas shall be treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
11. Activities shall not generate noise exceeding 60 decibels for more than 4 hours in a 24 hour period at any property line.
12. Surface water protection shall be contemplated in the design and operation of a sawmill and applicable requirements of **Section 539** shall be met.
11. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2369 SEXUALLY ORIENTED BUSINESS

- A. Purpose of Regulation. The purpose and intent of the sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the County and to minimize their negative secondary effects. It is recognized that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics, which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of County residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by the Ordinances of the County, or state or federal law. If any portion of **Section 2369**, including the definitions appearing in **Article 2** and referenced in **Section 2369**, is found to be invalid or unconstitutional by a court of competent jurisdiction, the County intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law.
- B. Definitions. Definitions associated with sexually oriented businesses shall include:

1. Sexually Oriented Business: An establishment engaged in providing services, entertainment or products characterized by an emphasis on matters involving, depicting, describing or relating to specified sexual activities and/or specified anatomical areas, as defined.
 2. Specified Anatomical Areas: Specified anatomical areas shall include:
 - a. Less than completely and opaquely covered human genitals, anus and female breasts at or below the top of the areola; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 3. Specified Sexual Activities: Any of the following:
 - a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - c. Masturbation, actual or simulated; or,
 - d. Excretory functions as part of or in connection with any of the activities set forth in A-C above.
- C. Regulations and Conditions. Sexually Oriented Businesses shall be subject to the following standards:
1. The proposed Sexually Oriented Business shall not be located within five hundred (500) feet of any residentially zoned property, park, school, child care organization, place of worship or other Sexually Oriented Business. The distance between a proposed Sexually Oriented Business and any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed Sexually Oriented Business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care organization, place of worship, or other Sexually Oriented Business.
 2. Entrances to the proposed Sexually Oriented Business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:
 - a. "Persons under the age of eighteen (18) are not permitted to enter the premises," and
 - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
 3. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.

4. Hours of operation shall be limited to 8:00 A.M. to 11:00 P.M., Mondays through Saturdays.
5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
6. All signs shall be in accordance with **Article 25** of this Ordinance. Provided, however, that no sign visible from the nearest adjoining road right-of-way or a neighboring property shall display or depict any Specified Anatomical Areas or Specified Sexual Activities
7. All parking shall be in accordance with **Section 527** of this Ordinance. Provided, however that all off-street parking areas shall be illuminated during all hours of operation of the Sexually Oriented Business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
8. As a condition of approval and continued operation of a Sexually Oriented Business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing.
9. Any booth, room or cubicle available in any Sexually Oriented Business used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
 - a. Be constructed in accord with the Michigan Building Code, as amended.
 - b. Be unobstructed by any door, lock or other entrance and exit control device.
 - c. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
 - d. Be illuminated by a light bulb of wattage not less than sixty (60) watts, and
 - e. Have no holes or openings, other than doorways, in any side or rear walls.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2370 RESERVED

SECTION 2371 SOLID WASTE DISPOSAL AND HANDLING SITE

- A. Definition. Any site, tract of land or buildings used for the disposition, storage, transfer, collection or reclamation of solid waste material, and operating in conformance to all applicable state and local regulations. A solid waste disposal and handling site shall not include a recycling drop-off center.
- B. Regulations and Conditions.
 1. All parking areas and truck maneuvering areas shall be paved or treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.

2. The applicant shall demonstrate compliance with any applicable State and federal requirements.
3. A proposal to establish a solid waste disposal and handling facility shall not be approved unless the Planning Commission reaches a finding, based on objectively verified evidence, that all processes to be used in the handling and/or incineration of refuse shall be the most advanced such systems in terms of the following criteria:
 - a. Potential environmental impacts on air, surface water, ground water, soils, and natural features, shall be minimized or fully mitigated,
 - b. Potential community impacts on nearby land uses, public infrastructure and the economic vitality of the community shall be demonstrated to be either neutral or positive,
 - c. Potential impacts on the health of residents of Barry County and surrounding communities and on plant and wildlife communities in the vicinity shall be negligible,
 - d. Potential safety impacts on the residents of Barry County and surrounding communities and employees of the facility shall be fully and adequately addressed.
4. The applicant shall fully disclose:
 - a. The nature and quantity of all fuels, chemicals, hazardous materials to be disposed of on-site and all uses and activities shall at all times comply with **Section 539** hereof.
 - b. All operating and procedural details of the proposed facility including, but not limited to, equipment specifications, maintenance schedules, capital replacement schedules and plans for eventual decommissioning of the facility.
 - c. The chemical composition of all emissions to the air, groundwater and surface waters.
 - d. The organizational, capital and operating financial structure for the proposed facility including resumes of officers, all members of the board of directors and key technical staff assisting in the development.
 - e. The proposed phasing of the project including any change in ownership of the facility during development or following start-up.
 - f. All required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications.
5. The Planning Commission may require buffering, screening, setbacks and other elements that are greater than those otherwise required by this ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.
6. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2372 SUBDIVISION, CONSERVATION

- A. Definition. A residential use that divides land into not more than the number of lots permissible in a conventional subdivision of same property in the same zoning district, but where the size of individual lots may be reduced in order to gain common open space.
- B. Regulations and Conditions
1. Statement of Policy. It shall be the policy of Barry County to take reasonable measures to preserve, protect and enhance the many important natural features of the community. This policy is broadly supported and articulated in the Barry County Master Plan and the purpose of this **Section 2372** is to provide for a development mechanism and form that will permit appropriate residential development within the County while providing for the preservation and protection of the most important natural features of the community. Accordingly, Conservation Subdivision as further described in this **Section 2372**, is hereby declared to be the preferred development form in those portions of the County with significant natural features and meeting the requirements of this section. The Conservation Subdivision form better supports the Master Plan policies for the preservation and protection of natural areas than conventional subdivision designs because it places a priority on defining and protecting key features, while enabling reasonable development to occur. This Section encourages innovative housing developments through permanent dedication of open space and flexibility in individual lot area requirements. Development carried out in accord with this ordinance is intended to retain and enhance the rural character found in the County in keeping with the policies of the Barry County Master Plan.
 2. Special Land Use. A Conservation Subdivision shall be considered a special land use in the NLR, RR and A zoning districts, and within a Conservation Subdivision, the following land uses shall be permitted:
 - a. Detached single unit dwellings with a minimum of seven hundred twenty (720) square feet of living area per dwelling unit and core area of living space measuring at least twenty-four (24) feet by twenty-four (24) feet.
 - b. Accessory buildings as defined in **Article 2** and **Section 201** of this Ordinance.
 - c. Common open space as defined in **Article 2** of this Ordinance.
 - d. Farms and Farm Operations, as defined in **Article 2** of this Ordinance.
 3. Minimum Parcel Area. To be considered as a Conservation Subdivision, a proposed site shall consist of a minimum of ten (10) acres of gross area, which may be divided by a public or private road.
 4. Condominium. A Conservation Subdivision may be formed as a subdivision as regulated pursuant to the Land Division Act (Act 288 of 1967, as amended) or a condominium, sometimes referred to as a “site condominium” pursuant to the Condominium Act (Act 59 of 1978, as amended).
 5. General Approval Standards. In addition to the specific standards set forth in this **Section**

2372, the County shall evaluate each Conservation Subdivision application in accord with the general approval standards for site plan approval set forth in Article 24.

6. Density Standards.

- a. Base Density. The total number of residential dwelling units permitted in a Conservation Subdivision shall not exceed the base density for the parcel, determined in accord with this paragraph. The base density shall be determined by the following formula, or by a comparison plan pursuant to Subparagraph “b” hereof: The total area of the primary conservation area on the site (if any) shall be subtracted from the gross area of the site to determine the adjusted parcel acreage. The adjusted parcel acreage shall be multiplied by eighty-five percent (85%) to account for rights-of-way, drainage facilities and similar facilities, and the resulting product shall be divided by the minimum lot area for the underlying zoning district, rounded down to the nearest whole number. In the event the parcel includes more than one underlying zoning district, the calculation set forth in this paragraph shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed.
- b. Comparison Plan. At the applicant’s option and in lieu of the formula set forth in **Section 2372, B, 6, a**, base density may be determined by the preparation of a comparison plan which shall be a site plan meeting the requirements of **Article 27** to illustrate a feasible development for the proposed site in full conformance with the requirements of the underlying zoning district(s). The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of this Ordinance, and if the plan is found to be feasible, the base density shall be the number of units illustrated in the comparison plan.

7. Minimum Open Space Requirement. A Conservation Subdivision shall achieve the required minimum standards for preserved open space, by incorporating the following features in protected open space areas:

- a. 100% of any and all naturally occurring surface water, regulated wetlands and 100-year flood plain areas, plus
- b. Key features as defined in a Natural Features Inventory for the vicinity which shall be protected in rank order as set forth in said Natural Features Inventory.
- c. Perpetually protected open space and all naturally occurring surface water, regulated wetlands and 100-year flood plain areas in a Conservation Subdivision shall achieve the following minimum percentages of the total parcel area, depending on zoning district:

<u>Zoning Districts</u>	<u>Minimum Open Space Percentage</u>
NLR	60%
RR, and A	50%

8. Dimensional Standards. Residential lots and site condominium units in a Conservation Subdivision shall meet the following minimum dimensional standards:

Zoning District	Minimum Lot Area	Minimum Lot Width (feet)	Setback Standards (feet)			
			Front	Side*	Rear*	Waterside
NLR	12,000 ft ²	100	20	10	10	30
RR & A	21,780 ft ²	100	25	10	20	50

* Side and rear setbacks along any property align abutting surrounding properties which are not included in the Conservation Subdivision shall be consistent with the side and rear yard setbacks in the underlying zoning district.

9. Ownership and Control. A proposed Conservation Subdivision shall be under single ownership or control. The applicant shall provide documentation of ownership or control in a form acceptable to the County. This provision shall not prohibit the transfer of ownership or control following approval upon dune notice to the Zoning Administrator.
10. Vegetated Buffer. A vegetated buffer strip shall be provided parallel to and abutting any existing public road that forms the perimeter of a Conservation Subdivision. Such vegetated buffer shall consist of a natural area including sufficient native vegetation to screen views into the development from off site. Such vegetated buffer may be included in the required common open space.
11. Site Analysis. In addition to the requirements of **Article 27** pertaining to site plan review, an application for a Conservation Subdivision shall include a detailed site analysis. This shall include an analysis of native soils, water features, wetlands, topography, vegetation, wildlife, views, endangered species, easements and rights-of-way, historic or cultural resources, steep slopes and other features. The site analysis shall be consistent with the Natural Features Inventory, if one has been completed for the vicinity of the site. Provided, however, that in the event the applicant believes that the Natural Features Inventory is inaccurate with respect to the proposed site and elects to take issue with its findings, the site analysis shall include an alternative features inventory for the site. Such alternative features inventory shall be prepared by a qualified environmental professional with expertise in central Michigan wildlife and forestry systems, freshwater biology and ecology. The credentials of the preparer of the alternative features inventory shall be provided with the site plan submittal. Based on the Natural Features Inventory or the alternative features inventory, the site analysis will include ranking of each feature in terms of its importance to preserving the overall character of the County and its rural character. This site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The site analysis shall illustrate the topography of the site with not greater than two foot (2') contour intervals, all important woodlands, slopes, water bodies, wetlands and other features. Provided, however, that portions of the site to be left undisturbed as common open space may be illustrated at ten (10) foot interval contours.

Based on the site analysis, the site plan identify areas to be preserved as permanent open space, as defined herein.

12. **Use of Open Space.** Further subdivision of dedicated open space lands within a Conservation Subdivision, or their use for other than recreation, conservation or agricultural use by the site owners shall be prohibited. Pedestrian access points from roadways to open space shall be required at intervals of not less than 1,500 feet measured along the roadway, and at the end of cul-de-sacs. Access points must be of common ownership and shall be at least ten feet (10') in width. Provided, however, that access may be limited in areas of sensitive environmental features or wildlife habitat with the approval of the Planning Commission. Such land shall be permanently protected from development and intended for the common use or enjoyment of the residents of the development and/or the general public, which may contain structures and improvements that are necessary and appropriate for the recreational use of the open space. Where common open space consists of non-contiguous parcels, an isolated area with a total area of less than one-half acre shall not be considered common open space. Areas not considered common open space shall include areas devoted to public or private road right-of-ways or any land that has been or is to be conveyed to a public agency for utilities or drainage areas devoted to county drain easements.
13. **Preservation of Common Open Space.** The applicant and all subsequent owners shall establish, register and maintain a viable legal entity which may be a homeowners' association, a condominium association or other organization acceptable to the County which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the County. In any such recorded assurances, the County shall be identified as having the right, but not the obligation, to enforce the conditions, covenants and restrictions placed upon the common open space. All forms of ownership intended to protect common open space within a Conservation Subdivision shall be subject to the review and recommendation of the County attorney.
14. **General Development Standards.** The following standards shall be observed in the preparation of a conservation cluster development.
 - a. **Siting.** Dwelling units shall be carefully sited and positioned to screen homes from off-site vantage points, away from environmentally sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.
 - b. **Trees.** Within portions of the site to be developed, grading and site preparation work shall be undertaken with due care to protect existing healthy trees from harm, to the greatest extent possible.
 - c. **Public Utilities.** Public sanitary sewers or public water shall not be required. The Conservation Subdivision shall fully comply with the requirements of the Barry-Eaton Health Department with respect to the siting and development of on-site wastewater

treatment and disposal. Provided, however, that with the approval of the Planning Commission, Barry-Eaton Health Department, and the Homeowner's Association or Condominium Association, an approved drainfield may be located within an area dedicated as common open space.

- d. Stormwater. A Conservation Subdivision meet the requirements of the Office of the Barry County Drain Commissioner.

15. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2373 SUBDIVISION, CONVENTIONAL

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

B. Regulations and Conditions.

1. In General. The Barry County Master Plan sets forth the policies of the County regarding the preservation and enhancement of the community's natural character. In those parts of the County, that are characterized by important natural features, development that fails to properly recognize those features or incorporate measures to protect and preserve them are hereby found to be generally at odds with the policies of the Master Plan. Therefore, in the NLR, RR and A districts, the subdivision and development of property for residential uses shall be undertaken primarily through exempt splits or divisions not subject to the platting requirements of the Land Division Act, or through Conservation Subdivision standards of **Section 2372** of this ordinance. It is understood that there may be areas of the County within these districts where the provisions of **Section 2372** may not be appropriate, or there may be particular development forms that do not include significant areas of open space but which nevertheless do substantially support the policies of the Master Plan. The purpose of this **Section 2373** is to provide standards and conditions to address those areas of the County and those development forms.

2. An application to undertake a Conventional Subdivision on a parcel of land in excess of five (5) acres within the NLR, RR and A districts shall include a written narrative demonstrating why the particular parcel is a poor site for application of the standards of **Section 2372**. Reasons why a property may be a poor site for application of the standards of **Section 2372** include:

- a. A lack of any identified natural features pursuant to the Barry County Natural Features Inventory; and/or
- b. A predominant pattern of development adjacent to and in the immediate vicinity of the site which would make the inclusion of open space on the parcel of little value; and/or
- c. The concealed location of the site which would preclude any open space on the site from contributing to the rural character of the community.

3. In lieu of, or in addition to, the written narrative required in subparagraph 2, hereof, an application to undertake a Conventional Subdivision on a parcel of land in excess of five (5) acres within the NLR, RR and A may include a written narrative demonstrating why a Conventional Subdivision would be more in keeping with the goals and objective of the Barry County Master Plan than would an Conservation Subdivision as provided pursuant to **Section 2372**.
4. The Planning Commission shall conduct a detailed inquiry of any proposal to undertake a Conventional Subdivision and carefully apply the standards of this section. The Planning Commission may seek additional detail of the applicant to determine whether the parcel may be developed under **Section 2372** with minor reconfiguration or adjustment. The possible or alleged impact of the Conservation Subdivision form on the marketability of the property or the lots or parcels to be developed is considered to be speculative and shall not be a consideration of the Planning Commission.
5. Where a proposed Conventional Subdivision will abut an existing residentially zoned and improved parcel, the Planning Commission may require buffering, screening, setbacks and/or other elements that are greater than those otherwise required by this ordinance to assure an attractive and harmonious transition from existing development patterns to the proposed development.

SECTION 2374 RESERVED

SECTION 2375 TATTOO OR PIERCING PARLOR

- A. Definition. An establishment where persons are tattooed or where body piercing is undertaken, other than by a licensed medical practitioner or cosmetologist; whether in exchange for compensation or not.
- B. Regulations and Conditions.
 1. Tattoo or Piercing Parlors shall, as a condition of Special Use approval, at all times maintain all valid state and local licenses.
 2. A proposed Tattoo or Piercing Parlors shall not be approved if it is located within one thousand (1,000) feet of any Educational Facility, religious institution, Day Care, or other Tattoo or Piercing Parlor.
 3. Alcoholic beverages shall not be served, offered or consumed at a Tattoo or Piercing Parlors.
 4. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 5. All parking shall be in compliance with the provisions of **Section 527** of this Ordinance.
 6. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 7. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

8. Any biohazard materials or byproducts shall be disposed of as required by the Barry-Eaton Health Department, the Michigan Department of Public Health, or other duly appointed authority.
9. Outdoor lighting shall conform to **Section 523**.
10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2376 TAVERN

- A. Definition. An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.
- B. Regulations and Conditions.
 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
 2. Such facilities shall be located and designed such that no objectionable noise shall be carried onto adjoining property zoned for, or occupied by residential uses.
 3. Such facilities shall be located and designed such that no odor or fumes shall be carried onto adjoining property zoned for, or occupied by residential uses.
 4. The Planning Commission may require that some or all of the property be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.
 5. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 6. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 7. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 8. All exterior lighting shall be in accordance with **Section 523** hereof.
 9. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 10. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2377 RESERVED

SECTION 2378 USES SIMILAR TO USES PERMITTED AS SPECIAL LAND USES

- A. Definition. Uses that have characteristics similar to specifically cited Special Uses in terms of trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, clientele and other off-site impacts.
- B. Regulations and Conditions.

1. The Planning Commission upon the recommendation of the Zoning Administrator pursuant to **Section 538**, shall make a determination of whether a proposed use is similar to one or more uses permitted by Special Use permit. In preparing such a recommendation, the Zoning Administrator shall evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with other uses in the vicinity.
2. The Planning Commission shall determine whether or not a proposed Special Use is similar to other permitted Special Uses, and may require of the applicant further information to demonstrate such similarity.
3. Upon a finding of such similarity, the Planning Commission may establish any regulations and conditions necessary to protect the health, well being, safety, and economy of the County and its residents.
4. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2379 VETERINARY CLINIC

- A. Definition. A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use.
- B. Regulations and Conditions.
 1. Animal wastes, biohazard materials, carcasses or byproducts shall be disposed of as required by the Barry-Eaton County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers placed in enclosed dumpsters and removed not less frequently than once per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for a Veterinary Clinic.
 2. Said use shall be located on a parcel not less than one-half (1/2) acre in size, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
 3. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
 4. Any outdoor exercise areas for animals shall be adequately fenced to prevent both escape from and entry into the facility.
 5. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 6. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 7. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.

8. All exterior lighting shall be in accordance with **Section 523** hereof.
9. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2380 WAREHOUSE

- A. Definition. A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by the owner or operator on behalf of the owner(s) of such items.
- B. Regulations and Conditions.
 1. All local, county, state and federal laws, rules and regulations pertaining to the emission of odor, dust, smoke, gas, noise, vibration and the like, shall be met at all times during operation of any Warehouse.
 2. All exterior lighting shall be in accordance with **Section 525** hereof.
 3. The applicant shall disclose the nature of any perishable, flammable, toxic, or hazardous substances to be stored on the facility and the nature of all appropriate and proposed protection procedures and devices and all uses and activities on site shall, at all times, comply with **Section 520** hereof.
 4. No processing or manufacturing shall take place within a public warehouse.
 5. All parking areas and truck maneuvering areas shall be paved or treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
 6. No material shall be stored outdoors except within areas effectively screened from view from adjoining properties and rights-of-way.
 7. No trucks, trailers or other equipment shall be stored in the front yard or closer than ten (10) feet to any side or rear lot line.
 8. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 9. All signs shall be in compliance with the provisions of **Article 25** of this Ordinance.
 10. All off-street parking shall be in compliance with **Section 527** of this Ordinance.
 11. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
 12. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2381 WATER ACCESS LOTS

- A. Definition. A waterfront lot, or riparian lot, on a lake or stream, providing for private or common (semi-private) access to such lake or stream for one or more access lot beneficiaries.
- B. Regulations and Conditions.
1. Any special use approval for a Water Access Lot hereunder must specify the number of access lot beneficiaries granted as a result of the approval.
 2. This Site Plan Review shall include a recreation carrying capacity analysis completed on the body of water of the intended access lot beneficiary and conducted by a firm, organization, or group, approved by the Barry County Planning Commission. Said recreation carrying capacity analysis shall include the following information:
 - a. Estimated number of motorized boats per household on the body of water.
 - b. Number of shoreline buildings.
 - c. Number of public access lots, marinas, and commercial enterprises.
 - d. Number of motor boats greater than 25 horsepower.
 - e. The lake use rate as determined by an aerial flyover done on both a Saturday and a Sunday, with at least 14 days between the two flyovers, done during the months of June, July, or August, but not on a national holiday, and with the outside ground temperature above 65 degrees and the weather not raining or overcast. One of these flyovers shall be conducted between 10:00 AM and Noon, the other flyover shall be conducted between 2:00 PM and 4:00 PM. Color photos shall be used to illustrate the survey of both flyovers.
 - f. Shallowness ratio.
 - g. Plant biomass.
 - h. Usable lake area.
 - i. Boat density per lake acre.
 - j. Topographic map of the lake.
 - k. Total shoreline length.
 - l. Unimproved shoreline footage for each parcel owner with 10 acres or more of land.
 3. Such recreation carrying capacity shall demonstrate to the satisfaction of the Planning Commission that the proposed water access lot with the number of access lot beneficiaries proposed shall not exceed the carrying capacity of the lake.

SECTION 2382 RESERVED

SECTION 2383 WELLS, EXTRACTION

- A. Definition. Wells installed for the commercial extraction of ground water, crude oil, brine, natural gas, sour gas or similar products. This definition may include any surface or subsurface pumping or processing equipment or facilities associated therewith, but shall not include irrigation wells.
- B. Regulations and Conditions. The following standards shall apply to all Extraction Wells.
1. Intent: The activity of drilling and exploring for, producing, processing, transporting and storing oil, gas, brine or other products extracted from subterranean deposits within the Barry County involves, or may involve, hazardous and/or toxic substances and practices and the intent of this section is to provide for the protection of citizens, workers and property from dangerous and nuisance conditions associated with extraction wells.
 2. All Extraction Wells shall be established, operated and maintained in conformity with all state and federal statutes and regulations pertaining thereto.
 3. No new Extraction Well shall be located nearer than three hundred (300) feet from an adjoining property line, unless such adjoining property shall contain an existing extraction well.
 4. A new Extraction Well for the purpose of exploring for or producing oil, natural gas or hydrocarbons shall be considered a principal use, regardless of other activities carried out on the site. Extraction Wells for the purpose of exploring for or producing ground water, brine, salt water or related products, may be considered an accessory use pursuant to **Section 504**, providing such Extraction Wells include facilities for storage, processing, transporting, refining, combining, packing or other activities.
 5. An existing Extraction Well located in the LI or GI districts may be reworked, deepened or otherwise operated as an existing use without reference to this section, whether it is currently working or not; provided all State and Federal statutes and regulations are fully met.
 6. A new Extraction Well site shall be completely fenced to prohibit unauthorized entry at all times.
 7. A new Extraction Well shall include measures or controls satisfactory to the Planning Commission to minimize any objectionable dust, fumes, or odors at any property line.
 8. All exterior lighting shall be in accordance with **Section 523** hereof.
 9. Height limitations set forth in the applicable district regulations shall apply to derricks and other drilling equipment, unless specifically waived by the Planning Commission. In considering a request for such a waiver, the Planning Commission may require site improvements, screening, increased setbacks or other measures to mitigate the imposing nature of tall structures.
 10. A new Extraction Well shall include measures or controls satisfactory to the County Engineer to prevent any discharge of any hazardous materials to the Barry County sanitary sewer system, stormwater system or any natural or man-made stream or lake. There shall

be no off-site discharge of storm water except to an approved drainage system in accord with the County's engineering requirements.

11. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
12. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.
13. All signs shall be in accordance with **Article 25** of this Ordinance.
14. All parking shall be in accordance with **Section 527** of this Ordinance.
15. Landscaping shall be provided in accordance with **Section 521** of this Ordinance.
16. A Basic Site Plan pursuant to **Section 2701, A**, shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided, pursuant to **Section 2701, B**.

SECTION 2384 WHOLESALE FACILITY

- C. Definition. An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.
- D. Regulations and Conditions.
 1. The applicant shall disclose the nature of any perishable, flammable, toxic, or hazardous substances to be stored on the facility and the nature of all appropriate and proposed protection procedures and devices and all such uses and activities on site shall, at all times, comply with applicable state and federal statutes and regulations.
 2. All parking areas and truck maneuvering areas shall be paved or treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
 3. Any such outdoor storage which abuts property zoned or used for residential purposes shall be screened with fencing in accord with **Section 521** or evergreen landscaping sufficient to provide a year-round opaque screen.
 4. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
 5. No trucks, trailers or other equipment shall be stored in the front yard or closer than ten (10) feet to any side or rear lot line.
 5. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2385 WIND ENERGY CONVERSION SYSTEM

- A. Definition. A Wind Energy Conversion System shall mean all, or any combination of, the following:
1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
 2. A surface area, 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. Regulations and Conditions. The following standards shall apply to all Wind Energy Conversion Systems as defined herein except as regulated pursuant to **Section 543** and a Wind Monitoring Station.
1. A Wind Energy Conversion System shall be located on a parcel at least two and one-half (2-1/2) acres in size.
 2. In addition to the special use application, 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,
 - c. Shadow and glare impacts on adjacent properties, and
 - d. Aesthetic impacts of the Windmill on adjoining properties.
 3. The applicant shall also submit an appropriately scaled site plan, illustrating the following:
 - a. Property lines, dimensions, acreage, and contours with appropriate intervals for site evaluation,
 - b. Location and elevation of the proposed Wind Energy Conversion System,
 - c. Location and dimensions of all existing structures and uses on the lot within 300 feet of the system,
 - 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 Wind Energy Conversion System,
 - e. Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the Wind Energy Conversion System location,

- f. Standard drawings of the structural components of the Wind Energy Conversion System, 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,
 - g. Evidence from a qualified individual that the site is feasible for a Wind Energy Conversion System,
 - h. Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site,
 - i. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five (85) miles per hour, and
 - j. Registered Engineer's certification that if the Windmill were to fall, no building or structure - existing or potential - would be damaged.
4. Setbacks.
- a. Wind Energy Conversion Systems shall maintain a minimum setback of two (2) times the total height of the Wind Energy Conversion System from any property line.
 - b. Wind Energy Conversion Systems shall maintain a minimum setback of at least five (5) times the Wind Energy Conversion System height from the right-of-way line of any public road or highway.
 - c. In all cases the Wind Energy Conversion Systems shall maintain a minimum distance of at least 1.25 times the Wind Energy Conversion Systems height from any habitable structure.
5. Dimensions.
- a. Wind Energy Conversion Systems shall not exceed a total height of one hundred fifty (150) feet unless the parcel on which the Wind Energy Conversion Systems is to be located is ten (10) acres or larger, in which case the maximum total height may be two hundred (200) feet. Such total height shall include both support structure and the highest elevation of the windmill rotor.
 - b. In all cases the minimum height of the lowest position of the Wind Energy Conversion System's blade shall be at least thirty (30) feet above the ground.
6. Siting and Design Standards.
- a. Wind Energy Conversion Systems shall not be placed on visually prominent ridgelines.
 - b. Wind Energy Conversion Systems shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
 - c. Colors and surface treatment of the Wind Energy Conversion Systems and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.

- d. Wind Energy Conversion Systems shall be equipped with air traffic warning lights, which adequately warn oncoming air traffic without being unreasonably obtrusive to neighboring properties.
7. Safety Measures.
 - a. Each Wind Energy Conversion System 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.
 - b. The Planning Commission shall determine the height, color, and type of fencing for Wind Energy Conversion System installation.
 - c. Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs, pursuant to paragraph 11 below.
 - d. Each Windmill shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electrical Code.
 8. Any Wind Energy Conversion System shall be equipped with anti-climbing devices. Tower climbing apparatus for authorized personnel 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.
 9. The Wind Energy Conversion System operator shall maintain a current insurance policy which will cover installation and operation of the Wind Energy Conversion System. 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 Windmill can be successfully operated in the climatic conditions found in Barry County. The Windmill shall be warranted against any system failures reasonably expected in severe weather operation conditions, as a condition of approval.
 10. Wind Energy Conversion Systems 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.
 11. Wind Energy Conversion Systems shall be designed and constructed so as not to cause radio and television interference.
 12. If any Wind Energy Conversion System remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove said system at 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 30 days from the date of notification by the Zoning Administrator, Barry County may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the County; and costs of removing the facilities will remain the burden of the permit holder.

13. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

SECTION 2386 WIRELESS COMMUNICATION ANTENNA

- A. Definition. A monopole, lattice and/or guyed structure in excess of thirty-five (35) feet in height, intended or used to support one or more antennae or other equipment to transmit and/or receive radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.
- B. Purpose and Intent. The Telecommunications Act of 1996 as amended on February 6, 1996 sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of Communication Towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Communication Towers are hereby specifically determined not to be essential services nor to be public utilities as such terms are used in this Ordinance. The intent of these provisions is to encourage users of towers to:
1. Protect land uses from potential adverse impacts of towers.
 2. Place the location of new towers in non-residential-zoned areas.
 3. Minimize the total number of towers throughout the community.
 4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 5. Locate them on publicly-owned water towers where feasible and to the satisfaction of the County Commission.
 6. Locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 7. Configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 8. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 9. Consider the public health and safety of personal wireless service facilities.
 10. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

11. In furtherance of these goals, Barry County shall give due consideration to natural features, the County Master Plan, zoning map, existing land uses, and other characteristics and policies of the County in approving sites for the location of towers and antennas.
 12. It is not the intent to regulate ham radio antennae under this section.
- C. Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:
1. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new communication tower may be approved by the Zoning Administrator as a co-location or as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure, provided:
 - a. The antenna does not extend more than ten (10) feet above the highest point of the structure;
 - b. The antenna complies with all applicable FCC and FAA regulations;
 - c. The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet, and
 - d. The antenna complies with all applicable building codes.
 2. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- D. Antenna Placement on Publicly-Owned Facilities. Communication Towers may be installed on publicly-owned water towers or other facilities, and their accessory equipment and shelters may be installed on publicly-owned property, in any zoning district, with a lease approved by the County Commission or local unit of government, and subject to the requirements of the Site Plan Review provisions of **Article 27**.
- E. Review Provisions and Zoning Districts Allowed. Except as provided in **Sections 2386, C and D**, hereof, Communication Towers and their accessory equipment and shelters shall be considered a Special Use and shall require a Detailed Site Plan pursuant to **Section 2701, B**.
- F. Additional Information Required for Review. In addition to the requirements of **Section 2302, 2** and **Article 27**, Communication Tower applications shall include:
1. Name and address of the proposed operator of the site.
 2. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
 3. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
 4. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 85 miles per hour. Such certification shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is

equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.

5. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 6. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
 7. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Barry County, or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure. The Zoning Administrator may share such information with other applicants applying for approvals under this ordinance or other organizations seeking to locate antennas within the County, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 8. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
- G. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.
- H. General Provisions. Construction of Communication Towers including their accessory equipment are allowed in Barry County subject to the following provisions:
1. A Communication Tower shall be considered a principal use and shall be placed on parcels (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district.
 2. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone and in no case less than 200 feet from any residence or 200 feet from a zoning district which does not permit Communication Towers as a Special Use.
 3. All proposed towers of more than thirty-five (35) feet in height shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by Barry County. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and

antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

4. The tower and/or antenna shall be painted or screened so as to blend into the background.
 5. The service building shall be aesthetically and architecturally compatible with buildings within three hundred feet of the property on which it is located.
 6. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
 7. Monopole tower design is preferred. If the applicant proposes to use a guyed or lattice tower, the applicant shall demonstrate why a monopole design cannot be used.
 8. All exterior lighting shall be in accordance with **Section 523** hereof.
 9. The Planning Commission may require landscape screening of the service building and fencing.
 10. Strobe lights shall not be allowed except as required by FAA.
 11. Signs; No signs shall be allowed on an antenna or tower, except for one sign of not more than two (2) square feet, listing the name, address and contact telephone number of the operator and not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing."
 12. Towers shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device.
 13. Applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.
 14. Notwithstanding the provisions of this section, the maximum height for a Wireless Communication Tower in Barry County shall be two hundred (200) feet.
 15. Separation distances between proposed and pre-existing towers are as follows: monopole over 35 feet in height - 1,500 feet; lattice and guyed towers - 5,000 feet.
- I. **Removal of Abandoned Antennas and Towers.** A Wireless Communication Tower that is unused for a period of twelve (12) months shall be removed at the owner's expense. The applicant or owner is responsible for the removal of an unused tower. Failure to remove the wireless communication tower following reasonable notice shall be sufficient cause for the County to regard the facility as a nuisance per se pursuant to **Section ____** and remove the structure.

- J. Bonds. The owner of a Wireless Communications Tower; including equipment/accessory buildings, shall post a bond with the Barry County in an amount to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower. In the event that the same is abandoned, and the owner fails to dismantle and/or remove the same within 180 days. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the Planning Commission, and may be adjusted from time to time to reflect changing costs and expenses of dismantling and removing the facility.
- K. Nonconforming Uses.
1. Pre-existing towers that do not meet the requirements of this section shall be allowed to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this Section.
 2. Rebuilding Damaged or Destroyed Nonconforming Towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this Section.

SECTION 2387 ZOO, PRIVATE

- A. Definition. Any lot, building, structure, enclosure, or premises whereupon or wherein are kept by any person, other than the state, or any political subdivision thereof, two or more exotic animals, whether such keeping is for pleasure, profit, breeding, or exhibiting, and including places where two or more exotic animals are boarded, kept for sale, or kept for hire.
- B. Regulations and Conditions:
1. No exotic animal shall be kept in the County, except in strict compliance with the requirements of this Section and any applicable standards of the federal, state and local government, including the requirements of the U.S. Department of Agriculture.
 2. The lot area where the exotic animals are located shall contain a minimum of 3 acres of open-fenced pasture. Fencing shall be of sufficient height, material, and construction to confine any and all exotic animals kept on site and to prevent unauthorized entry.
 3. An accessory structure must be available on-site to provide shelter for the animals.
 4. All accessory structures associated with the keeping or housing of exotic animals shall be located in accordance with the provisions of district requirements.
 5. The storage of manure, bedding and other solid waste shall be located no less than fifty feet from all lot lines and all such materials shall be managed in accord with the Generally Accepted Agricultural Management Practices.

6. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from any lot line.
7. The proposal to establish a Private Zoo shall include measures satisfactory to the Planning Commission that all odors, noise, dust or other objectionable effects of the facility shall be maintained exclusively on site and the facility will not be detectible at the property line.
8. A Detailed Site Plan pursuant to **Section 2701, B**, shall be required.

ARTICLE TWENTY-FOUR M-37 CORRIDOR OVERLAY

SECTION 2400 INTENT

The purposes of this Corridor Overlay for M-37 include the preservation of the flow of traffic, improvement of safety for drivers and pedestrians, reduction of congestion, and reduction of the potential for crashes, by managing access to property along M-37. Article Twenty-Four seeks to implement the recommendations of the Barry County M-37 Access Management Plan.

Specifically, the provisions of this Article are intended to:

- ◆ Minimize disruptive and potentially hazardous traffic conflicts thereby reducing the frequency of fatal, personal injury and property damage accidents;
- ◆ Separate traffic conflict areas by reducing the number of direct access points to M-37;
- ◆ Require wherever possible coordinated/shared access among several landowners;
- ◆ Provide reasonable access to properties, though the access may not always be direct access;
- ◆ Provide efficient spacing standards between access points and between access points and intersections;
- ◆ Establish uniform access standards to ensure fair and equal application;
- ◆ Implement the recommendations of the Access Management Guidebook, prepared under the direction of the Michigan Association of Planning and Michigan Department of Transportation (MDOT) in October 2001; and,
- ◆ Protect the substantial public investment in the roadway system by preserving capacity and avoiding the need for unnecessary and costly reconstruction that disrupts business and residential desirability.

SECTION 2401 APPLICABILITY

The provisions set forth in this Article shall apply to every existing and newly created parcel or lot falling within 600 feet of the M-37 state highway right-of-way within the jurisdiction of the Barry County Zoning Ordinance. The regulations herein apply in addition to, and simultaneously with, other applicable regulations in the Zoning Ordinance.

SECTION 2402 APPLICATION REVIEW, APPROVAL AND COORDINATION PROCESS

- A. A Technical Advisory Group (TAG) is hereby established to review site plans or other applications which propose a new driveway onto M-37. The TAG shall consist of a representative from the Barry County Road Commission and MDOT, and the Zoning

Administrator. The Township Supervisor for the Township affected by a site plan may serve as an ad hoc member for the consideration of that application.

- B. Applicants are required to submit an application to the TAG prior to filing a site plan or other application under the provisions of **Article 27**. Once the Zoning Administrator determines that an application is complete, the TAG shall provide review comments and recommendations to the Planning Commission. The Planning Commission shall then review the application per **Article 27**. Upon Planning Commission approval of the site plan, the MDOT may issue a permit.
- C. When plan approval has been granted and a permit issued by the MDOT, said plan of access shall not be altered without a new application for access.
- D. Failure to begin construction within 12 months of the approval date by the Planning Commission shall void approval and a new application process is required.
- E. For building or parking lot expansions, or changes in land use within the overlay, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with this Article. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography, natural features, impacts and external and internal site circulation, recommendations from the TAG, and others as deemed appropriate. Required improvements may include removal or reconfiguration of existing access points.

SECTION 2403 SITE PLAN REQUIREMENTS AND REVIEW CRITERIA

A. In addition to the submittal requirements of **Section 2703**, the following information shall be illustrated on a site plan:

- 1. All intersecting roadways and driveways within 500 feet of the subject property;
- 2. Existing access points within 500 feet of the subject property on either side of M-37;
- 3. Type of surface and dimensions of proposed driveways;
- 4. Proposed turning radii, intersecting angle, throat length, length of any deceleration and acceleration lanes, profile and pavement markings; and,
- 5. Route and dimensional turning movements of any truck traffic, tankers, delivery vehicles, and waste receptacle vehicles that may be expected.

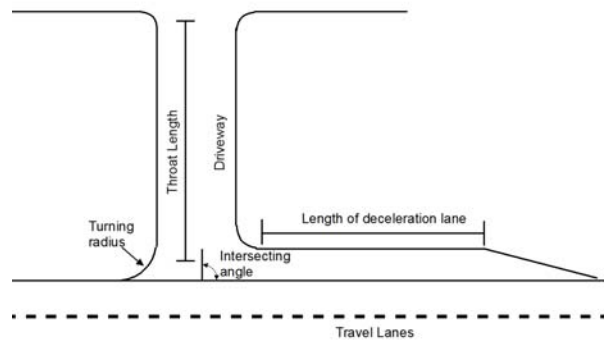


Figure 2403

B. At a minimum, the following factors shall be considered prior to making a decision on the location of a driveway or other access point:

- 1. The characteristics of the proposed land use;

2. The existing traffic flow conditions and the future traffic demand anticipated by the proposed development on the adjacent street system;
 3. The size of the property;
 4. The location of the property;
 5. The orientation of structures on the site;
 6. The minimum number of driveways or other access points needed to accommodate anticipated traffic based on a traffic analysis, as approved by the Planning Commission and/or the TAG;
 7. The number and location of driveways on adjacent and opposite properties;
 8. The land use of adjacent properties;
 9. The location and functional classification of abutting roadways and the carrying capacity of nearby intersections;
 10. The internal circulation between driveways and through parking areas;
 11. The posted speed of M-37 and the speed of traffic at the location of the subject property;
 12. The horizontal and vertical geometrics of M-37;
 13. Intersection sight distance on M-37, driveways, or side streets;
 14. Clear visibility standards of **Section 507** or other similar standards as applicable; and,
 15. Consideration of rear access for the present or future use.
- C. The Planning Commission may increase the maximum permitted density, area, or reduce parking requirements in the underlying zoning district by up to 5% when such property owner elects to provide and maintain shared driveways, service roads, or interconnected parking lots.
- D. A traffic study may be required by the Planning Commission and/or the TAG, at the expense of the applicant, for any land use that would be expected to generate 100 or more vehicles during peak hour, or 1000 or more vehicle trips daily, or where modifications to the access standards herein are requested. A registered professional traffic engineer in the State of Michigan shall perform such a traffic study.

SECTION 2404 DRIVEWAYS

- A. Not more than one driveway per parcel is allowed unless spacing requirements are met.
- B. For all uses other than single-family dwellings and farm operations, the following shall apply: access for an individual parcel, lot, or building site or for contiguous parcels, lots or building sites under the same ownership shall consist of either a two-way single driveway or a paired system wherein one driveway is designed, and appropriately marked, to accommodate ingress traffic and the other egress traffic.
- C. For properties proposed to be developed as a commercial, office or industrial use, where neighboring parcels are zoned commercial or industrial and have frontage on M-37, cross

access easements are required. Provisions shall be made for internal circulation via front and/or rear service drives. Where applicable, reasonable access to such parcels shall be by the use of a side street or secondary road.

- D. Generally, access easements will be perpendicular or parallel to the front property line of the subject parcel and can be in the front, rear, or adjacent to the principal building. Easements must be approved by the County and recorded with the County Register of Deeds.
 - E. All driveways shall be paved to the edge of the right-of-way from the pavement surface of M-37.
 - F. A driveway serving a single-family dwelling or two-family dwelling shall have a width of between 12 feet and 16 feet.
 - G. There shall be a minimum of 30 feet of throat length for entering or exiting vehicles at the intersection of a driveway and pavement of M-37. For driveways serving more than 100 vehicles an hour (two-way traffic volumes), throat length shall be at least 60 feet. When more than one parcel uses a driveway, throat length shall be at least 60 feet.
 - H. All driveways shall be setback a minimum of 40 feet from all important natural features, such as a water body, wetland, stand of trees, or similar features.
 - I. No service drive shall be less than 30 feet wide. Service drives shall be setback a minimum of 20 feet from any right-of-way. Where this cannot reasonably be accomplished, as determined by the TAG, then the TAG may require another form of unified internal circulation, such as a rear access drive.
 - J. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential out lots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future, or designed to ensure joint future access between the subject site and adjoining land.
 - K. No driveway shall obstruct municipal facilities such as street lights, traffic signal poles, fire hydrants, crosswalks, utility poles, drainage systems, or other compulsory street structures.
 - L. Minimum driveway spacing standards for unsignalized, nonresidential driveways in specific speed zones are the following.
 - 1. 35 mph or less - 245 feet*
 - 2. 40 mph - 300 feet
 - 3. 45 mph - 350 feet
 - 4. Greater than 45 mph - 455 feet
- *Unless greater spacing is required by MDOT or required to meet other standards herein.
- M. New driveways shall be at least 230 feet from stop sign intersections and 450 feet from signalized intersections, measured from pavement edge to pavement edge depending on the posted speed of 30-35 mph and 40-55 mph respectively.

- N. Residential developments with 15 or more dwelling units and commercial and industrial developments with more than 5,000 square feet of floor area shall have acceleration and deceleration lanes at the community entrance or as required by MDOT.
- O. Access points shall be aligned with driveways on the opposite side of the street or offset the distance indicated below, measured centerline to centerline. The TAG may reduce this with input from MDOT to not less than 150 feet where the offsets are aligned to not create left-turn conflict points.
1. 35 mph or less - 425 feet*
 2. 40 mph - 525 feet
 3. 45 mph - 630 feet
 4. Greater than 45 mph - 750 feet
- *Unless greater spacing is required by MDOT or required to meet other standards herein.
- P. Where direct access in conformance with the above standards cannot be achieved, access shall be via a shared driveway, service drive, rear access or side street.
- Q. The following developments may warrant the consideration of an additional driveway. The TAG shall decide if such developments generate enough traffic for an additional driveway.
1. A development of multiple family dwellings with over 250 dwelling units
 2. Retail business of over 30,000 square feet
 3. Hotel/motel with over 400 rooms
 4. Assembly operation; mechanical repair and machining operation; processing and manufacturing; and, research, laboratory and testing uses with over 300,000 square feet or 350 employees
 5. Warehouse of over 750,000 square feet or 350 employees
 6. Manufactured housing community with over 300 dwelling units
 7. Professional office of 150,000 square feet or 500 employees
 8. Eating and drinking establishment of over 20,000 square feet
 9. Others as deemed appropriate by the Planning Commission with MDOT input
- R. In order to comply with the accessibility requirements of the Land Division Act (PA 288 of 1967, as amended), land divisions shall not be permitted that may prevent compliance with access location standards herein.
- S. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available.
- T. In the review of a site redevelopment plan, the Planning Commission shall cause a copy of such plan to be reviewed and comments provided by MDOT regarding the existing access

system. If deemed necessary to improve public safety and the objectives of this ordinance, existing points of access may be required to be redesigned or closed based on input of MDOT and the TAG.

SECTION 2405 MODIFICATION OF STANDARDS

In the case of expansion, alteration or redesign of an existing development where it can be demonstrated that pre-existing conditions prohibit adherence to the standards of this Article, the Planning Commission or Zoning Administrator, with input from MDOT and the TAG, may approve a deviation of the standards of this Article at the written petition of an applicant. Applicants for a deviation must provide proof of practical difficulties unique to the parcel (e.g., steep slopes, wetlands, an odd parcel shape or narrow frontage) that make strict application of the provisions of this Article impractical. This shall include proof that:

- A. Indirect or restricted access cannot be obtained;
- B. Without the deviation, there is no reasonable access to the site;
- C. No reasonable engineering or construction can be applied to mitigate the conditions; and,
- D. No reasonable alternative access is available from a road with a lower functional classification than M-37.

ARTICLE TWENTY-FIVE SIGNS

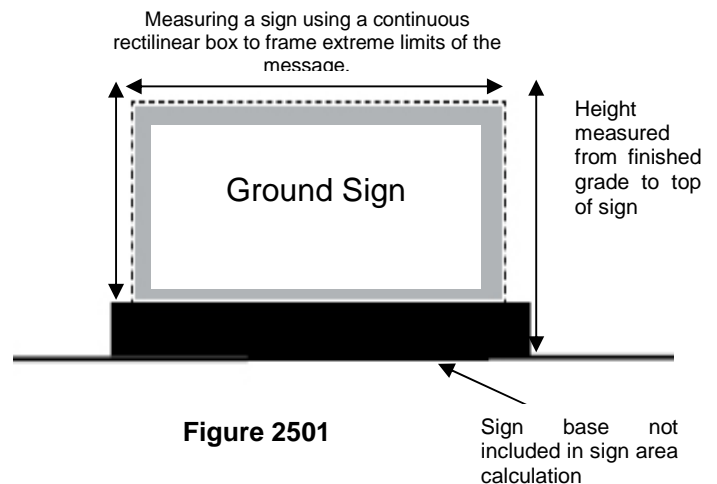
SECTION 2500 PURPOSE

The purpose of this Article is to regulate the size, number, location and manner of construction and display of signs in Barry County. This Article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect appropriately identified uses from excessive signage, provide ability for the public to identify premises and establishments and enhance the aesthetics of the community.

SECTION 2501 GENERAL PROVISIONS FOR ALL SIGNS

All signs shall meet the following standards:

- A. All signs shall conform to all applicable codes and ordinances of Barry County and shall be approved by the Building Inspector and Zoning Administrator, and a permit issued under Section 2505.
- B. Sign Area. The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of straight lines which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and/or uprights of the sign. Large scale ornamentation or structurally unnecessary elements of the support structure shall be considered part of the sign. When two (2) sign faces are placed back-to-back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart at any point, the sign area shall be computed by the measurements of one (1) of the faces.



- C. Height. Sign height shall be measured as the vertical dimension from the finished grade to the highest point of the highest attached component of the sign. A sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.
- D. Sign Setbacks. All signs shall be set back a minimum of one-half of the minimum front yard setback. All signs shall be set back a minimum of 10 feet from any other property line. In

addition, no sign shall be located where, in the opinion of the Zoning Administrator, it will obstruct clear vision.

- E. Illumination. When illumination of signs is permitted, illumination shall comply with the following requirements:
1. Illumination shall not be flashing, blinking, intermittent, or an on-and-off type of lighting.
 2. Illumination shall be arranged so that light is deflected away from adjacent properties and any public right-of-way, and so that no direct sources of light are visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
 3. Any external lighting of signs shall be downward facing or otherwise directed to illuminate only the sign face.
 4. External sign illumination shall be of a continuous white light.
 5. An illuminated sign shall be located a minimum of 100 feet from the LDR, MDR, HDR, CR, NLR, or RL district.
 6. Illumination standards for electronic message boards shall be as set forth in subparagraph N of this section.
- H. Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Building Inspector or Zoning Administrator or other designated representative. A sign which no longer serves the purpose for which it is intended or is abandoned or is not maintained in accordance with applicable regulations of Barry County shall be removed by the owner, or by the County at the expense of such owner, upon written notice by Barry County.
- I. Where a proposed sign appears to meet the definition of more than one (1) sign, the most restrictive requirements and limitations of the defined sign types shall apply.
- J. Wall Signs. Wall signs shall not extend further than twelve (12) inches from the face of the wall to which it is attached. The maximum width of a wall sign shall not exceed ninety (90) percent of the width of the wall to which the sign is attached.
- K. Off-premise Signs. Off premise signs which are not billboards, shall be permitted with the following conditions:
1. Off-premise signs shall not exceed twenty (20) square feet in area.
 2. Up to three (3) off-premise signs shall be permitted per applicant, business, use or operation at any one time within Barry County.

3. Off-premise signs shall require administrative review and approval by the Zoning Administrator and shall require written approval from the property owner where the off-premise sign will locate. Approval from the Zoning Administrator may include an expiration date stipulating when the off-premise sign shall be removed.
 4. Off-premise signs shall be located outside of the public right-of-way. The minimum setback shall be ten (10) from the property line to the edge of the sign.
 5. Where off-premise signs are located on key corners or intersections with other off-premise signs, there shall be no more than two hundred (200) square feet of total sign area at any one key corner or intersection.
- L. Where a projecting sign, awning or canopy sign or suspended sign protrudes over any public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least 9 feet above the sidewalk, or the height of the wall.
- M. Signage for multiple-tenant or multiple-occupant commercial, industrial or mixed-use developments the following standards shall apply:
1. Only one pole or ground sign is permitted per development. Ground mounted or pole signs are not permitted for individual business in multiple-tenant or multiple-occupant commercial, industrial or mixed-use developments.
 2. Individual businesses or uses within the multiple-tenant or multiple-occupant commercial, industrial or mixed-use developments shall be permitted wall signs limited in area to ten (10) percent of the wall area fronting the portion of the building occupied by the use, not to the allowed maximum provided per **Section 2504** for the zoning district and sign type of the subject site.
- N. Electronic Message Board Signs shall be permitted, subject to the following standards:
1. Not more than one (1) electronic message board sign shall be permitted per road frontage as a part of a permitted pole or monument sign. Not more than fifty percent (50%) of the permitted sign area may consist of the electronic message board sign.
 2. Sign message may not swipe, flash, pinwheel, roll, scroll, or have other 'effect' beyond appear or fade, and the message or image shall remain stationary and unchanging in terms of color or light intensity for a minimum of four (4) seconds.
 3. An electronic message board shall be located a minimum of 100 feet from the LDR, MDR, HDR, CR, NLR, or RL district.
 4. No electronic message board shall be installed when, in the opinion of the Zoning Administrator, it will cause a traffic or vision hazard.

SECTION 2502 EXEMPT SIGNS

The following signs shall be exempt from regulations in this Article:

- A. Any public notice, traffic control or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- B. Property address and owner identification up to six (6) square feet in area.
- C. Any sign wholly located within a building and not visible from outside the building.
- D. Holiday lights and decorations with no commercial message.
- E. Works of art that do not contain a commercial message.
- F. Any municipal sign or community event sign which is erected by an instrumentality of a municipality.
- G. Directional signs or menu boards on private properties that do not contain a commercial message, including Stop, Yield, One Way, and similar signs, provided the following standards are met:
 - 1. Directional signs shall not exceed six (6) square feet in area or six (6) feet in height.
 - 2. The number of directional signs permitted on a property shall be the minimum necessary to provide adequate orientation, as determined by the applicable Barry County representative or board or commission.
- H. Historical designation signs.
- I. Construction signs identifying a building project including the names of the developer, financier, and the various professionals and contractors involved. Such signage shall be allowed only during the time in which the development is actually under construction and shall not exceed thirty-two (32) square feet in sign area per frontage. Such signage shall not exceed six (6) feet in height. One construction sign shall be permitted per street frontage.
- J. All yard signs, including political signs, as defined herein, provided such yard signs shall be limited to one (1) sign per frontage, not greater than twelve (12) square feet in area. If the subject lot or parcel has more than one hundred (100) feet of frontage, one (1) additional sign shall be permitted per frontage. Such signs shall be removed after fifteen (15) days from which the event occurs.
- K. Flags or insignia of any nation, state, local government, community organization, education institution and non-governmental flags up to twenty-four (24) square feet in area.
- L. Farm crop hybrid signs.
- M. One temporary sign or portable sign for the promotion of special event of activities by churches, nonprofit or educational institutions, provided, that the sign is displayed no more than three (3) weeks prior to the event or activities and that it must be removed within two (2) weeks of the conclusion of the event or activity provided that the sign shall not exceed thirty two (32) square feet in sign area per frontage. Such signage shall not exceed six (6) feet in height.

- N. One identification sign for a conservation or conventional subdivision or planned unit development not to exceed six (6) feet in height or forty-eight (48) square feet in area.
- O. Placards posted to control or prohibit hunting.
- P. Off premise signs, except as provided pursuant to **Section 2312**.

SECTION 2503 PROHIBITED SIGNS

The following signs shall not be allowed in any District:

- A. Signs which are obsolete, and/or that do not relate to existing business or products for sale or available on the site, and off-premise signs.
- B. Signs which are illegal under State laws or regulations and applicable local ordinances or regulations, and which are not consistent with the standards in this Ordinance.
- C. Signs affixed to public utility poles within the right-of-way, which are not public notices, or traffic control or warnings required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- D. Signs within the public right-of-way.
- E. Animated or moving signs including liquid crystal displays or plasma digital signage, as defined herein; provided, that clocks and thermometers may be permitted.
- F. Temporary pennants, searchlights, flags, banners or bunting, lighter than air balloons and signs, air-filled balloons, signs animated by forced air, streamers, and temporary signage of any kind, except where otherwise permitted.
- G. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.
- H. Signs not securely affixed to a supporting structure.
- I. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic, which interfere with or resemble any official traffic sign, signal, or device, and which may obstruct a motorist's vision.
- J. Roof signs, as defined herein.
- K. Portable signs on a site in excess of thirty (30) days per calendar year.
- K. No sign or other advertising structure shall be painted on or be attached to a motor vehicle parked and used primarily for the display of such sign, including, but not limited to a billboard truck. This section shall not prohibit the identification of a business or its products or services on its vehicle(s) operated and parked in a manner appropriate to the normal course of business.

SECTION 2504 PERMITTED SIGNS

In addition to the above standards, the following signs are permitted in the applicable Zoning Districts.

The following uses in the following districts may be permitted signage in accordance with the following:

CR District:

For convenience store, farm, farm operation, governmental offices, gun and archery club, home occupation (major), kennel/animal day care, sawmill, stable/riding academy, and veterinary clinic:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	12 square feet	No
Wall	1 per frontage	10% of wall surface area, but no more than 32 square feet	Yes, subject to 2501 E

NLR District:

For governmental offices and home occupation (major):

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	12 square feet	No
Wall	1 per frontage	10% of wall surface area, but no more than 32 square feet	No

RL District:

For bed and breakfast, convenience store, golf course, governmental offices, home occupation (major), marina, miniature golf course, and place of public assembly (small):

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	20 square feet	No
Wall	1 per frontage	10% of wall surface area, but no more than 32 square feet	No

RR District:

For airport, automobile repair facility, campground, cemetery, convenience store, eating and drinking establishment, educational facility, farm, farm operation, gasoline station, golf course, governmental offices, greenhouse, gun and archery club, home occupation (major), junkyard/salvage operation, kennel/animal day care, mechanical repair and machining facility, mine (sand and gravel), open air business, place of public assemble (small and large), roadside stand, sawmill, solid waste disposal and handing site, stable/riding academy, and veterinary clinic:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	32 square feet	Yes, subject to 2501 E
Wall	1 per frontage	20% of wall surface area, but no more than 100 square feet	Yes, subject to 2501 E

LDR, MDR, HDR Districts:

For bed and breakfast, cemetery, clinic, eating and drinking establishment, educational facility, gallery/museum, governmental offices, home occupation (major), library, manufactured housing community, place of public assembly (large and small), :

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground	1 per frontage	12 square feet	Yes, subject to 2501 E
Wall	1 per frontage	10% of wall surface area, but no more than 32 square feet	Yes, subject to 2501 E

MU district:

For animal grooming facility, bed and breakfast, catering establishment, convenience store, day care (commercial), drive-through business, eating and drinking establishment, financial establishment, governmental offices, home occupation (major), hospital, hotel/motel, library, medical or dental office, open air business, personal service establishment, place of public assemble (small or large), professional office, retail business, tattoo or piercing parlor, tavern, and veterinary clinic:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground	1 per frontage	48 square feet	Yes, subject to 2501 E
OR Pole	1 per frontage	32 square feet	Yes, subject to 2501 E
Wall	1 per frontage	20% of wall surface area, but no more than 100 square feet	Yes, subject to 2501 E
Projecting	1 per frontage	12 square feet; the sign shall not project more than 4 feet from the building wall	Yes, subject to 2501 E
Window	1 per frontage	4 square feet	No

GC District:

For animal grooming facility, automobile repair facility, car wash, catering establishment, convenience store, day care (commercial), drive-through business, dry cleaning and laundry establishment, eating and drinking establishment, financial establishment, funeral home/mortuary, gasoline station, governmental offices, greenhouse, home occupation (major), hospital, hotel/motel, library, medical or dental office, open air business, personal service establishment, place of public assemble (small or large), professional office, professional service establishment, retail business, sexually oriented business, studio for performing and graphic arts, tattoo or piercing parlor, tavern, veterinary clinic, warehouse, and wholesale facility:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground	1 per frontage	48 square feet	Yes, subject to 2501 E
OR Projecting	1 per frontage	12 square feet; the sign shall not project more than 4 feet from the building wall	Yes, subject to 2501 E
OR Suspended	1 per frontage	12 square feet	Yes, subject to 2501 E
OR Pole	1 per frontage	48 square feet	Yes, subject to 2501 E
Wall	1 per frontage	20% of wall surface area, but no more than 200 square feet	Yes, subject to 2501 E
OR Awning or Canopy	1 per frontage	20% of wall surface area, but no more than 200 square feet	Yes, subject to 2501 E
Window	1 per frontage	4 square feet	No

LI and GI Districts:

For assembly operation, automobile repair facility, contractor’s facility, farm product processing facility, financial institution, gasoline station, governmental offices, junkyard/salvage operation, kennel/animal daycare, mechanical repair and machining facility, mini/self storage facility, processing and manufacturing, professional office, professional service establishment, research, laboratory and testing, sawmill, solid waste disposal and handling site, veterinary clinic, warehouse, and wholesale facility:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	32 square feet	Yes, subject to 2501 E
Wall	1 per frontage	20% of wall surface area, but no more than 200 square feet	Yes, subject to 2501 E

Agricultural Districts:

For airport, assembly operation, clinic, concentrated feeding operation, farm, farm operation, farm product processing facility, greenhouse, gun and archery club, home occupation (major),

kennel/animal daycare, mechanical repair and machining facility, mine (sand and gravel), roadside stand, sawmill, stable/riding academy, veterinary clinic, and wholesale facility:

Type	Maximum Number	Maximum Sign Area	Illumination Permitted
Ground or Pole	1 per frontage	32 square feet	Yes, subject to 2501 E
Wall	1 per frontage	20% of wall surface area, but no more than 100 square feet	Yes, subject to 2501 E

SECTION 2505 PERMIT PROCESS

- A. A sign permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Chapter. For purposes of this Section 2505, alteration shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
- B. An application for sign permit shall be made to the Zoning Administrator, and shall include submission of a fee as may be required by resolution or other action by the County Board. The application shall include the following:
 - 1. Name, address, date, and telephone number of the applicant and the person, firm or corporation erecting the sign.
 - 2. Address and permanent parcel number of the property where the sign will be located.
 - 3. A sketch showing the location of the building, structure or parcel of land upon which the sign is to be attached or erected, and showing the proposed sign in relation to the buildings and structures, together with the depth of the setback from the lot lines.
 - 4. A scaled print or drawing of the plans and specifications for the sign (area, height, lighting, etc.) and information on the method of construction and attachment to structure or the ground.
 - 5. Identification of the zoning district in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this ordinance.
- C. All signs requiring electrical service shall be reviewed for compliance with the electrical code applicable in the County.
- D. The Zoning Administrator shall issue a sign permit if all provisions of this Chapter and other provisions of this Ordinance and other applicable ordinances are satisfied. A sign authorized by the permit shall be installed or shall be under construction within six (6) months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of the required fee.

ARTICLE TWENTY-SIX - RESERVED

ARTICLE TWENTY-SEVEN SITE PLAN REVIEW

SECTION 2700 PURPOSE

The intent of this section is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of the Ordinance, with minimal adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this Ordinance. In this connection, a site plan includes the documents and drawings required by the Zoning Ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

SECTION 2701 SCOPE

No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel in zoning districts where a development plan is required, unless a development plan is submitted to, and approved under the terms of this Ordinance, or such development is otherwise in accordance with this section. A Land Use Permit as provided in **Article 30** shall not be issued or otherwise authorized until a site plan, submitted in accordance with this **Article 27**, shall have been reviewed and approved, and any required securities have been received, based on the following submittal requirements:

- A. Basic Site Plan shall be required for new single unit dwellings, additions to dwellings, or construction of accessory structures, and other land uses as set forth in this Ordinance. A Basic Site Plan shall be subject to Zoning Administrator review. Site plans shall comply with **Section 2703, C**.
- B. Detailed Site Plan shall be required for all permitted and special uses not required to prepare a Basic Site Plan and such detailed site plan shall be subject to Planning Commission review.

SECTION 2702 OPTIONAL SKETCH PLAN REVIEW

Preliminary sketches of proposed site and development plans may be submitted for review to the Zoning Administrator and/or the Planning Commission or a committee of the Planning Commission, prior to official review and approval. The purpose of such procedure is to allow discussion between an applicant and the Zoning Administrator and/or Planning Commission, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall, at a minimum, include the following:

- A. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.

- B. Legal description, property parcel number, and street address of the subject parcel of land.
- C. Sketch plans showing tentative site and development plans, produced on a scaled drawing illustrating existing and proposed structures, parcel boundaries, natural features, and all improvements, easements, streets, and sidewalks.
- D. The Planning Commission shall not be bound by any comments or observations made pertaining to a sketch plan.

SECTION 2703 APPLICATION PROCEDURE

Request for site plan review shall be made by filing with the Zoning Administrator the required filing fee and escrow, the application form and either a sketch plan, basic or detailed site plan, together with any special studies required. The Zoning Administrator may waive any site plan submittal requirement upon a finding that the required information is not applicable to the site. The following describes the required submittals.

- A. An application fee and review escrow as determined by resolution of the County Board of Commissioners.
- B. One copy of the completed application form for site plan review which shall contain at a minimum the following information (a narrative attachment is recommended in addition to the application form to sufficiently address all of the following items):
 - 1. Name, address and signature of applicant and property owner
 - 2. Legal description, property parcel number and street address of the subject parcel of property.
 - 3. Area of the subject parcel of property stated in acres, or if less than one (1) acre, in square feet.
 - 4. Present zoning classification on parcel and on adjacent parcels.
 - 5. Present and proposed land use.
 - 6. Applicant's statement of the expected effect on emergency service requirements, schools, storm water systems, automobile and truck circulation patterns and local traffic volume.
 - 7. A description of the proposed development and the land use proposed.
- C. Sketch Plan. A sketch plan shall be the only plan required for applications involving farm buildings. A sketch plan shall be subject to review by the Zoning Administrator. A sketch plan shall include and illustrate at the minimum the following information:
 - 1. A drawing of the site and proposed development thereon, including the preparation date, name and address of the preparer, parcel lines, parcel dimensions and parcel area expressed in acres.
 - 2. Any other information as may be required by the Zoning Administrator to aid in the review of the Site Plan.

- D. Basic Site Plan. A basic site plan shall be required for applications involving new single family dwellings, additions to existing single- or multiple unit dwellings and for any new accessory building for any principal use. A basic site plan shall be subject to review only by the Zoning Administrator. Basic site plans shall include and illustrate at a minimum the following information:
1. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, parcel lines and parcel area.
 2. The scale of the drawing and north arrow which shall be not less than 1" = 200' nor greater than 1" = 20'.
 3. Existing man-made features, including dwellings, fences, water bodies, landscaping and screening, accessory structures, septic and well infrastructure locations, and similar features; and the heights and floor area of such structures and other important features.
 4. Proposed man-made features, including location of dwelling addition and/or accessory structures, fences, landscaping and screening, as applicable; and heights and floor area of such structures and other important features.
 5. Setback lines and their dimensions.
 6. Location of existing and proposed driveways and curb cuts, if any.
 7. Location of existing public and private rights-of-way and easements contiguous to and on the property.
 8. Any other information as may be required by the Zoning Administrator to aid in the review of the Site Plan.
- E. Detailed Site Plan. A detailed site plan shall be required for all uses other than those that may submit a basic site plan. Detailed site plan shall include ten (10) copies of all required information and twenty-five (25) copies of any documents rendered in color. It shall be prepared by an Engineer, Architect, Landscape Architect or Planner licensed to work in Michigan and shall include and illustrate at a minimum the following information:
1. A scale drawing of the site and proposed development thereon, including the date, name, address and professional seal of the preparer. In no instance shall the scale of the drawing be greater than one inch equals 20 feet nor less than one inch equals 200 feet. One copy shall be submitted in a photo-reduced form on 11" x 17" paper.
 2. The scale of the drawing and north arrow.
 3. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public thoroughfare(s).
 4. Present zoning of the subject property and adjacent property including the names and addresses of adjacent property owners within three hundred (300) feet in every direction of the proposed used including land uses on the opposite side of any public thoroughfare(s).

5. Natural features such as woodlots, wetlands, streams, county drains, lakes or ponds, and man-made features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
6. Topography of the site and its relationship to adjoining land illustrated at 2-foot contours and including an area extending 100 feet from the parcel boundary. Provided, however that portions of the site not proposed for development or disturbance need not include topographic contours.
7. Existing man-made features, including buildings, fences, landscaping, parking, screening and the locations, heights and footprint of each.
8. Illustration of all proposed improvements and buildings, fences, landscaping, parking and screening, including location, height, footprint of each.
9. Setback lines and their dimensions.
10. Percentage of land covered by buildings and impervious surfaces and that reserved for open space.
11. Dwelling unit density where pertinent; including a density schedule demonstrating number of each dwelling type, if applicable.
12. Project phasing, if applicable.
13. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
14. Curb-cuts, driving lanes, parking and loading areas, including the number of parking spaces and parking calculations; vehicular circulation patterns and features, location and size of all parking spaces and the identification of service lanes and parking.
15. Curb-cuts and driveways on adjacent properties.
16. Location and type of drainage, sanitary sewers, storm sewers and other facilities, including surface and subsurface drainage for all impermeable surfaces on the site and all drainage calculations.
17. Existing and proposed water main, sanitary and storm sewer, natural gas, electric, telephone, cable television and other utilities, the proposed location of connections to existing utilities and any proposed extensions thereof.
18. Proposed changes to the topography of the site illustrated at no greater than two (2) foot contours.
19. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development.
20. Detail on proposed signage including an illustration of all proposed signs, their surface area, height and nature of illumination, in accordance with **Article 25**.
21. A lighting plan in conformance with **Section 523**.

22. A written and illustrated landscape plan prepared in accord with **Section 521** of this Ordinance.
 23. If the parcel is a result of a parcel division undertaken after the adoption of this Ordinance, the site plan shall illustrate all structures and buildings, drawn to scale located on the previously undivided property.
 24. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Planning Commission.
 25. Any required approvals, permits, changes or modifications required by any applicable regulatory agency.
- F. Groundwater Protection. The following additional information is required only when the project under consideration involves the storage, transfer, or discharge of hazardous substances in quantities of 100 kilograms (220 pounds) or 25 gallons per month.
1. A complete description of any materials to be used, stored, produced or disposed of which are classified as critical materials under the Michigan Critical Materials Register or as hazardous waster under the Michigan Hazardous Waste Management Act (Act 64, P.A. of 1979). Including in this description shall be details of how these materials are stored and the measures, which are to be utilized to prevent leaks, spills or other incidents, which might pollute surface water or ground waters. Facilities which require a Pollution Incident Prevention Plan (PIPP) under the rules of Act 451, of 1994 must submit an approved PIPP to the Planning Commission prior to occupancy.
 2. Provide certification that only haulers licensed under P.A. 64 of 1979 shall be used to transport any critical or hazardous materials into or out of the proposed site.
 3. Such other information regarding the development area that may be required by the Planning Commission to determine conformance with this Ordinance or any applicable County or local development plans, regulations or guidelines.
- G. Special Studies or Research. For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any or all of the following reports or studies as a part of a complete site plan.
1. Environmental Assessment shall be a summary review of the environmental impacts of a project in accordance with the following standards:
 - a. The purpose of the Environmental Assessment shall be
 - 1) to provide relevant information to the Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the County;

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

state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.

- 4) If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
- 5) A description of the existing soils on-site and as to the suitability of these soils for the proposed use.
- 6) A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
- 7) A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- 8) A description of any hazardous materials or waste to be stored on-site. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
- 9) A description of any storm water or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
- 10) If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
- 11) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
- 12) A description of the anticipated traffic to be generated by the proposed use.
- 13) A description of plans for site restoration after construction.
- 14) A description of methods to handle sanitary waste for the project both during construction and after completion.
- 15) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.

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

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

- 1) A narrative summary at the beginning of the report, including, but not limited to:
 - a) The applicant and project name.
 - b) A location map.
 - c) The size and type of development.
 - d) Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers - publication, Trip Generation (current edition).
- 2) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
- 3) A transportation system inventory, which describes the physical, functional and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
 - a) peak-hour volumes (existing and projected)
 - b) number of lanes
 - c) cross-section
 - d) intersection traffic signals and configuration
 - e) traffic signal progression
 - f) percentage of heavy trucks
 - g) adjacent access point locations
 - h) jurisdiction
 - i) grades
- 4) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or Barry County standards and guides.
- 5) Capacity analysis shall be performed at each access point. The County's preference is the use of Highway Capacity Software, (HCS 2000), or a later version thereof.

Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one (1) mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.

- 6) A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.
 - 7) Required operational changes shall be part of the site plan review and any access permit approval process.
- d. Evaluation and Criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.
 - e. The Zoning Administrator may be provided to the County Engineer, Planner and/or an independent traffic engineer or transportation planner to review and comment on any traffic impact study prepared pursuant to this Section. The cost of any such review shall be borne by the applicant.
3. Market Study. For unique development proposals, projects that may entail some financial expense or risk on the part of the County and/or projects that may, in the judgment of the Planning Commission, fundamentally alter the character of the community, the Planning Commission may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this Section.
 - a. Description. A market study shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.
 - b. Content. Unless specifically waived by the Zoning Administrator or Planning Commission, a market study shall include the following elements:
 - 1) An executive summary which outlines the key findings of the study.
 - 2) The background for the study including both project background and the methodology and approach used.

- 3) An overview of the market area including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.
 - 4) A trade area delineation describing the likely geographic area that may be influenced by the proposed development along with detail on the methodology used in defining the trade area.
 - 5) A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.
 - 6) The credentials of the author(s) of the market study.
- c. Evaluation. The Zoning Administrator and Planning Commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will meet with economic success without creating excessive dislocations within the existing marketplace.

SECTION 2704 ACTION ON APPLICATION AND SITE PLANS

- A. Upon receipt of a submitted application and site plan, the Zoning Administrator shall review the plan to determine its completeness. If the submittal is incomplete, the Zoning Administrator shall provide the applicant with a list of items needed to make the submittal complete. If a Basic Site Plan is found to be complete, the Zoning Administrator shall review the site plan in accordance with **Section 2705** and approve or deny the application accordingly.
- B. If a detailed site plan submittal is complete, the Zoning Administrator shall record the date of receipt and transmit copies thereof to each of the Planning Commissioners; to the Fire Department when necessary; to other area review agencies, such as the County Engineer, County Health Department, Michigan Department of Transportation, and the Supervisor of the Township in which the proposed development is located, retaining at least one (1) copy in the Zoning Administrator's office.
- C. A meeting shall be scheduled for a review of the application, plans, and of the recommendation of the Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the meeting for their preliminary information and study. The meeting shall be held within sixty (60) days of the date of the receipt of the complete plans and application.
- D. The applicant shall be notified of the date, time and place of the meeting on the application not less than three (3) days prior to such date.

- E. After conducting a review of the site plan, the Planning Commission shall approve, approve conditionally or reject the site plan, as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons for such conditions, and delivered to the applicant. Decisions by the Planning Commission shall be made within one hundred (100) days of the receipt of the completed application. Any conditions imposed on the application and site plan shall:
 - 1. Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of users of the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
 - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, and be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- F. A site plan approved or conditionally approved by the Planning Commission which includes a landscape plan submitted under **Section 521**, shall require a performance guarantee pursuant to **Section 2710** hereof.
- G. Two copies of the approved site plan, with any conditions shall be maintained as part of the County records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed by the applicant and the Chair of the Planning Commission and dated with the date of approval for identification of the approved plans. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the County records as a part of the site plan and delivered to the applicant for information and direction.

SECTION 2705 REVIEW CRITERIA

In the process of reviewing a site plan, the Planning Commission or Zoning Administrator shall consider the following standards. A site plan that is found to meet the requirements of this Section shall be approved.

- A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the County or the Michigan Department of Transportation.
- B. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.

- C. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- D. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
- E. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- F. That all buildings and structures are accessible to emergency vehicles.
- G. That a plan for storm water discharge has been approved by the appropriate public agency.
- H. The relationship to shore and river preservation principles where appropriate.
- I. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
- J. That all utility services shall be provided on site in a manner least harmful to surrounding properties, and that all utilities are located underground, as applicable, unless specifically waived by the Zoning Administrator, Planning Commission, or Zoning Board of Appeals.
- K. That all applicable local, regional, state and federal statutes are complied with.
- L. Performance Standards. In reviewing site plans, the Planning Commission shall consider the degree to which a proposed use may result in any effects that may create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Provided, however, any use permitted in this Ordinance may be undertaken and maintained if the site plan includes measures acceptable to the Planning Commission to limit dangerous or objectionable effects on adjoining properties, as established by the following performance requirements:
 - 1. Sound. The emission of noise measurable in decibels (dB) on a persistent or frequently recurrent basis from the premises shall not exceed the sound levels outlined in the table below, when measured at any property line. These regulations do not apply to construction activities, maintenance activities, noises of safety signals, warning devices, emergency pressure relief valves, special community events approved by Board of Commissioners, or any parcel in the A, LI or GI districts.

Source of Sound	Receiving Property		
	Residential	Commercial	Industrial
Residential	50 dB	57 dB	60 dB
Commercial	55 dB	60 dB	65 dB
Industrial	55 dB	65 dB	70 dB

2. Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three thousandths (0.003) of one inch measured at any lot line of its source. Vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.
3. Odor. The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, when diluted in the ratio of one volume of odorous air to 4 or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines. This standard shall not apply in the A or GI districts.
4. Toxic Gases. The escape or emission of any gas, which is injurious or destructive or explosive, shall be unlawful and shall be summarily abated, as directed.
5. Glare and Heat. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.
6. Light. All lighting shall be arranged to reflect light away from adjacent parcels and must follow the standards outlined in **Section 523**.
7. Electromagnetic Radiation. The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this Ordinance.
8. Drifted and Blown Material. The drifting or airborne transmission beyond the lot line of soot, particles, or debris from any stockpile shall be unlawful and shall be summarily abated, as directed. This standard shall not apply in the A district and it shall not apply to Farm Operations in any district.
9. Smoke, Dust, Dirt, and Fly Ash. It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than 3 minutes in any 60 minutes which is more than 40% opaque. This standard shall not apply in the A district.

SECTION 2706 CONFORMITY TO APPROVED SITE PLANS

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning

Commission. If construction and development does not conform with such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application, approve an amendment to the site plan pursuant to **Section 2708**.

SECTION 2707 TERM OF APPROVAL OF THE SITE PLAN

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. The Planning Commission may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a zoning permit has not been obtained and the on-site development actually commenced within said one (1) year, the site plan approval shall become null and void and a site plan approval application shall be required and approved before any construction or earth change is commenced upon the site.

SECTION 2708 AMENDMENT TO THE SITE PLAN

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

- A. The Zoning Administrator may approve minor changes to an approved site plan involving slight changes in the location of buildings and structures, adjustment of utilities, walkways, trafficways, parking areas, and similar minor changes.
- B. Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed, and approved.

SECTION 2709 APPEALS

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administration decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the County or State. The Zoning Board of Appeals shall state the grounds of each determination.

SECTION 2710 PERFORMANCE GUARANTEES

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Barry County, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Board of Appeals, may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. When a performance guarantee is required, said performance guarantee shall be deposited with the County Treasurer prior to the issuance of a Land Use Permit by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee, when in the form of a cash deposit or certified check, the County shall deposit it in an interest-bearing account.
- C. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the County to permit the County to enter upon the subject property to complete the improvements in the event of default by the applicant.
- D. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use Permit.
- E. In the event the performance guarantee deposited is a cash deposit or certified check, the County shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one-hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.
- F. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the County Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- G. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the County, the County shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the County to complete the improvements for which it was posted, the applicant shall be required to pay the County the amounts by which the costs of completing

the improvements exceeds the amount of the performance guarantee deposited. Should the County use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the County administrative costs in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the County and prior to the issuance of a land use permit, the applicant shall enter an agreement incorporating the provisions hereof with the County regarding the performance guarantee.



ARTICLES TWENTY-EIGHT AND TWENTY-NINE - RESERVED

ARTICLE THIRTY ADMINISTRATION

SECTION 3000 ZONING ADMINISTRATOR

- A. The County Administrator shall designate an individual to serve as the Zoning Administrator to administer and enforce this Ordinance. The Zoning Administrator may delegate duties to such other persons as may be assigned to assist.
- B. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify, in writing, the person responsible for such violation, indicating the nature or the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.
- C. All County personnel responsible for carrying out their responsibilities under the terms of this Ordinance shall show proper credentials before entering private property for the purposes of carrying out such responsibilities.

SECTION 3001 DUTIES AND LIMITATIONS OF THE ZONING ADMINSTRATOR

- A. The Zoning Administrator shall have the authority to grant Land Use Permits and to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.
- B. It shall be unlawful for the Zoning Administrator to approve any plans or issue a Land Use Permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a Land Use Permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by a site plan, in accordance with **Article 27** hereof.
- C. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Land Use Permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
- D. Issuance of a Land Use Permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority 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 buildings, structures, or land,

except as such authority may be explicitly provided for in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.

- E. The Zoning Administrator shall not refuse to issue a Land Use Permit when the applicant has complied with all applicable conditions required by this Ordinance. Violations of contracts such as covenants, deed or plat restrictions, or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

SECTION 3002 LAND USE PERMIT

- A. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building, or to commence the moving, or structural alteration, including an accessory building, exceeding two-hundred (200) square feet in floor area, until the Zoning Administrator has issued for such work a Land Use Permit including a certification of his/her opinion that plans, specifications, and intended use of such structure do in all respects conform to the provisions of this Ordinance.
- B. It shall be unlawful 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 issued for such intended use a Land Use Permit.
- C. In all cases where a building permit is required, application for a Land Use Permit shall be made coincidentally with the application for a building permit and in all other cases shall be made not less than ten (10) days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. This application shall be made in writing to the Zoning Administrator and shall provide all relevant project information. A record of all such applications shall be kept on file by the Zoning Administrator.
- D. Any Land Use Permit issued under the provisions of this Ordinance shall be valid only for a period of one (1) year following the date of issuance thereof. Any project which has not commenced within the one (1) year period will require the re-issuance or extension of the Land Use Permit.
- E. When the Zoning Administrator receives an application for a Land Use Permit, which requires a special land use approval, variance, or other approval, he/she shall so inform the applicant.
- F. Before any Land Use Permit shall be issued, an application and inspection fee and any required escrow fees shall be paid. The amount of such fees and escrows shall be fixed by a schedule established by resolution of the Board of Commissioners.
- G. No building or structure or use for which a Land Use Permit has been issued shall be used or occupied until after a final inspection has been performed which indicates that all the provisions of this Ordinance and all other applicable codes are met with and a Certificate of Occupancy has been issued by the Building Official. The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.

SECTION 3003 REAPPLICATION

No application for a special land use, Site Plan Review, Planned Unit Development, or variance which has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals may be resubmitted for a period of twelve (12) months from the date of the denial, except on the grounds of newly discovered evidence.

SECTION 3004 HEARING AND NOTICE REQUIREMENTS

Where this ordinance requires the County to provide notice of a public hearing for any decision or action permitted, authorized or required by this ordinance or under Act 110 of the Public Acts of 2006 as amended, notice of the public hearing shall be given as follows:

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the County.
- B. Except as provided in Subsection D of this Section, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
 - 1. The applicant;
 - 2. The owner or owners of the subject property;
 - 3. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request, even if the 300 feet extends outside of the County's boundaries; and
 - 4. The occupants of all structures within 300 feet of the property that is the subject of the application or request, even if the 300 feet extends outside of the County's boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. The notice of public hearing shall include the following information:
 - 1. A description of the nature of the proposed amendment, application or request.
 - 2. An identification of the property that is the subject of the application or request, if applicable. Except as provided in Subsection D of this Section, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
 - 3. State when and where the application or request will be considered.
 - 4. Identify when and where written comments will be received concerning the application or request.
 - 5. In the case of an amendment to the Ordinance or to the Zoning Map, the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.

- D. When a proposed rezoning involves the text of the Zoning Ordinance or 11 or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation of the zoning ordinance or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of Subsections B, 2, B, 3, and B, 4, of this Ordinance are not required, and the listing of individual property addresses under Subsection C, 2, is not required.
- E. For a zoning ordinance amendment, including rezoning of property, the notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the County for the purpose of receiving the notice of public hearing.
- F. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 3005 REHEARING

- A. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 - 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue which were relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
 - 2. There has been a material change in circumstances regarding the Planning Commission's or Zoning Board of Appeals' findings of fact which occurred after the public hearing.
 - 3. The County Attorney by written opinion states that in the Attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
 - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 - 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 - 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the

applicant's last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.

- C. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

SECTION 3006 STOP WORK OR STOP USE ORDER

In addition to any other rights or remedies the County may have pursuant to this Ordinance or other applicable law, upon finding the existence of any one of the conditions listed in paragraph A of this section, the Zoning Administrator shall be empowered to issue stop work or stop use orders as defined herein and in accord with the terms of this section and may order a stoppage of work or a cessation of a land use.

A. A stop work or stop use order will be issued when:

1. An imminent threat to the public health, safety or welfare exists
2. Work is being done or has been done without a permit
3. Work is being done beyond the scope of the issued permit
4. Work being done does not match approved plans
5. The Zoning Administrator finds evidence of a violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.
6. The Zoning Administrator finds evidence of a Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.
7. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
8. A Permittee's fails to pay any fees required by this article and/or any other applicable ordinances, codes, statutes or laws.
9. The Zoning Administrator finds evidence a Permittee is causing, allowing and/or maintaining a nuisance as determined by the County.

B. Procedure.

In the event a stop work or stop use order is issued, the Zoning Administrator shall do the following:

1. Mail or deliver a written notice of the stop work order to the permittee at the last address furnished to the County by permittee, as well as the location of the site which is in violation. Notice shall include:
 - a. Detailed description of the nature of the violation and required actions to remedy the violation.
 - b. Date and time of recorded violation.
 - c. A statement informing the permittee that an appeal to the stop work order may be filed and a hearing with the Zoning Board of Appeals on the matter may be requested, at which time the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.
2. A hearing shall be scheduled no sooner than ten (10) days after a request is received by the County from the permittee.
3. At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.
4. Following the hearing, the Zoning Board of Appeals shall make a decision to continue, modify or dissolve a stop work order and/or revoke a permit, as applicable. In the event the Zoning Board of Appeals decides to revoke a permit or to continue or modify a stop work use order, the Zoning Board of Appeals Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

ARTICLE THIRTY-ONE ZONING BOARD OF APPEALS

SECTION 3100 ESTABLISHMENT

There is hereby established a Zoning Board of Appeals in accordance with Act 110 of the Public Acts of Michigan of 2006, as amended, being the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided by said Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety, and welfare of the public be secured; and that substantial justice be secured.

SECTION 3101 MEMBERSHIP, TERMS OF OFFICE

The Zoning Board of Appeals shall consist of five (5) members appointed by the County Board of Commissioners. The first member of such board shall be a member of the Planning Commission, and the Commissioner's term on the board shall be concurrent with their term on the Planning Commission. The Board of Commissioners shall appoint the remaining members of the Board. The members selected shall be representative of the population distribution and of the various interests present in the County. One member may be a member of the County Board of Commissioners. An elected officer of the County shall not serve as Chair of the Zoning Board of Appeals.

The term of office of each member shall be three (3) years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The County Board of Commissioners shall seek to stagger the expiration dates of members of the Zoning Board of Appeals so at least one member's term expires each year and to achieve a reasonable degree of continuity of membership from one year to the next. The County Board of Commissioners may appoint at least two (2) alternate members, who shall serve for three (3) years.

SECTION 3102 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chair and at such other times as the Board in its rules of procedure may specify. The Chair or in his absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings, which shall be filed in the office of the County Clerk and shall be a public record. The Board shall not conduct business unless a majority of the members of the Board are present.

SECTION 3103 DUTIES, RULES, HEARING AND DECISIONS OF APPEALS, RIGHT TO AND GROUNDS OF APPEAL

The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the zoning maps, and may fix rules and regulations to govern its procedures. It shall also hear and decide appeals from and review any order, requirements, decision or determination made by the administrative official charged with enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the County, County, or State. The grounds of every determination shall be stated.

SECTION 3104 TIME TO AND NOTICE OF APPEAL: TRANSMISSION OF RECORD

Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule, by the filing with the County Clerk, the Zoning Administrator or other officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds thereof together with a fee established by the County Board of Commissioners which shall be paid to the County Planning Department at the time the notice of appeal is filed. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.

SECTION 3105 STAY OF PROCEEDINGS PENDING APPEAL

An appeal shall stay all proceedings in furtherance of the action appealed, except as provided herein. Proceedings shall not be stayed in the event the officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that a stay would cause imminent peril to life or property. The Zoning Board of Appeals or the Circuit Court may issue a restraining order to re-institute a stay on application and notice to the officer from whom the appeal is taken with due cause shown.

SECTION 3106 HEARINGS AND NOTICES, RIGHT TO BE HEARD, DISPOSITION OF APPEALS, DECISION NOT FINAL

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power, in passing upon appeals, to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done. The decision of the Zoning Board of Appeals shall not be final, and any person having an interest affected by this Ordinance shall have the right to appeal to the Circuit

Court.

SECTION 3107 DUTIES AND POWERS

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of intent of this Ordinance, but does have power to act on those matters where by statute or this Ordinance provision is made for an administrative review, interpretation, variance or exception as defined therein.

A. Review. The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or the Planning Commission or by any other official in administering or enforcing any provision of this Ordinance. The allegation shall be duly made within thirty (30) days of the date of decision being appealed. The date of decision is presumed to be five (5) days after the literal date of decision.

B. Interpretation. The Zoning Board of Appeals shall have the power to:

1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
2. Determine the precise location of the boundary lines between zoning districts.

C. Variances. The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that **all of the Basic Conditions** and **any one (1) of the Specific Conditions** set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.

1. **Basic Conditions.** The Board shall find that a variance request meets all of the following conditions.
 - a. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - b. The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 - c. The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.
 - d. The conditions or situations which necessitate the requested variance is not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
 - e. The requested variance shall relate only to property that is under control of the applicant.

- f. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
 - g. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
 - h. The requested variance is the minimum variance that will make possible the reasonable use of the land.
2. Special Conditions. When **all** of the foregoing basic conditions can be satisfied, a variance may be granted when any **one** (1) of the following special conditions can be clearly demonstrated:
- a. Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (a) incur additional costs to achieve full compliance, or (b) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.
 - b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
 - c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
3. Rules. The following rules shall be applied in the granting of variances:
- a. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
 - b. Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a County zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.
 - c. No application for a variance which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals

along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this Ordinance.

SECTION 3108 PERFORMANCE GUARANTEE FOR COMPLIANCE

In authorizing any variance, or in granting any conditional, temporary or special approval permits, the County Zoning Board of Appeals may require that a performance guarantee be furnished to insure compliance with the requirements, specifications and conditions imposed with the grant of variance or permit and to insure the discontinuance of a temporary use by a stipulated time. Such performance guarantee may be in the form of a cash deposit, certified check, or irrevocable bank letter of credit, at the discretion of the Zoning Board of Appeals.

ARTICLE THIRTY-TWO MUNICIPAL CIVIL INFRACTIONS

SECTION 3200 MUNICIPAL CIVIL INFRACTIONS

Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals or the County Board of Commissioners issued in pursuance of this Ordinance shall be in violation of this Ordinance; and each day said violation continues may be regarded as a separate violation. Any such violation is hereby declared to be a nuisance, per se. Whoever violates any provision of this Ordinance is guilty of a Civil Infraction in accordance with **Section _____** of the Barry County Codified Ordinances.

SECTION 3201 INJUNCTIVE RELIEF

The penalties provided herein shall not prohibit the County from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

SECTION 3202 NUISANCE PER SE

Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

ARTICLE THIRTY-THREE
FEES, CHARGES AND ESCROW ACCOUNTS

SECTION 3300 FEES

The County Board of Commissioners shall establish by resolution, fees for occupancy certificates, appeals, application for amendments or special uses, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the County Planning Development Department and may be altered only by resolution of the County Board of Commissioners. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 3301 APPLICANT ESCROW ACCOUNTS

If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under **Section 3300** hereof, will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the County Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the County in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal. Applicant escrow account shall not be required for a basic site plan pertaining to uses permitted by right pursuant to **Section 2703, D** or an application for erection of any farm building.

ARTICLE THIRTY-FOUR AMENDMENTS

SECTION 3400 AMENDMENTS

Any person affected by this Ordinance may submit a petition in writing to the secretary of the Planning Commission requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition. The Planning Commission shall hold a meeting to consider said petition in accordance with Section 14 of the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

SECTION 3401 REZONING AGREEMENTS

- A. Any interested property owner may voluntarily offer in writing, and the County may approve, certain uses and/or development of the land or other activities as a condition to a rezoning of the land.
- B. Application Procedure.
 - 1. If the applicant wishes to submit an offer of conditions or restrictions along with a petition to rezone land, the applicant shall do so in writing. Proposed restrictions shall be stated clearly, as determined by the Zoning Administrator. The offer of conditions or restrictions shall be received with the application to rezone the land, except as provided in subparagraph 4 hereof.
 - 2. The applicant may request a pre-application meeting, in which the Zoning Administrator and other County officials may identify concerns reasonably related to the rezoning request. The County shall not require the applicant to offer conditions or restrictions as a prerequisite for rezoning or shall the presentation of an offer of conditions or restrictions create any obligation on the part of the County to rezone any land.
 - 3. The County shall not add to, alter, or augment the offer of conditions or restrictions.
 - 4. The offer of conditions or restrictions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. Provided, if an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the County time to consider the offer; and if an offer of conditions is proposed at a County Board of Commissioners meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
 - 5. The Planning Commission or County Board of Commissioners may table a request to give residents of the County more time to fully understand the offer of conditions.
- C. Standards for Approval.
 - 1. When reviewing a rezoning request and an offer of conditions or restrictions, the County

may consider, but shall not be limited to; future land use recommendations in the Master Plan; goals and objectives in the Master Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents,

2. Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of the Zoning Ordinance or other regulations or ordinances promulgated by, or applicable in, Barry County.
3. When considering an offer of conditions or restrictions, the County shall determine whether the conditions or restrictions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

D. Expiration of Agreement, Reversion and Extensions.

1. In approving the conditions, the County may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, per subparagraph 4 hereof.
2. The County shall not add to or alter the approved conditions during the time period specified under subparagraph 1.
3. The time period specified under subparagraph 1 may be extended upon the application of the property owner and approval of the County.
 - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being solicited.
 - b. Upon recommendation of the Planning Commission, the County Board of Commissioners may extend the time period specified under subparagraph 1. If the extension is approved, if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, per subparagraph 4.
4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall establish that the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and shall rezone the land back to its former zoning classification.

E. Coordination and Performance Bonds.

1. Where proposed conditions or restrictions involve public improvements, the applicant shall submit the following to the Planning Commission prior to final approval of the rezoning and offer of conditions:

- a. A construction schedule.
 - b. Costs and obligations.
 - c. Responsible parties for obtaining permits.
 - d. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
2. The County may require submission of performance bonds or similar tools as part of the agreement or approval.

F. Notices.

1. Rezoning or zoning reversion of land shall require notice of public hearing. Such notice shall be given not less than fifteen (15) days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in the County and shall be mailed or personally delivered to:
 - e. The owners of the property for which approval is being considered.
 - f. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, including properties outside of the area of jurisdiction of the County Zoning Ordinance.
 - g. At least one occupant of each dwelling unit or spatial unit owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or other distinct spatial units, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the name of the occupant is not known, the term "occupant" may be used in making notification.
2. The notice of the public hearing shall contain the following:
 - a. Description of the nature of the rezoning request and the offer of conditions.
 - b. Description of the property which is the subject of the requested rezoning.
 - c. Time and place of consideration of the petition and public hearing on the rezoning request.
 - d. When and where written comments will be received concerning the request.

ARTICLE THIRTY-FIVE
SEVERABILITY, REPEALER AND EFFECTIVE DATE

SECTION 3500 SEVERABILITY

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

SECTION 3501 REPEALER AND SAVINGS

- A. Repeal of Former Ordinance. The Barry County Zoning Ordinance of 1976, including amendments and additions thereto, are hereby repealed as of the effective date of this Ordinance.
- B. Savings Clause. The repeal of the Barry County Zoning Ordinance of 1976, shall not release any penalty or liability incurred under said Ordinance, and such Ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

SECTION 3502 EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days following publication of a notice of adoption in a newspaper of general circulation in the County.

