

New Buffalo Township Zoning Ordinance

**October, 2000
With amendments through June, 2014**

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**CHAPTER 1
GENERAL PROVISIONS**

SECTION 1.1 NON-CONFORMING LOTS, BUILDINGS, STRUCTURES, AND USES

A. Intent

1. It is recognized that there exist in zoning districts certain lots, *buildings* and *structures*, and uses which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance. It is the intent of this Ordinance to permit formerly legal non-conforming lots, *buildings* and *structures*, and uses to continue until they are removed, but not to encourage their survival.
2. Non-conforming lots, *buildings* and *structures*, and uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Ordinance that these non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other *buildings*, *structures* or uses prohibited elsewhere in the district.
3. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any *building* on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual *building* construction has been diligently conducted.

B. Definitions

1. “Nonconforming *building* or *structure*” means a *building* or *structure*, the size, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the zoning district in which it is located.
2. “Nonconforming lot” means a lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present lot requirements of the zoning district in which it is located.
3. “Nonconforming use” means a use or activity that was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the zoning district in which it is located.

C. Non-conforming Lots of Record

1. A lot which is platted, or otherwise lawfully of record as of the effective date of this Ordinance, may be used as specified in the District in which it is located, provided the lot conforms to the requirements of the Berrien County Health Department. The *main building* on such lot shall be located so that it meets at least 80 percent of each of the *yard* requirements of the District in which it is located.
2. If two or more lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous *frontage* and under single ownership do not meet the requirements established for *lot width* or *lot area*, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of such parcel shall be used or divided in a manner which diminishes compliance with *lot width* and area requirements established by this Ordinance.

D. Non-conforming Uses

1. No non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance.
2. No part of any non-conforming use shall be moved unless such movement eliminates or reduces the non-conformity.
3. If a non-conforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this Ordinance. A non-conforming use shall be determined to be abandoned if at least one of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - b. The property, *buildings*, and grounds, have fallen into disrepair;
 - c. Indications of the existence of the non-conforming use have been removed;
 - d. Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - e. Other actions, which in the opinion of the *Zoning Administrator*, constitute an intention on the part of the property owner or lessee to abandon the non-conforming use.

E. Non-conforming *Buildings* and *Structures*

Where a non-conforming *building* or *structure* exists because of restrictions such as *lot area*, coverage, width, *height*, or *yards*, such *building* or *structure* may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such *building* or *structure* may be enlarged or altered in a way that increases its nonconformity, except in cases in which the *setback* of a *building* or *structure* is non-conforming by 50 percent or less of the distance required by this Ordinance. Only in these cases may the non-conforming *setback* be extended along the same plane as the existing non-conforming *setback*, provided that in so doing, the *setback* itself is not further reduced.
2. Should a non-conforming *building* or *structure* be destroyed to an extent of more than 75 percent of its replacement value, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this Ordinance.
3. Should a non-conforming *building* or *structure* be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this Ordinance.
4. If the nearest *building* on either side of the proposed *building* has a *front yard setback* less than that required by this Ordinance, the proposed *building* may have a *setback* equal or greater than the larger of the two.

- F. None of the provisions of this Section are meant to preclude normal repairs and maintenance on any non-conforming *building* or *structure* that would help strengthen or correct any unsafe condition of the *building* or *structure*.

SECTION 1.2 ACCESSORY BUILDINGS, STRUCTURES, AND USES

A. *Accessory Buildings* - General

1. Where an *accessory building* is attached to a *main building*, it shall conform to all regulations of this Ordinance applicable to the *main building*.
2. *Accessory buildings* may be *erected* in the *front yard* in the AG-R District only if the lot has a minimum of 250 feet of *depth* and further provided that such *accessory building setback* is equal to at least one-half the distance from the front lot line and the *main building*. Where *accessory buildings* are placed in the *front yard* such *buildings* shall maintain a minimum front and *side yard setback* of 50 feet.
3. *Accessory buildings* shall not be permitted on a lot or parcel which does not have a *main building*.
4. A detached *accessory building* exceeding 144 square feet shall require a building permit.

B. *Accessory Uses - General*

1. *Accessory uses* are permitted only in connection with, incidental to, and on the same lot with a main use which is permitted in the particular zoning district. No *accessory use* may be placed on a lot without a main use.
2. An *accessory use* must be in the same zoning district as the main use on a lot.
3. No *accessory use* shall be occupied or utilized unless the main *structure* to which it is *accessory* is occupied or utilized.
4. *Accessory uses* shall not be permitted in the *front yard* except as noted elsewhere in this Section.

C. *Residential Accessory Buildings and Structures*

Accessory buildings shall be permitted within the *Residential Districts* or with any residential use provided that the following restrictions are met:

1. The combined floor area of all *accessory buildings* shall be based on the lot size, as outlined in the chart below:

Lot Size	Maximum Square Footage of All <i>Accessory Structures</i>
Up to 3 acres	1,200 square feet [amended 2/19/02]
More than 3 acres	5,000 square feet

2. The total area occupied by the principal *building* and all *accessory buildings* shall not exceed the maximum *lot coverage* permitted in each district.
3. No detached *accessory building* shall be located closer than ten feet to any other *building* on the lot.
4. All detached *accessory buildings* exceeding 144 square feet shall meet all setback requirements. [amended 2/19/02]
5. No *accessory building* shall exceed thirty feet in *height*.
6. No *accessory building* shall be *erected* or placed on a lot unless a *main building* has been *erected*, placed, or established on the same lot.
7. These restrictions shall not apply to *farm buildings* used in conjunction with a bona fide *farm* operation.

D. *Other District Accessory Buildings and Structures*

Accessory buildings shall be permitted within the C-1, C-2, and I-1 Districts provided the following restrictions are met:

1. Detached *accessory buildings* shall meet all *setback* requirements for the zone district in which they are located.
 2. No detached *accessory building* shall be located nearer than ten feet to any other *building* on the property.
 3. No *accessory building* shall exceed the permitted *height* for *main buildings* in the district in which it is located.
- E. Construction of Accessory buildings.
Accessory buildings shall be stick-built or the equivalent to new *building* construction. No mobile home, *junk* object, or salvage materials, trailer, vehicle or similar item shall be utilized as an *accessory building* or storage *structure*; provided, however, that such requirement shall not be applicable to bona fide agricultural storage or activities, or to tool sheds or similar temporary storage *structures* utilized pursuant to the construction of a *building*.

SECTION 1.3 FENCES AND WALLS

- A. Fences and Walls in all *Residential Districts*
1. Fences and walls in all *residential districts* and platted subdivisions, which are within a required side or *rear yard* shall not exceed six feet in *height*, measured from the ground to the uppermost portion of the fence.
 2. Fences and walls *erected* within the required *front yard* shall not exceed four feet in *height*. [amended 2/19/02]
 3. Fences in *residential districts* or enclosing residential uses shall not contain barbed wire or be electrified, except within the AG-R District such fences are permitted for the sole purpose of containing livestock.
 4. All fences shall be *erected* with the better surface facing the neighboring property, and the *Zoning Administrator* shall determine which is the better surface of the fence.
- B. Fences and Walls in Commercial and Industrial Districts
1. Fences and walls in commercial and industrial districts shall not exceed twelve feet in *height*, measured from the ground, and shall be no greater than six feet in *height* in the required *front yard*. [amended 2/19/02]
 2. Barbed Wire or Razor Wired fences are prohibited except as Special Land Uses in Commercial and Industrial Districts. Site plan information may be abbreviated in such applications. [amended 4/21/08]
- C. Miscellaneous Regulations
1. Fences shall not be *erected* within any public right-of-way in any district.
 2. Fences shall not be *erected* or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines 25 feet from the point of intersection.
 3. Fences shall not be *erected* within two feet from a sidewalk, where the sidewalk is within the public right-of-way.
 4. Fence and wall *heights* within the buildable area of the lot or parcel in all districts shall conform to the fence and wall *height* regulations of the District involved. [amended 6/20/05]
 5. All fences and walls shall be maintained in good condition.

SECTION 1.4 REQUIRED ACCESS

Any lot created shall have *frontage* upon a public or *private street* for a distance equal to the minimum *lot width* requirement in the zoning district where the property is located. Lots with *frontage* on a cul-de-sac shall be permitted to have less street or road *frontage* (but in no case less than 40 feet of such *frontage*), and further provided that the *lot width* at the front *setback* line (or the rear *setback* line in the case of *waterfront lots*) and beyond shall satisfy the minimum *lot width* requirements of the zoning district in which the lot is located.

SECTION 1.5 MAIN BUILDING OR USE

No more than one *main building* or use may be located on a parcel, except for groups of related industrial or commercial *buildings*, multiple *family* dwellings, or *manufactured homes* contained within a single, integrated complex, sharing parking and access.

SECTION 1.6 PROJECTIONS INTO YARDS

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), eaves, gutters, chimneys without foundation, pilasters and similar features may project no further than four feet into a required front, rear, or *side yard*.
- B. An open, unenclosed, and uncovered porch, paved terrace, deck, balcony or window awning may project no further than ten feet into a required *front yard*, no further than fifteen feet into a required *rear yard*, and shall not project into a required *side yard*. In no case shall a porch, deck, balcony or awning be placed closer than five feet to any front or rear lot line.
- C. Any porch, terrace, deck, or balcony which is enclosed shall meet the minimum *setback* requirements of the *main building* or *accessory building* to which it is attached.

SECTION 1.7 ESSENTIAL PUBLIC SERVICES

Essential public services, as defined in Section 19.6, shall be permitted in any zoning district; it being the intention thereof to exempt their erection, construction, alteration or maintenance from the application of this Ordinance.

SECTION 1.8 BUILDING HEIGHT EXCEPTIONS

The building *height* restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four feet in *height*, chimneys, elevator bulkheads, fire towers, grain elevators, silos, stacks, public monuments, church spires, and roof *structures* housing necessary mechanical appurtenances.

SECTION 1.9 REQUIRED AREA OR SPACE

- A. No lot, adjacent lots in common ownership, *required yard*, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a *required yard*, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or *yards* created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.
- B. *Accessory buildings* or *structures*, including, but not limited to, porches enclosed by walls, or garages, attached to a *dwelling unit* or other *main building* in a substantial manner, such as by a wall or roof, shall be deemed a part of such *main building*, for the purpose of determining

compliance with the provisions of this Ordinance concerning *required yards*.

**SECTION 1.10 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS
OUTSIDE MANUFACTURED HOME PARKS**

Any single-family dwelling on a lot, whether constructed and *erected* or a *manufactured home*, shall be permitted only if it complies with all of the following requirements:

- A. If the *dwelling unit* is a *manufactured home*, the *manufactured home* must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his designee, to be safe and fit for residential occupancy.
- B. The *dwelling unit* and any *accessory building* shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the Township, provided, however, that where a *dwelling unit* is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by Township codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector. [amended 6/17/02]
- C. The *dwelling unit* shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum *lot area*, minimum *lot width*, minimum residential floor area, *required yard* and maximum building *height* requirements of the zoning district in which it is located.
- D. If the *dwelling unit* is a *manufactured home*, the *manufactured home* shall be installed with the wheels removed.
- E. Each part of a *dwelling unit* reaching the ground shall be firmly attached to its own permanent continuous foundation constructed on the *building site*, such foundation to have a wall of the same perimeter dimensions as the *dwelling unit* and to be constructed of such materials and type as required by the *Building Code* for on-site constructed single-family dwellings. If the *dwelling unit* is a *manufactured home*, its foundation shall fully enclose the chassis and undercarriage. The towing mechanism shall be enclosed. [amended 6/17/02]
- F. If the *dwelling unit* is a *manufactured home*, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the *building site* by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for *manufactured home parks*.
- G. The *dwelling unit* shall have a minimum horizontal dimension across any front, side or rear elevation of 24 feet.
- H. Storage area shall be provided within a *building*, with an area of no less than 120 square feet. This storage area may consist of a *basement*, closet area, attic or attached garage in a *main building*, or in a detached *accessory building* which is in compliance with all other applicable provisions of Section 1.2.
- I. Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the *dwelling unit* and the adjacent *grade*.
- J. [deleted 6/17/02]
- K. [deleted 2/19/02]
- L. The *dwelling unit* shall have no less than two exterior doors, with one being in either the rear or

the side of the *dwelling unit*.

SECTION 1.11 BASEMENTS [amended 6/17/02 and 11/18/02]

Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the Township *Building Code* and other applicable regulations. In no case, shall any living space located in a *basement* be counted toward the required floor area for the district in which it is located. The use of any basement as a dwelling is prohibited. Any dwelling without a full floor above grade level shall be considered a *basement* dwelling. An underground home approved pursuant to a special land use is not considered a *basement* dwelling.

SECTION 1.12 CONSTRUCTION BUILDINGS AND STRUCTURES

Construction *buildings* and *structures*, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:

- A. Construction *buildings* and *structures* may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot.
- B. No construction *building* or *structure* shall be used as a *dwelling unit*.
- C. Construction *buildings* and *structures* shall be removed from the lot within 15 days after an occupancy permit is issued by the Building Inspector for the permanent *structure* on such lot, or within fifteen 15 days after the expiration of a building permit issued for construction on such lot.

SECTION 1.13 KEEPING OF ANIMALS

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an *accessory use* in any *Residential District*. However, no more than five dogs or cats, four months of age or older, in any combination thereof, shall be kept or housed in or at one *dwelling unit*.
- B. The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts, except Agricultural-Residential (AG-R).

SECTION 1.14 WATER AND SANITARY SEWER SERVICE

No *structure* for human occupancy shall, after the effective date of this Ordinance, be *erected*, altered or moved and used in whole or part for dwelling, business, industrial or recreation purposes unless provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human, domestic, commercial and industrial waste, as applicable. Such installations and facilities, if not from an approved public system, shall conform with the minimum requirements for such facilities set forth by the State of Michigan Health Department, the Berrien County Health Department, and the Subdivision Regulations, *Building Code* and other applicable Ordinances of New Buffalo Township.

SECTION 1.15 CORNER LOTS

- A. A *corner lot* shall have two *front lot lines*: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two *lot lines*. Where the *lot lines* are of equal length, and/or the principal front lot line is not evident, then the *Zoning Administrator* shall determine the principal front lot line.
- B. General Provisions
 - 1. The required front *setback* shall be measured from both the principal and secondary *front lot lines*. For a *corner lot* with three front *setbacks*, the remaining *setback* shall be a side *setback*.
 - 2. The remaining *setbacks* shall be two side *setbacks*.
 - 3. The width of a *corner lot* shall be determined by the entire length of the principal front lot line
- C. Commercial and Industrial Zoning Districts.

For a *corner lot* which is completely within a C-1, C-2, or I-1 Zoning District, the *setback* along the *secondary street(s)* shall not be less than 30 feet. All other *setbacks* shall comply with the minimum *setback* requirements of the zoning district within which the lot is located.

SECTION 1.16 HOME OCCUPATIONS

- A. *Home occupations* shall be approved by the *Zoning Administrator*, who may issue an approval upon receipt of a letter from the applicant stating his or her intent to comply with the requirements of this Section.
- B. No persons other than members of the immediate *family* residing on the premises shall be engaged in such occupation.
- C. The use of the *dwelling unit* and separate guest quarters if any for the *home occupation* shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not

more than 25 percent of the floor area of the *dwelling unit* and guest quarters shall be used in the conduct of the *home occupation*. [amended 6/17/02]

- D. There shall be no change in the outside appearance of the *building* or premises, or other visible evidence of the conduct of such *home occupation*, other than one *sign*, not exceeding four square foot in area, non-illuminated, and mounted flat against the wall of the *main building*.
- E. The *home occupation* shall be operated entirely within the principal dwelling and separate guest quarters if any and not within any detached *accessory building* or *structure*. [amended 6/17/02]
- F. No traffic shall be generated by such *home occupation* in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such *home occupation* shall be met off the street, and not in the required *front yard*.
- G. No activity, equipment or process shall be used in such a *home occupation* which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

SECTION 1.17 PRIVATE STREETS

A. Purpose.

The Township determines that it is in the best interest of the community to regulate the construction, improvement, extension, relocation, and use of *private streets*. These provisions have been enacted to assure that:

- 1. proposed *private streets* will not be detrimental to the public health, safety, or general welfare;
- 2. proposed *private streets* will not adversely affect the long term development policies of New Buffalo Township;
- 3. *private streets* will be designed and constructed with adequate width, surface, and *grade* to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
- 4. *private streets* will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and the natural environment of the Township.

B. Definitions.

- 1. [deleted 6/17/02]
- 2. [deleted 6/17/02]
- 3. [deleted 6/17/02]
- 4. [deleted 6/17/02]
- 5. "*Frontage*" means the continuous linear distance of that portion of a parcel abutting upon a *public street* right-of-way, or private road easement.
- 6. "*Parcel*" means a tract of land which can be legally described with certainty and is capable of being located by survey.
- 7. "*Private driveway*" means an improved or unimproved path or road extending from a right-of-way, access easement or other form of *public or private street*, to a single *building*, dwelling, undeveloped *lot*, or *structure*, intended to provide ingress and egress primarily for the owners, occupants, visitors, or tenants thereof.
- 8. A "private street" shall mean any roadway or drive which is not a dedicated public road right-of-way and which provides or is intended to provide the primary means of ingress/egress to two or more *lots* or *dwelling units*, whether created by private road right-of-way, agreement, license, lease, joint ownership, easement or prescription. Any and all extensions to a private street shall be considered part of the primary private street

which abuts the private street. The term “private street” shall also include a path, drive, trail or road which is privately built and maintained and which is located on a public road right-of-way or easement. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

C. *Frontage and Access.*

1. All parcels utilizing a *private street* shall have *frontage* on the approved private road for a distance equal to or greater than the minimum *lot width* required for the District in which the parcel is located.
2. All *private streets* shall have direct access to a public road.

D. *Permits.*

1. No individual, association, corporation, or entity, either public or private, shall construct, upgrade, or extend a *private street* after the effective date of this Ordinance without first having obtained a private road permit from the Township Board.
2. The Building Inspector shall not issue building permits for construction of any *building* or *structure* on lots or condominium units served by a *private street* until construction of the *private street* to the extent required by the Township Board.
3. A Soil Erosion and Sedimentation Control permit shall be obtained from the Berrien County Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
4. All other required State of Michigan permits shall be obtained.
5. The Township Board may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the *private street* permit.

E. *Application.* The application for a *Private Street* shall be submitted and processed under the following procedures:

1. An application shall be submitted to the Township Clerk and shall contain the following:
 - a. An application form and fee as established by the Township Board.
 - b. A detailed written description of the development to be served by the *private street*.
 - c. Ten copies of a site plan, drawn to scale (at least 1"=100'), prepared by a registered engineer, showing a general location sketch, the precise location, *grade*, route, elevation, dimensions, and design of the *private street* and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any *public street* which the *private street* is to intersect. The plan may be prepared by a registered surveyor, rather than a registered engineer, if the proposed *private street* is to serve five or fewer parcels, *main buildings*, etc., and the Planning Commission waives said requirement in writing.
 - d. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the *private street*.
 - e. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the *private street* easement or within twenty feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - f. The location of any lakes, streams, wetlands, drains, and slopes (over 20%) within the proposed easement or within 100 feet thereof.
 - g. The location of any other *buildings* and *structures* located, or to be located,

- h. within 100 feet of the *private street* right-of-way.
Name of private street. [Subsec. h. added 9/17/07]

2. Review procedures will be as follows:

- a. The application, along with all other required information, shall be submitted to the Township Clerk.
- b. The Planning Commission shall set a date and hold a public hearing on the application. The Zoning Administrator shall send notice of the hearing in accordance with the General Notice Requirements in Section 15.3A2 below. [amended 9/18/06]
- c. The Planning Commission shall consider the request based on the standards of Sec. 1.17.F., as well as the approval standards of Sec. 1.17.G., and all other relevant provisions of this Ordinance. The Planning Commission shall make a recommendation to the Township Board to preliminarily approve, approve with conditions, or deny the request.
- d. The Township Board shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports of the Planning Commission, and shall preliminarily approve, preliminary approve with conditions, or deny the request, and state the basis for the decision and any conditions which should be imposed.
- e. No petition for Private Street approval, which has been disapproved, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.
- f. In order to request placement on the Township Board agenda for final approval, the applicant shall obtain and/or complete the following:
 - (1) Final inspection and approval of private road by the Townships Engineer
 - (2) Installation of street *sign* and traffic control devices
 - (3) Installation of underground utilities
 - (4) Eight copies of recorded land survey and legal descriptions showing easements for underground electrical and communication service lines, drainage, sanitary sewer, private road and dedication of any public road right-of-way.
 - (5) Two copies of recorded road maintenance agreement.
 - (6) Two copies of recorded deed restrictions and easements
- g. Final approval shall be given if the private road is in compliance with this Section, imposed conditions, and other Ordinance requirements.

E. Design Requirements.

The construction of *private streets* shall conform to the Road Commission construction standards for local roads, excepting pavement width and *grade* requirements and as otherwise provided in this Ordinance, as follows:

- 1. No *private street* shall extend for a distance of more than 2,640 feet in length from the nearest *public street* right-of-way, as measured along the centerline of the *private street*, without a second direct access thereto being available from a *public street*.
- 2. All *private streets* shall have a recorded permanent right-of-way and easement with a minimum width of at least 40feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.

3. The area in which the *private street* is to be located shall have a minimum cleared width of 28 feet, which clearing shall always be maintained.
4. Pavement widths shall conform to the following table. Any *private street* serving 5 or fewer parcels which is subsequently extended to serve more than 5 parcels shall be upgraded in its entirety to meet the pavement width requirements of this Section.

Standards	Serving 5 or Fewer Lots	Serving More Than 5 Lots
Pavement Width	18 feet [amended 6/20/05]	22 feet
Materials	Road surface may be gravel, but shall meet the MDOT 22A Gravel Standard.	Road surface may be gravel, but shall meet the MDOT 22A Gravel Standard.

5. Any *private street* which terminates at a dead-end shall have a means for vehicle turn-around either by use of a cul-de-sac, with a minimum radius of 40 feet, or by a continuous loop *private street* system, both of which must be constructed in accordance with the standards set forth in this Section.
6. The road surface shall have a minimum crown of .02 foot per foot from the centerline of the *private street* to the outside edge thereof.
7. A road shoulder at least two 2 feet wide, composed of six inches of compacted gravel, shall be provided on each side of the private road surface and shall slope one-half inch per foot from the outside edge of the road surface to the toe of the slope.
8. The maximum longitudinal road *grade* shall not exceed six percent, provided that the Township Board may allow up to a ten percent *grade* if the applicant produces written justification, satisfactory to the Township Board, that an increase in the road *grade* will not adversely affect public safety and the design of the road system(s). The Township Board may seek written recommendations from the Township Engineer.
9. The layout of the *private street* and the intersections of the *private street* with either a public or *private street* shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer. The minimum distance between intersections of public and/or *private street* rights-of-way shall not be less than 300 feet, as measured along the right-of-way line thereof.
10. The *private street* shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the Township Board and Berrien County Drain Commission to ensure adequate drainage and runoff.
11. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.
12. The *private street* shall be given a name and street *signs* shall be installed in accordance with the standards and approval of the Road Commission. The *private street* addresses shall be posted in a conspicuous place at the entrance to the *private street* (at the intersection with the public road) in letters at least three inches high. *Private streets* serving two or more dwellings shall have a standard stop *sign* where the *private street* abuts the *public street*.
13. The maximum number of lots on a single access cul-de-sac or dead end road shall not be more than 25.
14. A person or persons shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction on any private street designed to limit access or control vehicular speed.

15. The private street shall meet all requirements of the BOCA National Fire Prevention Code. [Subsec. 15 added 12/5/03]

G. Approval Standards.

1. Prior to finally approving a *private street* permit application, the Township Board shall determine the following:
 - a. The proposed *private street* will not be detrimental to the public health, safety, or general welfare.
 - b. The proposed *private street* will not adversely affect the use of land.
 - c. That the *private street* is designed and constructed with width, surface, and *grade* to assure safe passage and maneuverability of private and public safety vehicles.
 - d. That the *private street* is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
 - e. The ability of the *private street* to provide future connection to existing or proposed public-right-of-way or *private streets*.
2. The Township Board may require that the applicant comply with reasonable conditions relative to the design and construction of the *private street*.

H. Maintenance and Repairs.

1. All *private streets* shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and are readily accessible to, and usable by emergency vehicles in all types of weather.
2. All costs for maintenance and repair of the *private street* shall be the responsibility of the property owners or property owners association where one exists.
3. The applicant(s)/owner(s) of the proposed *private street* right-of-way or *private street* shall provide the Township Board with a recordable *private street* maintenance or restrictive covenant agreement between the owner(s) of the *private street* right-of-way and any other parties having any interest therein (if less than five lots) or a property owner's association (if five or more lots) which shall provide that the *private street* shall be regularly maintained, repaired, and snow plowed so as to assure that the *private street* is safe for travel at all times and the cost thereof paid. The maintenance agreement shall at a minimum contain the following:
 - a. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
 - b. A workable method of apportioning the costs of maintenance and improvements.
 - c. A notice that no public funds of the Township of New Buffalo are to be used to build, repair, or maintain the private road.
 - d. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
4. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any *building(s)* or parcels thereafter created or constructed on the *private street* shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. Once approved by the Township, records shall be furnished to the

Township prior to final approval of the *private street*.

I. Performance Guarantee.

The Township Board may, as a condition of the *private street* construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of Section 17.5B, and waiver of liability.

J. Inspections/Certificate of Compliance.

1. Upon completion of construction of the *private street*, the Township *Zoning Administrator* or his designee shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.
2. The applicant(s), at the applicant(s)'s expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the *private street* has been completed in accordance with the requirements of the permit.
3. If the completed *private street* does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in Section 17.5A and the New Buffalo Township Civil Infraction Ordinance.

K. Fees

Fees for the permits required hereunder shall be set by the Township Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, or other professional review the *private street* plans, specifications, and maintenance agreements, and to do the necessary inspections. All costs to be paid prior to final approval being granted with the balance of escrow account returned upon final approval. The fees shall not exceed the reasonable costs of providing the services.

L. Indemnification.

The applicant(s)/owner(s) of the *private street* agree that by applying for or securing a permit to construct the *private street* they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the *private street* or of the failure to properly construct, maintain, use, repair, and replace the *private street*.

SECTION 1.18 CLEAR VISION

- A. No plantings shall be established or maintained on any *corner lot* which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street right-of-way lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the right-of-way lines extended. This shall not prohibit the planting of shrubbery which will not achieve a *height* at maturity of more than 30 inches.
- B. No plantings shall be established in any required *front yard* which, in the opinion of the *Zoning Administrator*, will obstruct the view from driveways or adjacent roadways of vehicles entering or leaving the site.
- C. No fences, or other *structures* or obstacles, except mail boxes, shall be placed in any road right-of-way.

SECTION 1.19 VEHICLE REPAIR IN RESIDENTIAL DISTRICTS

No person, as owner or tenant, shall perform mechanical or body work on any motor vehicle in a *Residential District*, except under the following conditions:

- A. Work may be done only on a vehicle used by the property owner or tenant or his immediate *family*, as *family* transportation.
- B. The property owner or tenant must have proof of ownership available for inspection.
- C. The vehicle being repaired must be currently licensed.
- D. [deleted 2/19/02; see Sec. 1.28.]
- E. *Farm* equipment shall be exempt from these provisions within the AG-R District

SECTION 1.20 TEMPORARY DWELLINGS

- A. The *Zoning Administrator* may issue a permit to an individual to park and occupy a temporary dwelling in any District provided that:
 - 1. A building permit has been issued for the construction of a permanent residence to the property owner applying for the temporary dwelling permit.
 - 2. The temporary dwelling is connected to an approved water & sanitary system.
 - 3. The temporary dwelling is sufficiently secured to the ground to prevent overturning through the actions of high winds or other natural conditions.
- B. The *Zoning Administrator* shall determine the required size of the dwelling and placement on the lot. Such determination shall be consistent with the standards of Section D below.
- C. Upon applying for a temporary dwelling approval, the applicant shall pay a fee as determined by the Township Board. All original temporary dwelling permits issued in conjunction with the construction of a permanent dwelling shall be limited to a period of six months. If the permanent residence is not complete within the six month period, six month extensions may be permitted by the *Zoning Administrator* only for the purpose of completing the residence.
- D. Any authorization for temporary uses or *structures* shall meet the following standards:
 - 1. That all applicable requirements of this Section are met;
 - 2. That there will be no unsanitary conditions or other detrimental effects upon the property, occupants, or adjacent properties;
 - 3. That, in the case of occupancy during construction, the use or *structure* is reasonably necessary for the convenience and safety of the construction proposed;
 - 4. That the use or *structure* does not impact the nature of the surrounding neighborhood;
 - 5. That access to the use, area, or *structure* is located at the least offensive point on the property.
- E. The *Zoning Administrator* may attach reasonable conditions to temporary uses or *structures* to ensure that the standards of this Section are met.
- F. All temporary dwellings, *buildings*, and uses shall be removed from the premises following the expiration of the permit and any extensions, or upon completion of the permanent *building* or *structure*, or within 30 days after an occupancy permit has been issued or within 30 days after the building permit has expired.

SECTION 1.21 BASEMENT DWELLINGS [combined with Sec, 1.11 11/18/02]

SECTION 1.22 UNWHOLESOME SUBSTANCES

- A. No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or

accumulated by any person in any body of water or on or under any land, private or public, in all Districts in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed *building* and in a safe and sanitary manner. For purposes of this Section only, the term “unwholesome substance” shall be defined to mean any trash, garbage, tin can, automobile body, *junk* vehicle, trailer body, stone, *junk*, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, clinkers, cinders, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public. For the purposes of this Section only, the term “automobile body” shall be defined to mean any vehicle which (1) is unable to be driven upon a street under its own power or (2) which lacks all of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term “trailer body” shall be defined to mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things which lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers or other soil conditioners as part of a *farm* operation. [amended 2/19/02]

- B. No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Berrien County Health Department.
- C. No boxes, barrels, waste wood, lumber, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat or rodent harborage.

SECTION 1.23 CONSTRUCTION TIME LIMITS

Once construction or installation has begun regarding a *building* or *structure*, such *building* or *structure* shall be finished and an occupancy permit shall be issued in accordance with State Construction Code as adopted by the Township.

SECTION 1.24 LAND DIVISIONS-LIMITATIONS

- A. No parcel of ten acres or less may be divided into more than four parcels, including any previous divisions of the parent parcel or tract, except as permitted as a platted subdivision, *planned unit development* or site condominium. After a division, any remaining right to further divisions may be transferred from the parent parcel to the new parcel by giving notice to the assessor on the form published by the State Tax Commission (General Property Tax Act MCL 211.27A). Parcels over ten acres must meet the requirements of the Michigan Land Division Act (MCL 560.101 et seq.; MSA 26.430(101) et seq.).
- B. Each parcel created by a land division must have a *depth* of not more than four times its width. This requirement does not apply to resulting parcels larger than 10 acres or to the remainder of the parent parcel or tract retained by the proprietor. The Zoning Board of Appeals may grant a variance from this *depth* requirement caused by unusual topographical conditions.

SECTION 1.25 LAND DIVISIONS-APPROVAL

- A. All land divisions and boundary reconfigurations except subdivisions must be approved by the assessor or other person designated by the Township Board. A complete application for a land division shall be approved if it meets the following conditions:

1. Each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map, which shall show area, parcel lines, public utility easements, accessibility and compliance with the limitations in the previous Section 1.24.
 2. Each resulting parcel is accessible and has an area and width not less than those required by this Ordinance.
 3. The division meets all the requirements of the previous Section 1.24.
 4. Each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities.
 5. A fee has been paid as set by the Township Board. The fee shall not exceed the reasonable costs of providing the services.
- B. Approval of a land division is not a determination that the resulting parcels comply with other provisions of this Ordinance. A parcel not in full compliance with this Ordinance may be unbuildable.

SECTION 1.26 HIGH RISK EROSION AND CRITICAL DUNE AREAS [revised 7/20/09]

New Buffalo Township has chosen not to adopt an ordinance pursuant to the National Resources and Environmental Protection Act, Act III, Natural Resources Management, Chapter 1, Habitat Protection, Part 353, being MCL 324.35303 (Critical Dunes Act) and therefore, the use of property in the critical dunes area will be regulated by the Department of Environmental Quality to determine if their property meets the Natural Resources and Environmental Protection Act.

Persons building on the property adjoining Lake Michigan are advised that they should contact the Michigan Department of Environmental Quality to determine if the property meets the requirements of the Natural Resources and Environmental Protection Act.

In the areas designated “Critical Dunes” or “High Erosion” New Buffalo Township retains the right to regulate parcels at to lot size, frontage, structures, driveways, setbacks, and all other items specified in this ordinance.

SECTION 1.27 EXTERIOR LIGHTING IN RESIDENTIAL AREAS

All lighting of a high intensity nature on residential properties, or in residential districts, shall be directed away from, and if necessary shall be shielded to prevent the shedding of light onto adjacent residential properties. All lights shall be directed to prevent the source of the light from shining directly onto traffic in such a way that the glare could create a safety hazard.

SECTION 1.28 JUNKED CARS, BOATS AND OTHER VEHICLES

A motor vehicle which is unlicensed or can no longer propel itself, a boat which is no longer seaworthy, a motor vehicle, boat or any other vehicle which is partially dismantled, wrecked, *junked* or discarded or any parts thereof, shall not be parked, stored or placed in the open for more than five days. This provision shall not apply to *junk yards* operating under Special Land Use permits. [Sec. 1.28 added 2/19/02]

SECTION 1.29 SWIMMING POOLS [added 4/15/02]

A. No swimming pool, indoor or outdoor, may be installed, placed or constructed except in conformance with the Township building code and the Michigan Construction Code Act, Act 230, P.A. 1972 as amended, and rules and regulations thereto. Water supply, filtration systems, electrical systems and pumps shall be subject to the approval of the Building Department.

B. An outdoor swimming pool must comply with the front and side setback requirements for an *accessory building*. Notwithstanding any other provision of this Ordinance, the mandatory rear setback for an

outdoor swimming pool shall be ten feet.

SECTION 1.30 OPEN SPACE PRESERVATION [added 11/18/02]

In order to comply with Section 16(h), as added to the Township Zoning Act by Public Act 177 of 2001, notwithstanding the generally applicable minimum lot frontage/lot width and minimum lot area per dwelling unit requirements of the Ordinance, land zoned for residential development may be developed at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws and rules, on not more than 50% of the land, if all the following apply:

1. the land is zoned at a density equivalent to two or fewer dwelling units per acre; or if the land is served by a public sewer system, three or fewer dwelling units per acre;
2. not less than 50% of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means that run with the land;
3. the development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the development option provided by this provision would also depend upon such an extension; and
4. the development option provided pursuant to this section has not previously been exercised with respect to the subject property.

The development of land under this section is subject to all other applicable ordinances, laws and rules, including but not limited to:

- a. the provisions of the Zoning Ordinance that are not in conflict with and preempted by Section 16(h) of the Township Zoning Act as added by the 2001 Public Act 177 (MCL 125.286h);
- b. the Land Division Act (formerly the Subdivision Control Act, MCL 560.101 et seq.);
- c. any ordinance regulating the division of land, the platting of land into subdivisions or the creation of a site condominium;
- d. rules relating to suitability of groundwater for on-site water supply for land not served by public water; and
- e. rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

As used in this section, the term “undeveloped state” means a natural state preserving natural resources, natural features or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. This term does not include a golf course, but may include a recreational trail, picnic area, children’s play area, greenway or linear park.

SECTION 1.31 [added 4/21/08]

Applicant may voluntarily tender in writing conditions to the rezoning as to use and development in accordance with Section 405 of the Zoning Enabling Act. MCL 125.3405. Township may then negotiate an agreement acceptable to the Township and the Applicant.

SECTION 1.31 DRIVEWAY REQUIREMENTS FOR CERTAIN LOTS WITH SLOPES BETWEEN MAIN BUILDING AND STREET [added 7/20/09]

For public safety, health, welfare and property access, all residential parcels that have slopes greater than 25% (slopes steeper than 1 to 4) between that street and the main building must include a minimum 12 foot wide driveway (driveway defined as a paved or gravel or otherwise developed access parcel that a

car or truck can easily transverse between the street and the main building) extending from the edge of the developed portion of the private or public street to no less than five feet of the main building.

**CHAPTER 2
ZONING DISTRICTS - GENERAL**

SECTION 2.1 DISTRICTS ESTABLISHED

For the purposes of this Ordinance, New Buffalo Township is hereby divided into the following zoning Districts:

CURRENT DISTRICT DESIGNATION		PREVIOUS ORDINANCE DESIGNATION	
AG-R	Agricultural-Residential	AG-R	Agricultural-Residential
R-1	Low Density Residential	R-1	Single <i>Family</i> Residential
R-2	Medium Density Residential	R-2	Residential
R-3	High Density Residential	R-3	Multi- <i>Family</i> Residential
R-4	<i>Manufactured Home Park</i>	R-4	Mobile Home Park
C-1	General Commercial	C-1	Commercial Retail District
C-2	Highway Commercial	C-2	Commercial Sales & Service
I	Industrial	I-1	Light Industrial
		I-2	Medium Industrial
<i>PUD</i>	<i>Planned Unit Development</i>	<i>PUD</i>	<i>Planned Unit Development</i> District
F	Flood Plan Overlay	F	Flood Plan Overlay
	N/A	RE	Recreation District
	N/A	HR	High Risk Erosion District

SECTION 2.2 DISTRICT BOUNDARIES

A. Boundaries

The boundaries of the districts listed in Section 2.1 are hereby established as shown on the New Buffalo Township Zoning Ordinance Map, which is part of this Ordinance.

B. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, roads, highways, or *alleys* shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted *lot lines* or Township limits shall be construed as following such *lot lines* or Township limits.
3. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.
4. Boundaries indicated as parallel to or extensions of features indicated in Section 2.2 B, 1-3, shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
5. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Zoning Board of Appeals shall interpret the district boundaries.
6. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.

SECTION 2.3 ZONING OF VACATED AREAS

Whenever all or part of a street, *alley* or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two different Districts, the area is divided along a line half way between them according to the adjacent zone, unless the Township Board shall otherwise designate.

CHAPTER 3
AG-R AGRICULTURAL-RESIDENTIAL DISTRICT

SECTION 3.1 INTENT

This District is intended to provide a low intensity, rural environment which preserves those natural features that are important to the character of New Buffalo Township. General farming, large-lot residential, some institutions, and large open space uses are permitted in this District. It is the further intent to minimize undue development pressures upon those land owners who operate *farms* and wish to continue doing so. Areas within this District will generally be the last to be served by public water and sewer.

SECTION 3.2 PERMITTED USES

Land or *buildings* in the AG-R District shall be used, *erected*, altered or converted, in whole or in part, by right, or as a Special Land Use, for the following uses:

- A. Agriculture, horticultural, viticultural, dairy farming, cattle raising, poultry raising, livestock raising, *farm* forestry and other similar bona fide farming or agricultural enterprises, together with *farm* dwellings and other installations used and operated as part of the *farm*, but not including *intensive livestock operations*, and *agribusinesses*, or game, stock yards, or sand and gravel pits.
- B. Greenhouses and nurseries.
- C. Roadside stands for the display and sale of products grown on the property; provided that off-street parking and access to such parking shall be provided on the property and no hazardous traffic condition shall result from such activity.
- D. Single-*family* detached dwellings.
- E. Site condominiums for single-*family* homes.
- F. *Family day care homes* or *adult foster care family homes* or State licensed Residential Facilities. [amended 9/18/06]
- G. Publicly owned parks, playgrounds, and other publicly owned facilities of a recreational character.
- H. *Accessory buildings, structures*, and uses.
- I. *Home occupations*.

SECTION 3.3 SPECIAL LAND USES

In addition to permitted uses, land or *buildings* in the AG-R District may be used, for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. Utility and public service *buildings*, without storage yards.
- B. Campgrounds as provided for and as defined in Michigan's Public Health Code, 1978 PA 368, as amended and the administrative rules adopted pursuant thereto. [amended 12/20/10]
- C. Privately owned not-for-profit recreation areas or community recreation centers.
- D. Churches (including schools and day care centers).
- E. Golf courses or country *clubs*.
- F. Hunt *clubs* and shooting *clubs*.
- G. K-12 schools, provided such schools are not operated as commercial enterprises.
- H. *Bed and breakfast establishments*.
- I. Cemeteries.
- J. *Kennels*.

- K. Private stables.
- L. Private non-commercial landing fields.
- M. Municipal *buildings*.
- N. Sand and gravel mining.
- O. *Group day care homes*.
- P. *Intensive Livestock Operations*.
- Q. *Agribusinesses*.
- R. *Wildlife preserves*.
- S. Underground homes.

SECTION 3.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height, area, and lot dimension* requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. All applicable Flood Plain requirements of Chapter 12.

CHAPTER 4
R-1 LOW DENSITY RESIDENTIAL

SECTION 4.1 INTENT

This District is intended to provide a low-density, single *family* residential living environment and to foster stable, high quality neighborhoods consistent with New Buffalo Township's small town character. At the same time the regulations for this district recognize the need to preserve existing housing stock, allow infill development within older subdivisions, and accommodate waterfront development. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

SECTION 4.2 PERMITTED USES

Land or *buildings* in the R-1 District shall be used, *erected*, altered or converted, in whole or in part, by right, or as a Special Land Use, for the following uses:

- A. Single-*family* dwellings.
- B. *Family day care homes* or *adult foster care family homes* or State licensed Residential Facilities. [amended 9/18/06]
- C. Site condominiums for single-*family* homes.
- D. Public parks, playgrounds, and other public uses of an open space recreational character.
- E. *Accessory buildings, structures, and uses.*
- F. *Home occupations.*
- G. Guest quarters in a *main building* or an *accessory building*. Guest quarters shall include sleeping and bathroom facilities, but shall not include cooking facilities and shall not be rented separately from the main sleeping quarters. [Subsec. G added 6/17/02]

SECTION 4.3 SPECIAL LAND USES

In addition to the permitted uses above, land or *buildings* in the R-1 District may be used, for the following purposes when approved in accordance with the requirements of Chapter 15:

- A. Utility and public service *buildings*.
- B. Private non-commercial and public recreation areas or community recreation centers.
- C. Churches (including schools and day care centers).
- D. Golf courses or country *clubs*.
- E. K-12 schools, provided such schools are not operated as commercial enterprises.
- F. *Bed and breakfast establishments.*
- G. Cemeteries.
- H. Underground homes.
- I. Municipal water and wastewater treatment facilities.

SECTION 4.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height, area, and lot dimension* requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. All applicable Flood Plain requirements of Chapter 12.

CHAPTER 5
R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 5.1 INTENT

This District is intended to provide a medium density, single, and two *family* residential living environment and to foster stable, high quality neighborhoods while providing for additional variety in housing opportunities and choices. The Medium Density District is also intended to promote compact development in areas where current or future public utilities are planned and to limit scattered residential development in the outlying areas. At the same time the regulations for this District recognize the need to preserve existing housing stock and provide housing that is affordable for the present and future residents of New Buffalo Township. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

SECTION 5.2 PERMITTED USES

Land or *buildings* in the R-2 District shall be used, *erected*, altered or converted, in whole or in part, by right for the following uses:

- A. Any permitted use in the R-1 District.
- B. Two-*family* dwellings.

SECTION 5.3 SPECIAL LAND USES

In addition to the permitted uses above, land or *buildings* in the R-2 District may be used for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. Any Special Land Use permitted in the R-1 District
- B. *Housing for the elderly and nursing home.*
- C. *Group day care home or adult foster care group home.*

SECTION 5.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height, area, and lot dimension* requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. All applicable Flood Plain requirements of Chapter 12.

CHAPTER 6
R-3 HIGH DENSITY RESIDENTIAL DISTRICT

SECTION 6.1 INTENT

This District is intended to provide a high density, single, two *family*, and multiple *family* residential living environment and to foster stable, high quality neighborhoods while providing for additional variety in housing opportunities and choices. The High Density District is also intended to encourage compact, pedestrian friendly development along with affordable housing options. Non-residential uses are only allowed to the extent that they serve to further the creation of stable residential neighborhoods.

SECTION 6.2 PERMITTED USES

Land or *buildings* in the R-3 District shall be used, *erected*, altered or converted, in whole or in part, by right for the following uses:

- A. Any permitted use in the R-2 District.
- B. Multiple *family* dwellings.

SECTION 6.3 SPECIAL LAND USES

In addition to the permitted uses above, land or *buildings* in the R-3 District may be used, for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. Any Special Land Use permitted in the R-2 District
- B. *Child care center*
- C. Private *clubs*, fraternities and lodges, excepting those of which the chief activity is a service customarily carried on as a business.

SECTION 6.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height*, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. All applicable Flood Plain requirements of Chapter 12.

CHAPTER 7
R-4 MANUFACTURED HOME PARK DISTRICT

SECTION 7.1 INTENT

Consistent with the Township’s goal to provide a mix of housing styles, types, and densities to accommodate the residential needs of all groups, the *Manufactured Home Park* District is intended to provide regulations for *manufactured home* residential developments to permit additional variety in housing opportunities and choices.

SECTION 7.2 PERMITTED USES

Land or *buildings* in the R-4 District shall be used, *erected*, altered or converted, in whole or in part, by right for the following uses:

- A. *Manufactured homes* located in a state-licensed *manufactured home park*.
- B. *Manufactured home parks* in accordance with the requirements of Section 7.5.
- C. *Family day care homes* or foster care *family homes* or State licensed Residential Facilities.
[amended 9/18/06]
- D. *Accessory buildings, structures, and uses.*
- E. *Home occupations.*

SECTION 7.3 SPECIAL LAND USES

In addition to the permitted uses above, land or *buildings* in the R-4 District may be used for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. Utility and public service *buildings*.
- B. *Group day care home* or *adult foster care group home*.

SECTION 7.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for *Manufactured Home Parks* and all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. All applicable Flood Plain requirements of Chapter 12.

SECTION 7.5 LICENSED MANUFACTURED HOME PARKS

- A. All *manufactured home parks* shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended.
- B. The parking of more than one *manufactured home* on a single parcel of land or on two or more adjoining parcels of land under common ownership shall be illegal in New Buffalo Township, irrespective of the requirements of any other Ordinance of New Buffalo Township, unless such parcel or parcels of land shall have been approved as a licensed *manufactured home park*.
- C. All applications to establish a *Manufactured Home Park* District must be approved by the Township Board, upon the recommendation of the Planning Commission.

CHAPTER 8
C-1 GENERAL COMMERCIAL DISTRICT

SECTION 8.1 INTENT

This District is intended to accommodate uses which meet the general community-wide retail and service needs of the residents of New Buffalo Township and other nearby communities. It is the intention to promote the concentration of such uses in planned areas of the community, rather than in a random or linear pattern.

SECTION 8.2 PERMITTED USES

Land or *buildings* in the C-1 District shall be used, *erected*, altered or converted, in whole or in part, by right for the following uses:

- A. Any retail business whose principal activity is the sale of merchandise within an enclosed *building*.
- B. Personal and business service establishments including barbers, beauty parlors, electronics repair, printing, photo reproduction, blue-printing, or related trades or arts, Laundromats, laundry and dry cleaners.
- C. Professional service establishments including doctors, dentists, brokers, accountants, and real estate offices.
- D. Assembly *buildings* such as auditoriums, churches, and private *clubs*.
- E. Commercial schools including, but not limited to, dance, music, trade, martial arts.
- F. Restaurants, *clubs* and other drinking establishments which provide food or beverage for consumption on the premises; excluding drive-ins.
- G. Health and physical fitness salons.
- H. Municipal and *public utility* buildings and installations.
- I. Banks and other lending institutions.
- J. Offices and showrooms of plumbers, electricians, decorators, or similar trades.
- K. Single family dwellings which may include permitted retail business in the same building.

SECTION 8.3 SPECIAL LAND USES

In addition to the permitted uses above, land and *buildings* in the C-1 District may be used for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. *Vehicle gas stations*. [amended 2/19/02]
- B. *Vehicle repair facility*.
- C. *Vehicle wash* establishments.
- D. Drive-in establishments including restaurants, banks, dry cleaning pick-up stations, pharmacies, and other similar uses.
- E. *Open air businesses*.
- F. Mortuaries and funeral homes.
- G. Veterinary hospitals and *kennels*.
- H. *Child care centers*.
- I. Indoor recreational and entertainment facilities, such as theaters, bowling lanes, billiard parlors, skating rinks, and similar uses.
- J. *Hotels* and *motels* including cabins for lodging. [amended 9/5/03]
- K. Bus terminals and train stations.

- L. Indoor and outdoor Boat and recreational vehicle sales. [amended 9/5/03]
- M. Indoor and outdoor boat storage.
- N. Plant nurseries and greenhouses.
- O. Automotive showrooms, motorcycle and other recreational sales, service and repair shops.
- P. Commercial storage warehouses.
- Q. Marinas
- R. Tool & Die
- S. Wind turbines [Subsec. S added 12/17/01]
- T. Telecommunications Towers [Subsec. T. added 2/19/08]

SECTION 8.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height*, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. The outdoor storage of goods or materials is prohibited except as provided by SLU.
- F. All applicable Flood Plain requirements of Chapter 12.
- G. Except as otherwise specified or delineated, where there is a lot with C-1 strip zoning along highway frontage, the C-1 zone shall extend back from the lot line at the road 500 feet if the parcel is, on average, 1000 feet or more in depth, or if the average depth of the parcel is less than 1000 feet, the C-1 zone shall include the full parcel. [Subsec. G added 4/15/02]

CHAPTER 9
C-2 HIGHWAY COMMERCIAL DISTRICT

SECTION 9.1 INTENT

This District is intended to provide an appropriate location for commercial and business enterprises which primarily serve the motoring public. These uses are encouraged to locate near the I-94 freeway and other major highways and interchanges where their heavy traffic and other characteristics will not prove detrimental or incompatible.

SECTION 9.2 PERMITTED USES

Land or *buildings* in the C-2 District shall be used, *erected*, altered or converted in whole or in part, by right for the following uses:

- A. Any Permitted Use in the C-1 District except single family dwellings.
- B. *Hotels and motels.*
- C. Funeral homes and mortuaries.

SECTION 9.3 SPECIAL LAND USES

In addition to the permitted uses above, land and *buildings* in the C-2 District may be used for the following purposes when approved in accordance with the requirements of Chapter 15.

- A. Any Special Land Use permitted in the C-1 District
- B. Outdoor display areas
- C. Plant nurseries and greenhouses.
- D. Building supply and equipment establishments.
- E. *Adult entertainment businesses*
- F. Outdoor commercial recreation such as mini-golf, go-cart tracks, golf driving ranges, and similar uses.
- G. *Commercial storage warehouse.*
- H. Automotive show rooms, motorcycle and other recreational sales, service, and repair shops.
- I. *Truck terminals.*
- J. Wireless communication towers.
- K. Indoor and/or outdoor boat storage.
- L. Trade or industrial school.
- M. Bus terminals and train stations.
- N. Barbed wire or razor wire [added 4/21/08]
- O. Campgrounds as provided for and as defined in Michigan's Public Health Code, 1978 PA 368, as amended and the administrative rules adopted pursuant thereto. [added 12/10/10]

SECTION 9.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.

- D. *Setbacks, height, area, and lot dimension requirements shall be met as noted on the chart in District Regulations, Chapter 13.*
- E. *A maximum of one driveway per street shall be permitted per principal use, or collective principal use. A second driveway may be permitted provided that such drive is constructed and permitted to share access with an adjoining principal use or existing lot within the same zoning district. The Planning Commission may permit additional driveways, if justified by a professional traffic study provided by the applicant or owner indicating the need for such additional driveways.*
- F. *All applicable Flood Plain requirements of Chapter 12.*

CHAPTER 10 I-INDUSTRIAL DISTRICT

SECTION 10.1 INTENT

This District is intended to accommodate wholesale, warehousing, manufacturing, storage, and other industrial-related uses.

SECTION 10.2 PERMITTED USES

Land or *buildings* in the I District shall be used, *erected*, altered or converted, in whole or in part, by right for the following uses:

- A. Office *buildings* for executive, administrative, professional, accounting, drafting, and other similar professional activities. Research and development facilities, including production activities.
- B. Wholesale establishments.
- C. The manufacture, compounding, processing, packaging, warehousing, or treatment of such products as foodstuffs (excepting slaughterhouses or other similar uses), cosmetics, pharmaceuticals, pottery or other ceramic products, monuments, glass products, musical instruments, toys, furniture, molded rubber or plastics products, electrical appliances, electronic instruments, *signs*, light sheet metal products, hardware, tool, die, gauge, and machine shops, excluding stamping operations.
- D. Laboratories (experimental, film, research, or testing).
- E. Central dry-cleaning and laundry establishments performing cleaning operations on the premises. (A customer counter may be permitted as an *accessory use*.)
- F. Trade or industrial schools.
- G. Utility and public service *buildings*, including storage yards.
- H. Contractor's showrooms and storage yards.
- I. *Accessory buildings, structures*, and uses.

SECTION 10.3 SPECIAL LAND USES

In addition to the permitted uses above, land and *buildings* in the I District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 15.

- A. Vehicle repair facility.
- B. Lumber and planing mills.
- C. Metal plating, buffing, and polishing.
- D. *Commercial storage warehouses*.
- E. The manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
- F. Recycling centers.
- G. *Adult entertainment businesses*
- H. *Junk yards*
- I. *Truck terminals*.
- J. Outdoor storage, display area, and sale of *farm* implements and commercial construction equipment.
- K. Manufacture of corrosive acid or alkali, cement, asphalt, lime, gypsum, or plaster of Paris.
- L. Production, refining, or storage of petroleum or other flammable liquids.

- M. Municipal water and wastewater treatment facilities.
- N. Wireless communication towers and radio and television broadcast towers.
- O. *Child care centers* as an *accessory use*.
- P. Wind turbines [Subsec. P added 12/17/01]

SECTION 10.4 SITE DEVELOPMENT REQUIREMENTS

All Permitted Uses and Special Land Uses are subject to the following Site Development Requirements:

- A. Site Plan Review is required for all Special Land Uses in accordance with Chapter 14, Section 14.1.
- B. Parking is required in accordance with Chapter 14, Section 14.2.
- C. *Signs* are permitted in accordance with the requirements of Chapter 14, Section 14.3.
- D. *Setbacks, height, area, and lot dimension* requirements shall be met as noted on the chart in District Regulations, Chapter 13.
- E. All industrial activities shall be conducted wholly within a completely enclosed *building*, except for loading and unloading operations and designated outdoor storage areas meeting all applicable requirements for location and screening.
- F. All applicable Flood Plain requirements of Chapter 12.

CHAPTER 11
PUD - PLANNED UNIT DEVELOPMENT DISTRICT

SECTION 11.1 INTENT

Planned Unit Developments (PUDs), in New Buffalo Township may be established as distinct zoning districts when approved by the Township Board in accordance with the procedures specified herein. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of *structures*; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other Zoning Districts. The use of land and the construction and use of *buildings* and other *structures* as *Planned Unit Development* shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

SECTION 11.2 QUALIFYING CONDITIONS

Any development which fails to meet the following qualifying conditions, at a minimum, shall not be approved for the *PUD* District:

- A. The *PUD* site shall be not less than ten acres in area. If the *PUD* is to contain a mixture of residential and non-residential uses, the minimum required area shall be fifteen acres. Recreational amenities such as golf courses and health *clubs*, and ancillary commercial activities such as *club* houses and pro shops, shall not be considered non-residential uses for purposes of this Section.
- B. The tract of land for which a *PUD* application is received must be either in one ownership or the subject of an application filed jointly by the owners of all properties.
- C. The proposed uses and densities of the *PUD* must be consistent with the New Buffalo Township *Master Plan* for the subject property, unless otherwise noted in this Chapter.
- D. The proposed *PUD* is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- E. The proposed *PUD* will not contain uses or conditions of use that would be injurious to the public health, safety, or welfare of the community.
- F. The proposed *PUD* meets all the site plan review standards of Sec. 14.1.
- G. The proposed project is consistent with the spirit and intent of the *PUD* District, as described in Sec. 11.1 and represents a development opportunity for the community that could not be achieved through conventional zoning.

SECTION 11.3 PERMITTED USES

Any use permitted by right or special approval in any District shall be permitted within a *PUD*, subject to compliance with the qualifying conditions and other applicable regulations of this Chapter unless otherwise noted in this Chapter.

SECTION 11.4 OPTIONAL PRE-APPLICATION CONFERENCE

- A. A pre-application conference may be held with the Planning Commission and others for the purpose of determining the eligibility of the request for consideration as a *PUD*.

- B. A request for a pre-application conference shall be made to the *Zoning Administrator* who shall schedule a date and time with the Planning Commission. As part of the pre-application conference, the applicant shall submit seven copies of a conceptual plan which shows the property location, boundaries, *significant natural features*, proposed vehicular and pedestrian circulation, and proposed land use for the entire site.
- C. The Planning Commission shall advise the applicant of the conformance of the *PUD* concept with the intent and objectives of the *PUD* in New Buffalo Township, whether it qualifies under the minimum requirements of Sec. 11.2 and whether the general concept is consistent with the Township's *Master Plan*. In no case, shall any representations made by the Planning Commission be construed as an endorsement of the *PUD* or an approval of the concept.

SECTION 11.5 PUD APPLICATION AND PRELIMINARY DEVELOPMENT PLAN

Applicants seeking approval of a *PUD* District shall submit a complete application for review and a preliminary development plan to the *Zoning Administrator*. The Planning Commission or Clerk shall schedule a date and time for a public hearing and review. [amended 2/19/02] Such application shall include the following:

- A. A completed application form, supplied by the *Zoning Administrator*
- B. Payment of a fee, as established by the Township Board.
- C. A narrative statement describing:
 - 1. the objectives of the *PUD* and how it relates to the Intent of the *PUD* District, as described in Sec. 11.1.
 - 2. the relationship of the *PUD* to the New Buffalo Township *Master Plan*
 - 3. phases of development and approximate time frame for each phase
 - 4. proposed deed restrictions, covenants, or similar legal instruments to be used within the *PUD*
 - 5. anticipated start and completion of construction
 - 6. location, type, and size of areas to be dedicated for common open space
- D. Twelve copies of a preliminary development plan. If the *PUD* is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:
 - 1. name of development, applicant's name, name and address of firm and individual who prepared the plan, scale, and north arrow.
 - 2. property lines, dimensions of all property lines, and size of the *PUD* (and individual phases) in acres.
 - 3. existing zoning and land use of all properties within 100 feet.
 - 4. existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features.
 - 5. existing *buildings* on the site.
 - 6. proposed uses and their approximate locations.
 - 7. right-of-way and pavement edges of existing streets abutting the *PUD*.
 - 8. approximate locations of proposed access drives and streets within the *PUD*.
 - 9. proposed method of providing water, sanitary sewer, and storm water drainage facilities.
 - 10. layout and typical dimensions of proposed lots.
 - 11. approximate phases of development.
 - 12. proposed residential density by area or phase.
 - 13. existing and proposed easements.

14. *building* envelopes on all buildable lots. [Subsec. 14 added 2/19/02]

SECTION 11.6 NOTICE AND PUBLIC HEARING FOR PUD

- A. Upon receipt of an application for PUD approval the Planning Commission or the Clerk shall set a date for a public hearing, and the Zoning Administrator shall send notice in accordance with the General Notice Requirements in Section 15.3A2 below [amended 2/19/02 and 9/18/06]
- B. Following notice, the Planning Commission shall hold a public hearing on the proposed *PUD*, for the purpose of receiving public comment on the application.

SECTION 11.7 PLANNING COMMISSION RECOMMENDATION

Following the public hearing, the Planning Commission shall review the *PUD* request and preliminary development plan based on the conformance with the Township *Master Plan*, compatibility with surrounding uses, and consistency with the intent and qualifying conditions of this Chapter; and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the *PUD* zoning. In its recommendation to the Board, the Planning Commission shall include the reasons for such recommendation, specifically citing appropriate standards and sections of the Ordinance and identify those specific conditions, if any, it considers necessary. Such recommendation shall also be forwarded to the Berrien County Planning Commission in conformance with the requirements of the Michigan Zoning Enabling Act. [amended 9/18/06]

SECTION 11.8 TOWNSHIP BOARD ACTION

After receiving the recommendation of the Township and County Planning Commission, and applying the standards of Sec. 11.2, the Township Board shall hold a Public Hearing to review the application package, preliminary development plan, the record of the Planning Commission proceedings, and the recommendation. The Board shall then make its findings as to approval, approval with conditions, or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the final development plan to the Township Board. [amended 2/19/02]

SECTION 11.9 FINAL DEVELOPMENT PLAN APPLICATION

Within twelve months of the Township Board's approval of the *PUD* district and the preliminary development plan, the applicant shall submit a request for final *PUD* approval. Such application shall consist of the following.

- A. A completed application form, supplied by the *Zoning Administrator*.
- B. Payment of a fee, as established by the Township Board.
- C. A written response to the findings, review comments, and conditions, if any, from the Planning Commission's review of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in Sec. 14.1.C.2. For developments consisting of three or more phases, a plan meeting the requirements of Sec. 11.5.D. may be submitted for the overall *PUD* and a detailed plan as required for final development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.

SECTION 11.10 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN

- A. The Planning Commission shall review the final development plan in relation to its conformance

with the preliminary development plan and the conditions, if any, of the *PUD* district approval. If it is determined that the final plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 11.6-11.8.

- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the criteria of Sec. 11.2.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. The decision of the Planning Commission may be appealed to the Township Board which shall review the record of the proceedings, along with all materials submitted, and shall make its decision in accordance with the standards of Sec. 11.11.

SECTION 11.11 PUD AGREEMENT

Prior to issuance of any building permits or commencement of construction on any portion of the *PUD*, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant's obligations with respect to the *PUD*. The agreement shall describe all improvements to be constructed as part of the *PUD* and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the *PUD*, and all conditions attached to the approval by the Township Board. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the *PUD*, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Berrien County Register of Deeds.

SECTION 11.12 CHANGES TO AN APPROVED PUD

Changes to an approved *PUD* shall be permitted only under the following circumstances:

- A. The holder of an approved *PUD* final development plan shall notify the *Zoning Administrator* of any desired change to the approved *PUD*.
- B. Minor changes may be approved by the *Zoning Administrator* upon determining that the proposed revision(s) will not alter the basic design and character of the *PUD*, nor any specified conditions imposed as part of the original approval. Minor changes shall be limited to the following:
 - 1. Reduction of the size of any *building* and/or *sign*.
 - 2. Movement of *buildings* and/or *signs* by no more than ten feet.
 - 3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
 - 4. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - 5. Changes required or requested by the Township, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the *Zoning Administrator* to be minor shall be submitted to the Planning Commission as an amendment to the *PUD*. The submission may be made by the original applicant, its successor, any owner of land within the *PUD*, any homeowners' association for the *PUD* or the agent for any of them. Applications shall comply with Sec. 11.5 except that Sec. 11.5 C and D may be limited to the proposed changes. If the changes will affect five or fewer units and will not affect common property, notice need be given only to all owners of the property within 300 feet of the affected lots; otherwise notice must be given by publication and to all owners of property in the *PUD* in accordance with Sec. 11.6. [amended 9/5/03]

SECTION 11.13 TIME LIMIT FOR APPROVED PUD DISTRICT

Each development shall be under construction within one year after the date of approval of the *PUD* final development plan, except as noted in this Section.

- A. The Township Board may grant extensions if the applicant applies for such extension prior to the date of the expiration of the *PUD* and provided that:
 - 1. the applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - 2. the *PUD* requirements and standards, including those of this Ordinance and *Master Plan*, that are reasonably related to said development have not changed.

- B. Should neither of the provisions of Section 11.13.A. be fulfilled, or an extension has expired without construction underway, the *PUD* approval shall be null and void and the Township Board shall so advise the developer.

CHAPTER 12
F-1 FLOODPLAIN DISTRICT

SECTION 12.1 PURPOSE

This District is intended primarily to protect those undeveloped areas of New Buffalo Township which are subject to predictable flooding in the floodplain area of the Galien River or its tributaries, and other water bodies, that the reservoir capacity will not be reduced or impede, retard, accelerate or change the direction of flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. The requirements of this Chapter, while permitting reasonable use of properties within the floodplain, will help protect human life, prevent or minimize material and economic losses and reduce the cost to the public in time of emergency through public aid or relief efforts occasioned by the unwise occupancy of such flood areas.

SECTION 12.2 DELINEATION OF THE FLOOD HAZARD OVERLAY ZONE

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official New Buffalo Township Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Rate Map", dated December 4, 1979, as updated, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the Flood Boundary and Floodway Map. The Study and accompanying maps are adopted by reference, appended, and declared to be part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone and the term floodway 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.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Chapter shall be necessary for all development occurring within the flood hazard area zone.

SECTION 12.3 PERMITTED USES

All uses of land and/or *buildings* in the F-1 District must comply with all other provisions of this Ordinance regarding uses in their particular zoning districts. In addition, permitted uses of land and *buildings* in the F-1 District are limited to the following, provided no alteration is made to the existing level of the floodplain or *erected structure*. All other uses are prohibited except for the Special Land Uses set forth in the following Section.

- A. Open space uses such as *farms*, truck gardens, nurseries, parks, playgrounds, golf courses, nature preserves, bridle trails, natural trails, and recreation, that do not interfere with the flow of the river or floodplain capacity.
- B. Industrial or commercial *accessory use* areas, such as loading and parking areas, and similar uses.
- C. Airport landing, taxiing, and parking areas.
- D. *Accessory* residential uses such as lawn, gardens, parking areas, and play areas.

SECTION 12.4 SPECIAL LAND USES

Except for permitted uses, land or *buildings* in the F-1 District may be used for the following purposes following review by the Planning Commission as a Special Land Use, if otherwise permitted, and as regulated by Chapter 15:

- A. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.
- B. Marinas, docks, and piers.

SECTION 12.5 DATA SUBMISSION

Prior to the issuance of building permit for *structures* on or within 100 feet of floodplain areas, the *Zoning Administrator* shall require the applicant for such permit to submit an approved permit by the Michigan Department of Environmental Quality, along with evidence of insurability, topographic data, engineering studies, proposed site plan and/or other similar data needed to determine the possible effects of flooding on a proposed *structure* and/or the effect of the *structure* on the flow of water, and the potential for erosion or sedimentation of the bank adjacent to the floodplain. All technical data and reports shall be prepared by a registered professional civil engineer.

SECTION 12.6 TOWNSHIP LIABILITY

New Buffalo Township shall incur no liability whatsoever by permitting any use of a *building* within the floodplain within the Township.

SECTION 12.7 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

- A. Development within a flood hazard area, including the erection of *structures* as permitted by this Chapter, shall not occur except upon issuance of a zoning permit in accordance with the requirements of this Ordinance and the following standards:
 - 1. Applicant must meet both the requirements of the Flood Plain District and the requirements of the underlying zoning district.
 - 2. 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 Environmental Quality under authority of Act 245, of the Public Acts of 1929, as amended. Where a development permit cannot be issued prior to the issuance of a zoning permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
- B. The use pattern and *structure* proposed to accomplish said use shall be so designed as not to reduce the water impoundment capacity of the floodplain or significantly change the volume or speed of the flow of water. Specific base flood elevation standards:
 - 1. On the basis of the most recent available base flood elevation data all new construction and *substantial improvements* shall have the lowest floor, including *basements*, elevated at least one foot above the flood level; or for nonresidential *structures*, be constructed such that at or below base flood level, together with attendant utility and 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 hydrodynamic loads and effects of buoyancy. A registered professional engineer or

architect shall certify that these standards are met and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the *structure*. Such certification shall be submitted as provided in this Ordinance and shall indicate the elevation to which the *structure* is floodproofed

2. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this Chapter. The most recent flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.
3. All new construction and *substantial improvements* within a flood hazard area, shall:
 - a. be designed and anchored to prevent flotation, collapse, or lateral movement of the *structure*;
 - b. be constructed with materials and utility equipment resistant to flood damage; and
 - c. be constructed by methods and practices that minimize flood damage.
4. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
5. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters 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.
6. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
7. Adequate drainage shall be provided to reduce exposure to flood hazards.
8. The flood carrying capacity of any altered or relocated watercourses not subject to state or federal regulations shall be designed to ensure flood carrying capacity is maintained.

SECTION 12.8 FEMA (Federal Emergency Management Agency) [Sec added 6/19/06]

The Township Board adopted FEMA's Berrien County Flood Insurance Study and Rate Maps in order to continue to participate in FEMA's National Flood Insurance Program. It did so by adopting an Ordinance for Floodplain Management Provisions and a Community Resolution to Manage Floodplain development for the National Flood Insurance Program.

CHAPTER 13
SCHEDULE OF DISTRICT REGULATIONS

SECTION 13.1 SCHEDULE OF REGULATIONS

Unless expressly specified otherwise elsewhere in this Ordinance, all lots, uses, *structures* and *buildings* shall conform to the Schedule of Regulations and the accompanying footnotes shown on the following pages. No lot shall be created which does not meet the following applicable requirements.

(*Footnotes are an integral part of the District Regulations and should be read in conjunction with the above schedule.)

SCHEDULE OF REGULATIONS* [amended 2/19/02]

<u>DISTRICTS</u>	<u>MINIMUM AREA (a)</u>	<u>MINIMUM WIDTH (FT.)</u>	<u>MINIMUM YARD SETBACKS (FT.) (b)</u>			<u>MAXIMUM HEIGHT</u>
			<u>Front</u>	<u>Side (each)</u>	<u>Rear</u>	
<u>AG-R Agricultural-Residential</u>	Two acres	150	30	15	50	35
<u>R-1 Low Density Residential</u>	15,000 square feet (c)	100 (c)	30	10	25	35
<u>R-2 Medium Density Residential</u>	12,000 square feet (c)	80 (c)	30	10	25	35
<u>R-3 High Density Residential</u>	8,712 square feet (d)	66	30(e)	7(d)	25(d)	40(d)
<u>R-4 Manufactured Home Park</u>				See Chapter 7		
<u>C-1 General Commercial</u>	15,000 square feet (c)	100 (c)	30(e)	10(g)	10(g)	40
<u>C-2 Highway Commercial</u>	20,000 square feet	100	30(e)	10(g)	10(h) Amended 9/17/07	40
<u>I- Industrial</u>	one acre	100	40(e)	15(g)	40(g)	50
<u>PUD Planned Unit Development</u>				See Chapter 11		
<u>F-1 Flood Plain</u>				See Chapter 12		

SECTION 13.2 FOOTNOTES TO DISTRICT REGULATIONS

- (a) All dwellings shall contain a minimum floor area in accordance with the following:
 - single *family* (1 *story*)- 960 sq. ft., with at least 960 sq. ft. on the ground floor
 - single *family* (1-1/2 *story*)- 1,150 sq. ft., with at least 768 sq. ft. on the ground floor
 - single *family* (2 *stories*)- 1,440 sq. ft., with at least 720 sq. ft. on the ground floor
 - two-*family*- 750 sq. ft. per unit
 - multi-*family*
 - efficiency 400 sq. ft.
 - 1 bedroom 500 sq. ft.
 - 2 bedroom 600 sq. ft.
 - 3 bedroom 750 sq. ft.
 - 4 bedroom 900 sq. ft.

The area of the *building* shall be determined by the exterior dimensions of the *building*. [amended 2/19/02]

- (b) See Section 1.15 (Corner Lots).
- (c) Non-conforming lots (existing lots of record) must have water and/or sewer AND meet 80% of setbacks. [amended 2/19/02, 12/5/03 and 9/19/05]
- (d) All lots shall be served by public sanitary sewer and water. Multiple *family* dwellings shall have a minimum lot size of one acre and be served by public water and sanitary sewer facilities. A maximum of twelve *dwelling units* per net acre shall be permitted. Net acreage shall be the total site area, exclusive of any dedicated public right-of-way or private easement for either interior or abutting streets. No *building* shall exceed an overall length of 180 ft. There shall be a minimum distance between ends of contiguous *buildings* equal to the *height* of the taller *building* or 25 ft., whichever is greater. In no case shall the minimum required *setback* be less than the *height* of the *building*.
- (e) The first 20 ft. of the required *front yard* shall not be used for parking or aisles and shall be landscaped when developed.
- (f) Also subject to the requirements of the current building code.
- (g) Where a side and/or rear yard abuts a Residential District, there shall be a minimum yard of not less than twenty feet, exclusive of parking and drives. Such yard shall be planted with site-obscuring plant cover as approved by the Planning Commission.

CHAPTER 14
SITE PLAN, PARKING AND SIGN REQUIREMENTS

SECTION 14.1 SITE PLAN REVIEW AND SITE CONDOMINIUMS [title amended 6/17/02]

A. Purpose

The purpose of this Chapter is to consider and evaluate the applicant's planned objectives in the utilization of land and to ensure compliance with the regulations of this Zoning Ordinance.

B. Uses Subject to Site Plan Review

1. A Building Permit for any proposed use or *building* or any other improvement requiring a site plan shall not be issued until a Site Plan has been reviewed and approved under the following procedure:

a. The following uses shall be subject to Site Plan Review.

(1) All permitted uses within the R-3, R-4, C-1, C-2, and I Districts, except the following:

- (a) One and two-*family* dwellings
- (b) Temporary *buildings* and uses
- (c) *Accessory uses* or *structures*

(2) Special Land Uses in any zone district.

(3) Site condominiums in any district.

(4) *Planned Unit Developments*

(5) Any development or land division involving five or more lots.

b. All site plans not reviewed under this Section shall be subject to review by the *Zoning Administrator*. Such review shall be limited to ensuring that the proposed use conforms to the applicable *setbacks*, *yards*, parking, and other specific Zoning Ordinance requirements.

C. Application and Review Procedures

1. Application Procedures

a. An application for Site Plan Review shall be submitted to the *Zoning Administrator*, who will review the application materials to ensure that the requirements of this Section are met, and seek preliminary comments from the necessary departments, agencies, and consultants as appropriate prior to submittal to the Planning Commission. The *Zoning Administrator* shall transmit the application to the Planning Commission as soon as practical following the necessary preliminary reviews. The Planning Commission shall consider the request within 45 days thereafter.

b. Review comments shall be submitted by such departments and consultants to the Planning Commission for consideration prior to the meeting at which the request is to be considered.

c. An application for Site Plan Review shall consist of the following:

- (1) A completed application form, as provided by the Township.
- (2) Ten copies of the Site Plan.
- (3) Payment of a fee, in accordance with a fee schedule, as determined by Township Board resolution.
- (4) A legal description, including the permanent parcel number, if available, of the subject property and a boundary survey map, or if the permanent parcel number is not available, a “part of” number and a survey showing the division.
- (5) If the Zoning Administrator determines, based on review of (i) the Soil Survey of Berrien County, Michigan prepared by the United States Department of Agriculture, Soil Conservation Service or (ii) wetland inventory maps prepared by the State of Michigan Department of Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, that there is reason to believe that there are wetlands on the property on which the proposed development is to be located, then the Zoning Administrator shall advise the applicant that the application may not be submitted for review and noticed for a public hearing without a “wetlands delineation” or “wetlands assessment” as defined in DNRE Rule 281.924 (6) (c) (iii) authorized by MCL 324-30319 (commonly referred to as a Level 3 Delineation). [added 11/15/10]
- (6) Other materials as may be required by this section, by the Zoning Administrator, or by the Planning Commission. [amended 11/15/10]

2. Site Plan Requirements

Site Plans shall be professionally prepared by a registered engineer, surveyor, architect, landscape architect, or community planner to a scale of not more than one inch equals one hundred feet (1" = 100') showing the existing and proposed arrangement of the site and shall include the following:

- a. Small scale sketch of properties, streets and use of land within one quarter mile of the subject property.
- b. Existing adjacent streets and proposed streets and existing curb cuts within 100 feet of the property.
- c. All *lot lines* with dimensions.
- d. Parking lots and access points
- e. The size and location of all existing and proposed public and private utilities, easements and required landscaping.
- f. *Significant natural features*; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
- g. Location of any *signs* not attached to the *building*
- h. Existing and proposed *buildings*, including existing *buildings* or *structures* within 100 feet of the boundaries of the property.
- i. General topographical features including existing contours at intervals no greater than two feet.
- j. Number of acres allocated to each proposed use and gross area in *building*, *structures*, parking, public and/or *private streets* and drives, and open space.
- k. *Dwelling unit* densities by type, if applicable.

- l. Proposed method of providing sewer and water service, as well as other public and private utilities.
 - m. Proposed method of providing storm drainage and/or impoundment.
 - n. Written description of the computation for required parking.
 - o. Name, address, and phone number of the applicant.
 - p. Name, address, phone number, and professional seal of the individual responsible for preparing the plan.
 - q. Signature and date. [Subsec. q added 2/19/02]
- 3. The Planning Commission shall review the Site Plan, along with any comments submitted by agencies, departments or consultants, and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Section and this Ordinance. To this end, the Commission may request from the applicant any additional graphic or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to aerial photography, photographs, traffic impact studies, impact on *significant natural features* and drainage, soil tests, and other pertinent information.
 - 4. The Planning Commission shall approve, deny, or approve with conditions the site plan based on the requirements of this Ordinance, and specifically the standards of Section 14.1D, below
 - 5. No petition submitted for Site Plan review which has been denied, shall be resubmitted for a period of one year from the date of denial, except as may be permitted by the Planning Commission after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

D. Site Plan Review Standards

- 1. All site plans shall be approved, approved with conditions, or denied based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable:
 - a. The relationship of uses proposed will not adversely affect the public health, safety, or welfare. Uses and *structures* located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and size of *buildings* to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - b. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 - c. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within New Buffalo Township.
 - d. Removal or alteration of *significant natural features* shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and /or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

- e. Satisfactory assurances shall be provided, and incorporated into the approval document, that the requirements of all other applicable Ordinances, codes, and requirements of New Buffalo Township will be met.
- f. The general purposes and spirit of this Ordinance and the *Master Plan* of New Buffalo Township shall be maintained.
- g. Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drain system. All storm water drainage systems must conform to the requirements of the Berrien County Drain Commission.

E. Approved Plans and Amendments

- 1. Upon approval of the Site Plan, the Planning Commission Chairperson shall sign three copies thereof. One signed copy shall be made a part of the Township's files; one copy of the Site Plan shall be forwarded to the Building Official for issuance of a building permit; and one copy shall be returned to the applicant.
- 2. Each development shall be under construction within one year after the date of approval of the Site Plan, except as noted in this Section.
 - a. The Planning Commission may grant one extension of up to an additional one year period if the applicant applies for such extension prior to the date of the expiration of the Site Plan and provided that:
 - (1) the applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - (2) the site plan requirements and standards, including those of the Zoning Ordinance and *Master Plan*, that are reasonably related to said development have not changed.
 - b. If construction has not begun within one year after the date of approval of the Site Plan, or by the end of an extension granted by the Planning Commission, the Site Plan approval shall be null and void.
 - c. Amendments to an approved Site Plan may occur only under the following circumstances:
 - (1) The holder of a valid Site Plan approval shall notify the *Zoning Administrator* of any proposed amendment to such approved site plan.
 - (2) Minor changes, requested by the applicant, may be approved by the *Zoning Administrator* upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as approved by the Planning Commission. Minor changes shall be limited to the following:
 - (a) Reduction of the size of any *building* or *sign*.
 - (b) Movement of *buildings* or *signs* by no more than ten feet, unless near a bluff line.
 - (c) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - (d) Changes in building footprint, which do not alter the character of

- (e) the use or increase the amount of required parking.
- (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (f) Changes required or requested by the Township Board, Berrien County, or other State or Federal regulatory agency in order to conform to other laws or regulations.

(3) Should the *Zoning Administrator* determine that the requested modification to the approved site plan is not minor, a new site plan shall be submitted and reviewed as required by this Chapter.

F. Site Condominiums [Subsec. 14.1 F added 6/17/02]

1. The site plan and master deed for any condominium consisting of detached single-family or two-family dwellings (hereinafter referred to as “site condominiums”) shall be subject to review and approval in accordance with this Section 14.1. This Section shall also be applicable to any amendment which increases the number of condominium units, alters the horizontal dimensions of a condominium unit or makes other non-minor changes.
2. In addition to other requirements of this Section, the site plan for a site condominium shall include:
 - a. description of the objectives of the proposed development
 - b. identification of the number of units
 - c. a utility plan for providing water, sewer and public and private utilities
 - d. the location and type of drainage facilities
 - e. the proposed width, alignment and grade of access roads indicating whether they shall be public or private
 - f. a certification of compliance with the Condominium Act, Act 59 of 1978, as amended
3. Each site condominium unit shall comply with the applicable provisions of the Ordinance regarding minimum lot area, maximum frontage, and setbacks for the District in which it is located. [amended 4/17/06]
4. The site condominium shall contain all easements necessary to provide and maintain public utility services.
5. The Township Board may require a performance guarantee pursuant to the State Subdivision Control Act (P.A. 288 of 1967, as amended).

SECTION 14.2 OFF-STREET PARKING AND LOADING

A. General Requirements

1. Off-street parking for all non-residential zone districts and uses shall be either on the same lot or within 300 feet of the *building* or use it is intended to serve on the same side of the street, measured from the nearest public entrance of the *building* to the nearest point of the *off-street parking lot*, but shall be on the same side of the road.
2. The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited in any *off-street parking lot*.
3. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall occupy no greater than 33 percent of the required *front yard*.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless

- and until equal facilities are provided elsewhere, in compliance with this Section.
5. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing *building* or use, shall not be reduced to an amount less than required for a similar new *building* or new use.
 6. Two or more *buildings* or uses may collectively provide the required off-street parking.
 7. The Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:
 - a. Areas proposed for deferred parking shall be shown on the site plan, and shall be sufficient for construction of the required number of parking spaces in accordance with the standards of this Ordinance for parking area design and other site development requirements.
 - b. Evidence shall be presented by the applicant in support of a lower requirement.
 - c. *Alterations* to the deferred parking area may be initiated by the owner or required by the *Zoning Administrator*, and shall require the approval of an amended site plan, submitted by the applicant accompanied by evidence documenting the justification for the alteration.
 8. Parking of semi-trucks, including tractors or trailers, shall be prohibited in any *residential district* or on any residential property. Bona fide *farm* operations shall be exempted.
 9. Adequate ingress and egress shall be provided to the parking lot by means of clearly limited and defined drives.
 10. Parking spaces in non-*residential districts* will be *setback* from abutting *residential districts* as follows:
 - a. Ten feet from each *side lot line*.
 - b. A front lot line *setback* equal to the adjoining residential required *setback*.
 11. The land between the parking lot and the lot line shall be maintained as buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials or sidewalks.
 12. Bumper stops or wheel chocks shall be provided and located so as to prevent any vehicle from projecting over the lot line or into the required landscape area or buffer strip.

B. Parking Lot Design Standards

1. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements.

Parking Lot Design Standards

Parking Pattern	Two-Way Aisle Width	One-Way Aisle Width	Parking Space Width	Parking Space Length
Parallel Parking	18 Ft.	12 Ft.	9 Ft.	25 Ft.
30-75 degree Angle	24 Ft.	12 Ft.	9 Ft.	21 Ft.
76-90 degree angle	24 Ft.	15 Ft.	9 Ft.	20 Ft.

2. Minor adjustments of the dimensions prescribed in this Section may be authorized by the

Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.

3. The surface of the parking lot, including drives and aisles, except buffer strips, shall be constructed of asphalt, concrete or processed mineral base.
4. All parking lots shall be constructed so as to permit proper drainage and prevent ponding or storage of water within the lot. Drainage shall be in accordance with the requirements of New Buffalo Township and the Berrien County Drain Commission.
5. All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded so as to prevent light from spilling onto adjacent *residential districts* or uses.
6. No permit will be issued for major changes to an existing parking lot unless the parking lot is made to comply with the requirements of this Ordinance. A major change consists of one or more of the following:
 - a. Replacement or alteration of existing drainage elevations or *structures* affecting more than fifty percent of the existing parking lot.
 - b. Any expansion or addition of a parking lot equal to or greater than twenty-five percent of the area of the existing parking lot.
 - c. Reconstruction of the parking lot, including the removal of existing pavement or drainage *structures*, which affects more than twenty-five percent of the existing parking lot.
 - d. Any other change which, in the opinion of the *Zoning Administrator*, constitutes a major change.

C. Off-Street Parking Requirements

1. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use which the Planning Commission or *Zoning Administrator* considers similar in type.
2. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one parking space.
3. The minimum number of off-street parking spaces shall be determined in accordance with the following tables:

Off-Street Parking Requirements

Use	PARKING SPACE PER UNIT OF MEASUREMENT
Residential	
Single <i>family</i> dwellings	Two for each <i>dwelling unit</i>
<i>Housing for the elderly</i>	One space for each two <i>dwelling units</i> , plus one for each employee, plus one for each employee on the largest shift, plus one space for each five <i>dwelling units</i> to be marked as visitor spaces
Multiple <i>family</i> dwellings	Two for each <i>dwelling unit</i>
Two <i>family</i> dwellings	Two for each <i>dwelling unit</i>
Institutional	

New Churches and any subsequent additions approved after the adoption date of the Ordinance	One space for each four seats in the main unit of worship, or one space per each eight feet of pew length, whichever is less.
Existing churches and any subsequent additions approved after the adoption date of the Ordinance	One space for each eight seats in the main unit of worship, or one space per each sixteen feet of pew length, whichever is less.
<i>Group day care homes</i> and group foster care homes	One space for each four clients, plus one space for each Employee
Schools, elementary and middle	One-and-a-half spaces for each classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary and institutions of higher learning	One space for each eight students, plus 1.5 spaces for each classroom, plus amount required for auditorium or gymnasium seating
Private <i>Clubs</i>	One space for each 100 square feet of <i>usable floor area</i>
Theaters, assembly areas, auditoriums, gymnasiums	Two spaces for each five seats, for each eight feet of pew length, or one space for each three persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Commercial	
Assembly halls without fixed seats	One space for each three persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Beauty/barber shop	Three spaces for each chair
Bowling alleys	Four spaces for each bowling lane plus required spaces for each <i>accessory use</i>
Funeral homes and mortuary establishments	One space for each 50 square feet of <i>usable floor area</i>
Furniture, appliance and household goods retail sales	One space for each 1000 square feet of <i>usable floor area</i>
<i>Hotels and motels</i>	One space for each guest room, plus required spaces for any <i>accessory uses</i> , plus one for every two employees on the largest shift
Golf courses open to the general public, except for miniature or "par-3" courses	Six-and-one-half for each golf hole, plus the required spaces for each <i>accessory use</i> , such as a restaurant or bar
Miniature or "par-3" golf course	Three and -one-half for each hole, plus the required amount for each <i>accessory use</i>
Marina	Two spaces per boat mooring slip
<i>Open air business</i>	One space for each 200 square feet of indoor usable area, plus one space for each 1000 square feet of outdoor display area
<i>Personal service establishments</i>	One space for each 50 square feet of <i>usable floor area</i>

Restaurants with drive-through facilities	One space for each 100 square feet of <i>gross floor area</i> , or one space for each two persons allowed within the maximum occupancy load established by any applicable codes or ordinances, which ever is greater
Restaurants - without drive-through facilities	One space for each 100 square feet of <i>usable floor area</i> , or one space for each two persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	One space for each 200 square feet of <i>usable floor area</i>
Vehicle service stations	One space for each service stall, plus one space for each pump island, plus one space for the maximum number of employees on the premises at any one time, plus the required amount for each <i>accessory use</i> .
<i>Vehicle wash</i> (automatic)	One space for each employee plus five stacking spaces
<i>Vehicle wash</i> (self service)	One space for each five stalls plus three stacking space per stall
Video rental stores	One space for each 100 square feet of <i>usable floor area</i> , plus one space for the maximum number of employees on the premises at any one time
Offices	
Banks, credit unions, savings and loan associations and other similar uses	One space for each 150 square feet of <i>usable floor area</i> , plus three spaces for each non-drive through automatic teller machine
Medical and dental offices and clinics	One Space for each 300 square feet of <i>usable floor area</i>
Offices not otherwise specified	One space for each 300 square feet of <i>usable floor area</i>
Industrial	
Manufacturing, processing, and research establishments	One space for each 1,000 square feet of <i>gross floor area</i> , plus the required amount for offices located on the premises
Warehouses and wholesale	One space for each 2000 square feet of <i>gross floor area</i> , plus those spaces required for offices or other <i>accessory uses</i> located on the premises

D. Off-Street Loading Requirements

1. On the same premises with every *building* or *structure* involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
2. In the C-1 and C-2 Districts all *loading spaces* shall be located in the rear or *side yard* in the ratio of at least ten square feet per front linear foot of *building* and shall be in addition to off-street parking requirements.
3. For non-residential uses in *residential districts* all *loading space* sizes and locations shall be determined by the Township Board on the recommendation of the Planning Commission.
4. I District:

- a. In the I District at least one *loading space* shall be provided. All *loading spaces* shall be at least ten feet by fifty feet (10 x 50), or a minimum of five hundred square feet in area. A minimum fourteen foot clearance *height* shall be provided.
 - b. *Loading spaces* shall only be permitted off-street and in the *rear yard* or interior *side yard*.
5. Where an *alley* exists in the *rear yard*, loading requirements may be computed from the center of the *alley*.
 6. All dedicated *loading spaces* shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless service.

SECTION 14.3 SIGNS

A. Intent

This section is intended to protect and further the health, safety, and welfare of the residents of New Buffalo Township; to maintain and improve the appearance of New Buffalo Township; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of *signs*.

B. *Sign* Definitions

1. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a *building*.
2. Awning *sign*: A *sign* affixed flat against the surface of an awning.
3. Balloon *sign*: A *sign* composed of a bag of material filled with air.
4. Banner *sign*: A fabric, plastic, or other *sign* made of non-rigid material without an enclosing structural framework.
5. Billboard: A *sign* which advertises an establishment, product, service, or activity not available on the premises on which the *sign* is located.
6. Business Center *Sign*: A freestanding *sign* identifying the name of a Business Center and/or one or more individual businesses within the center. A Business Center shall mean, any two or more businesses which: are located on a single parcel of property; or are connected by common walls, partitions, canopies, or other structural members to form a continuous *building* or group of *buildings*; or share a common parking area; or otherwise present the appearance of a single, contiguous *building* or group of *buildings*; or share a common parking area.
7. Construction *Sign*: A *sign* which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
8. Directional *Sign*: A *sign* which gives directions, instructions, or facility information for the use on the lot on which the *sign* is located, such as parking or exit and entrance *signs*.
9. Freestanding *Sign*: A *sign* supported on poles not attached to a *building* or wall.
10. Government *Sign*: A temporary or permanent *sign erected* by New Buffalo Township, Berrien County, local, state or federal government or a public school.
11. Ground *Sign*: A *sign* resting directly on the ground or supported by short poles not attached to a *building* or wall.
12. Marquee: A permanent *structure* constructed of rigid materials that projects from the exterior wall of a *building*.
13. Marquee *Sign*: A *sign* affixed flat against the surface of a marquee.
14. Mural: A design or representation painted or drawn on a wall which does not advertise an

- establishment, product, service, or activity.
15. Off-Site Sign: Any sign advertising services or products, activities, persons or events that are not made, produced, assembled, distributed, leased, sold or conducted on the premises upon which the sign is located. [added 5/18/09]
 16. On-Premise Sign: Any sign which pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
 17. Placard: A sign not exceeding two square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
 18. Political Sign: A temporary sign used in connection with a noncommercial message or an official New Buffalo Township, municipal or village, school district, county, state, or federal election or referendum.
 19. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
 20. Projecting Sign. A double-faced sign attached to a building or wall that extends more than twelve inches but not more than 36 inches from the face of the building or wall.
 21. Reader Board: A portion of a sign on which the copy changes. [amended 5/18/09]
 22. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
 23. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
 24. Roof Sign: A sign erected above the roof line of a building.
 25. Sandwich Board Sign: A movable sign having 2 sides adjoined at the top, used as advertisement for specials by restaurants, retail, and/or service establishments. [added 5/18/09]
 26. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
 27. Special Event Sign: Temporary and portable signs containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
 28. Temporary Sign: A display, informational sign, banner or other advertising device with or without a structural frame and intended for a limited period of display. [amended 5/18/09]
 29. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve inches from the exterior face of the wall to which it is attached.
 30. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

C. General Sign Provisions

1. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, except the following signs shall not require a building permit, but shall be subject to all other applicable general requirements of this chapter:
 - a. Directional signs of six square feet in size or less
 - b. Government signs
 - c. Placards
 - d. Temporary sale signs of four square feet in size or less
 - e. Window signs
 - f. Political signs
 - g. Wall signs not exceeding one square foot bearing addresses or names

- h. Flags or insignias of governments
 - i. For sale or rent *signs*, less than six square feet, advertising only the premises on which the *sign(s)* are *erected*.
 - j. Historical markers
 - k. Memorial *signs* or tablets
 - l. Murals
 - m. *Signs* not visible from any street
 - n. *Signs* for *essential public services*
 - o. Placards not exceeding two square feet
 - p. *Signs* with address, owner, or occupant name, of up to two square feet in area attached to a mailbox, light fixture or exterior wall.
2. *Signs* shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
 3. *Sign* supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
 4. *Signs*, may be internally illuminated or if externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property. However, *home occupation signs* shall not be illuminated.
 5. No *sign* shall be placed in, upon or over any public right-of-way, *alley*, or other public place, except as may be otherwise permitted by this Section.
 6. No light pole, utility pole, or other supporting member shall be used for the placement of any *sign* unless specifically designed and approved for such use.
 7. No *sign* shall be *erected* in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic *sign*, signal, or device, or constitute a nuisance per se.
 8. No motor vehicle or trailer which has the intended function of acting as a *sign*, shall be parked in any area abutting the street, unless no other parking area is available. [amended 5/18/09]
 9. No *sign* shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature type *signs* are permitted.
 10. No *sign* shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
 11. No wall *sign* shall extend beyond the edge of the wall to which it is affixed, and no wall *sign* shall extend above the roof line of a *building*.
 12. No *sign* shall be *erected* above the roof line of a *building*.
 13. Government *Signs* shall be exempt from the provisions of this chapter. [amended 5/18/09]
- D. Off-Site Signs – C1, C-2 & Industrial Districts: [added 5/18/09]
1. An off-site *sign* shall not exceed 20 square feet in area, nor have a height greater than 10 feet above grade. An off-site *sign* in excess of 20 square feet in area, except for one which identifies more than one business or premise on a single sign structure, in conformity with paragraph 3., below, constitutes a billboard and shall be subject to the regulations applicable to billboards contained within this ordinance.
 2. No more than 1 off-site *sign* shall be permitted on one lot or group of contiguous lots in common ownership.
 3. An off-site *sign* which identifies more than one business or premise on a single *sign* structure is permitted to display a total display area not exceeding 20 square feet per business or premise identified on the *sign*, or 80 square feet, whichever is less.

E. Temporary Signs:

Temporary signs are permitted in any district subject to the following additional restrictions:

1. Temporary signs (other than real estate signs, construction signs, special event signs or garage and estate sale signs regulated in Section G. below) shall only be displayed upon receipt of a permit issued by the *Zoning Administrator*.
2. No temporary sign shall be displayed on any one lot or parcel for more than 30 consecutive days for any one permit period and no more than two permits shall be issued for any lot or parcel during any calendar year.
3. Upon expiration of the permit, the sign shall be removed by the permit holder.
4. No temporary sign shall exceed 32 square feet.
5. Only one temporary sign shall be permitted on a lot or parcel.

F. Non-conforming Signs, Illegal Signs, and Signs Accessory to Non-conforming Uses

1. Every permanent sign which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
2. Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
3. For purposes of this article, a non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use. If a sign is nonconforming in its setback, this section shall not apply, and the sign may not be replaced.
4. Any non-conforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than 50 percent of the replacement cost of the sign on the date of loss.
5. Any sign which advertises a business which has been discontinued for a year or more, or a product sold by such business, if applicable, shall be removed by the owner of the building, structure, or property upon which the sign is located, within 30 days of receipt of written notice by the *Zoning Administrator*, or thereafter caused to be removed by the Township with a lien against the property.
6. A sign accessory to a non-conforming use may be erected in the Township in accordance with the sign regulations for the subject zoning district.

G.. Units of Measurement

1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
2. The area of a freestanding, ground, or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

4. For *buildings* with multiple tenants, the *sign* areas for wall *signs*, projecting *signs* and awning *signs* shall be determined by taking that portion of the front wall of the *building* applicable to each tenant and computing *sign* requirements for that portion of the total wall.

H Sign Regulations Applicable to All Zoning Districts

1. All ground, wall and freestanding *signs* may include reader boards.
2. Any *sign*, including awnings to which *signs* are affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight feet from the bottom of the *sign* to the ground.
3. Real estate *signs* shall be removed within 30 days after completion of the sale or lease of the property. (See page 59 for further regulations).
4. Construction *signs* are permitted within any zone district, subject to the following restrictions:
 - a. Construction *signs* shall be no larger than 32 square feet and not exceed eight feet in *height*.
 - b. Construction *signs* shall not be *erected* until a building permit has been issued for the project which is the subject of the proposed *sign* and construction activity has begun.
 - c. Construction *signs* shall be removed within 15 days of the issuance of any Occupancy Permit for the *building* or *structure* which is the subject of the construction *sign*.
5. Special event *signs*, including banner *signs*, are permitted in any zone district, subject to the following restrictions:
 - a. No more than four such *signs* shall be displayed for each special event.
[amended 11/18/02]
 - b. The display of such *signs* shall be limited to 21 days immediately preceding the special event which is being advertised.
 - c. Such *signs* shall have a maximum size of 32 square feet in area, and a maximum *height* of five feet and shall be set back from any side or rear property line a minimum of fifteen feet.
 - d. Such *signs* shall be removed within 48 hours of the conclusion of the special event which is being advertised.
6. Directional *signs* are permitted subject to the following restrictions:
 - a. A directional *sign* may contain a logo of an on-premise establishment, but no advertising copy.
 - b. No such *sign* shall exceed six square feet in area or four feet in *height*.
 - c. Directional *signs* shall be limited to traffic control functions only.
7. Garage and estate sale *signs* are permitted subject to the following restrictions:
 - a. One *sign* per lot or parcel is permitted, located on the lot or parcel on which such sale is being conducted, and set back a minimum of fifteen feet from any side or rear property line.
 - b. Such *sign* shall not exceed six square feet in area.

- c. Such *sign* shall be *erected* no more than ten days prior to the day(s) of the sale and shall be removed within one day after the completion of the sale.
8. Political Sign: [added 5/18/09]
- a. The maximum size of a political *sign* shall be thirty-two (32) square feet of display area in a non-residential districts and sixteen (16) square feet of display area in a residential district.
 - b. Political *signs* shall be removed within ten (10) calendar days after the election for which they are erected or placed.(Exception: Those successful Primary candidates may leave signs in place until after ten (10) calendar days after the General Election.
 - c. Political *signs* must be placed at least fifteen (15) feet from the paved roadway and cannot be placed on any public or private road right-of-ways.
9. Sandwich Board *Sign*: [added 5/18/09]
- a. One sandwich board *sign* is permitted per each ground-floor business. All such *signs* shall be subject to review and approval by the Zoning Administrator prior to placement, in accordance with these standards.
 - b. Restaurants, retail and/or service establishments shall be permitted to display a sandwich board *sign* year-round, during business hours of the business displaying the *sign*.
 - c. Sandwich board signs shall not exceed six (6) square feet in area and four (4) feet in height.
 - d. Sandwich board signs on private property shall not obstruct doorways.

I. Schedule of *Sign* Regulations

Signs in each Zoning District shall be subject to the following regulations:

AG-R, R-1, R-2, R-3, AND R-4 ZONING DISTRICTS - PERMITTED SIGNS	
Ground signs for residential subdivisions, manufactured home parks, multiple family complexes, schools, or other non-residential uses allowed in the district	
Number	One per major entrance
Size	No greater than 64 square feet. Ground <i>signs</i> for residential subdivisions 25 units or greater, or <i>manufactured home parks</i> 25 units or greater shall be permitted to be no greater than 128 square feet in size.
Location	Minimum of fifteen feet from any side or rear property line
<i>Height</i>	No higher than ten feet
Wall signs for home occupations	
Number	One per lot or parcel
Size	No greater than four square feet

Location	On wall of house facing street
Wall signs for non-residential uses	
Number	One per street <i>frontage</i>
Size	No greater than five percent of the wall area to which the <i>sign</i> is affixed.
Location	On wall of <i>building</i> facing street
Real estate signs	
Number	One per lot or parcel
Size	No greater than six square feet for developed properties or lots; sixteen square feet for vacant lots or parcels
Location	Minimum of fifteen feet from any side or rear property line
<i>Height</i>	No higher than six feet

C-1 GENERAL COMMERCIAL, C-2 HIGHWAY COMMERCIAL- PERMITTED SIGNS	
Ground signs	
Number	One per lot or parcel, except that only one ground <i>sign</i> or one freestanding <i>sign</i> shall be permitted per lot or parcel
Size	No greater than 32 square feet
Location	Minimum of fifteen feet from any property line
<i>Height</i>	No higher than ten feet
Freestanding signs	
Number	One per lot or parcel, except that only one ground <i>sign</i> or one freestanding <i>sign</i> shall be permitted per lot or parcel
Size	No greater than 50 square feet, provided a “business center” <i>sign</i> may be permitted up to 75 square feet
Location	Minimum of ten feet from any property line
<i>Height</i>	No higher than 25 feet with a minimum clearance of ten feet. In locations 500 feet from the edge of a freeway interchange right-of-way, one additional freestanding <i>sign</i> shall be permitted not to exceed a <i>height</i> of 85 feet and size of 250 square feet. The Planning Commission may waive the <i>height</i> requirement, up to 150 feet, provided appropriate documentation is provided by the applicant to the Planning Commission, such as, but not limited to, a boom test.
Business Center Signs [added 5/18/09]	
Number	One per street frontage but not more than two signs, provided that lots with two street frontages shall have a minimum width of at least fifty feet in order to have a second sign. No ground or freestanding signs shall be permitted for individual businesses within any business center.
Size	No greater than 80 square feet

Location	Minimum of 15 feet from any side or rear property line
Height	No higher than 10 feet
Wall signs	
Number	One per street <i>frontage</i>
Size	No greater than ten percent of the wall area to which the <i>sign</i> is affixed, not-to-exceed a maximum <i>sign</i> area of 150 square feet.
Location	On wall of <i>building</i> facing street
Real estate signs	
Number	One per lot or parcel
Size	No greater than 32 square feet
Location	Minimum of fifteen feet from any side or rear property line
Height	No higher than ten feet
Billboards- See Billboard Regulations, Section 14.3 below.	

I INDUSTRIAL DISTRICT - PERMITTED SIGNS	
Ground signs	
Number	One per lot or parcel
Size	No greater than 32 square feet
Location	Minimum of ten feet from any property line
Height	No higher than ten feet
Wall signs	
Number	One per street <i>frontage</i>
Size	No greater than ten (10) percent of the wall area to which the <i>sign</i> is affixed, not-to-exceed a maximum <i>sign</i> area of 200 square feet.
Location	On wall of <i>building</i> facing street
Real estate signs	
Number	One per lot or parcel
Size	No greater than 32 square feet
Location	Minimum of five feet from the front property line, minimum of fifteen feet from the side or rear property line
Height	No higher than ten feet
Billboards- See footnote to Schedule of <i>Sign</i> Regulations	

J. Billboard Regulations:

1. Billboards may be established within any Commercial or Industrial District, but are prohibited in all other districts.
2. Billboards shall be located no less than 2000 feet apart, measured in all directions. Billboards located within 300 feet of an interstate highway, freeway or primary highway shall be restricted to three billboards per linear mile of highway regardless of the fact that such Billboards maybe located on different sides of the subject highway. Measurements shall not be limited to the boundaries of the Township of New Buffalo.
3. No Billboard shall exceed 300 square feet of surface area.
4. No Billboard shall be located within 200 feet of a residential zone or existing residence, church or school. If the Billboard is illuminated, the required distance shall instead be 300 feet.
5. The maximum *height* shall not exceed 50 feet measured from the ground
6. Double-faced *structures* (i.e. *structures* having back-to-back billboard faces) and V-type Billboard *structures* having only on face visible to traffic proceeding from any direction on a street or highway shall be considered as one Billboard. Otherwise, *structures* having more than one billboard face, including *structures* with tandem (side-by-side) or stacked (one above the other) billboard faces, shall be considered as two Billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in Subsection 2. above.
7. No Billboard shall be placed on top of, cantilevered or otherwise suspended above the roof of any *building* or canopy.
8. A Billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of *structure*, continued structural soundness and continued readability of message.
9. A billboard established with a business, commercial or industrial area as defined in the Highway Advertising Act of 1972 (PA 106 of 1972 as amended) bordering interstate highways, freeways or primary highways as defined in said act shall, in addition to complying with the above conditions, also comply with all applicable provisions of said act and the regulations promulgated thereunder, as amended. In cases of conflict, the more stringent limitations shall apply.

J. Permits

1. No person, firm or corporation shall erect or allow the erection of a *sign* within New Buffalo Township without first obtaining a *sign* permit from the Township *Zoning Administrator* after presenting a structural *design* drawing of the *sign* or *Billboard*, a survey or site plan showing the location of the *sign*, and the verbiage to be used on the *sign*. A permit shall be granted upon a showing of compliance with the provisions of this Ordinance or other applicable regulations and upon payment of a fee therefore. Any change in the location, verbiage, or *structure* components of any *sign* shall be presented to the Township *Zoning Administrator* for his/her approval.
2. [deleted 9/5/03]
3. [deleted 9/5/03]

CHAPTER 15 SPECIAL LAND USES

SECTION 15.1 PURPOSE

This Chapter provides a set of procedures and standards for special uses of land or *structures* which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards herein are designed to allow practical latitude for the applicant and, at the same time maintain adequate provisions for the protection of the health, safety, convenience, and general welfare of New Buffalo Township. All Special Land Uses within the various districts are subject to the conditions and standards of this Chapter.

SECTION 15.2 APPLICATION PROCEDURES

Application for a Special Land Use Permit shall be made to the Township Clerk and shall include all the following:

- A. Ten copies of a site plan containing the information required by Section 14.1 C.2.
- B. A completed application form.
- C. Payment of an application fee, which shall be non-refundable, as established from time to time by resolution of the Township Board.

SECTION 15.3 NOTIFICATION, HEARING, AND REVIEW PROCEDURES

- A. Notice: [amended 9/5/03 and 11/20/06]
 - 1. Upon receipt of a complete application for special land use permit, the Planning Commission or Township Clerk shall set a date for public hearing, and the Zoning Administrator shall send notice in accordance with the following General Notice Requirements.
 - 2. General Notice Requirements:
 - a. The notice must (i) state the nature of the request, (ii) identify the subject property by street address or addresses (if none, by tax id number or cross streets) unless 11 or more properties are involved in a rezoning or ordinance interpretation, (iii) give the date, time and place of the hearing, (iv) state where written comments will be received and that anyone may appear in person or by counsel, and (v) state how handicap access will be provided.
 - b. At least 15 days before the hearing the notice must be published in a newspaper of general circulation and must be sent by first class mail or personal delivery (i) to the owner of the subject property and to the applicant if different, (ii) unless 11 or more properties are involved in a rezoning or ordinance interpretation, to all persons to whom real property is assessed and to the occupants of all structures within 300 feet of the subject property even if outside of the Township, and (iii) to any organizations or persons who have registered with the Zoning Administrator to receive notice. All registered organizations or persons must reregister annually. If the name of the occupant is not known, the term "occupant" may be used. Only one occupant need be notified per structure unless there are multiple rental or owned units. Then notice must be given to someone in each unit, except that if there are more than four units, notice may be given to the manager with the request that it be posted at the main entrance.

- c. The Zoning Administrator shall maintain an affidavit of mailing listing all persons and organizations to which notice has been mailed or delivered.
- 3. [amended 2/19/02 and combined with Sec. 15.3A, 2 b 11/20/06]
- 4. [combined with Sec. 15.3A, 2 b 11/20/06]
- 5. [amended and combined with Sec. 15.3A, 2 b 11/20/06]
- 6. [amended and combined with Sec. 15.3A, 2 a 11/20/06]
- B. Following notice, the Planning Commission shall hold a public hearing on the special land use permit application.
- C. The Planning Commission shall make its recommendation of approval, approval with conditions, or denial of the special land use permit request to the Township Board. The Planning Commission shall base its recommendation upon the review and consideration of materials submitted with the application, comments received at the public hearing, and the applicable standards of this Chapter. The Planning Commission shall make specific findings of fact, including but necessarily limited to each of the standards of Section 15.4A below.
- D. Following receipt of the Planning Commission Recommendation, the Township Board shall review the application and site plan requesting a Special Land Use Permit in accordance with the procedures of this Chapter and the standards of Section 15.4.A below.

SECTION 15.4 GENERAL STANDARDS FOR APPROVAL

- A. The Township Board shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are complied with:
 - 1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
 - 2. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, and including, but not limited to streets, police and fire protection, drainage *structures* and refuse disposal. Adequate water and sanitation facilities must be available.
 - 3. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
 - 4. The use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - 5. The site plan proposed for such use demonstrates compliance with the applicable specific design standards for the special land use as contained in Section 15.7.
 - 6. The use is consistent with the New Buffalo Township *Master Plan*.
- B. The decision of the Township Board shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the Township Board minutes.
- C. No request for Special Land Use approval which has been denied shall be resubmitted for one year following such disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

SECTION 15.5 CONDITIONS OF APPROVAL

- A. The Township Board may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 15.4 and the Specific Design Standards of Section 15.7.
- B. Conditions shall be imposed in a manner in accordance with the Michigan Zoning Enabling Act. [amended 2/19/02 and 9/18/06]

SECTION 15.6 APPROVAL TERM AND EXPIRATION

A special land use permit, including conditions imposed, shall not become effective until the Special Land Use Permit is recorded with the County Register of Deeds, and is attached to, and shall run with the land for which the permit is granted, and shall be binding upon, and ensure to the benefit of, all subsequent owners and all occupants of the subject land; provided, however that the Township Board may terminate any Special Land Use grant after December 1, 2002, if it finds that the property has not been so used for the previous 36 months. The Township Clerk shall give notice of any termination proceeding in accordance with Section 15.3A above. [amended 11/18/02]

SECTION 15.7 SPECIAL LAND USE SPECIFIC DESIGN STANDARDS

The following special land uses shall be subject to the requirements of the District in which located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

A. Adult Entertainment Businesses

- 1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them is located in proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this subsection. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of the Zoning Ordinance.
- 2. For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:
 - a. adult book or video store: an establishment having 25% or more of its stock in trade, materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined;
 - b. adult mini motion picture theater: an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting describing or relating to “specified sexual activities” or “ specified anatomical areas,” as hereinafter defined for observation by patrons therein;

- c. adult motion picture theater: an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined for observation by patrons therein;
 - d. adult smoking or sexual paraphernalia store: an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances;
 - e. massage parlor: an establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient;
 - f. open dance hall: an establishment where open public dancing by patrons is available during at least four days per week with or without partners furnished by the establishment;
 - g. host or hostess establishment: establishments or *clubs* offering socialization with a host or hostess for a consideration to the host or hostess for an admission or membership fee;
 - d. pawnshop: an establishment where merchandise is left as security for a loan of money and abandoned if repayment of the loan has not been made within a specified period;
 - e. pinball or video game arcade or establishment: establishment where the principal business consists of customer-operated games or entertainment experience of a mechanical, electronic, physical or emotional nature for an admission fee or a fee for the use of the particular device or devices engaged by a customer;
 - f. specified sexual activities: acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts; or human genitals in a state of sexual stimulation or arousal;
 - g. specified anatomical areas: less than completely and opaquely covered human genitals, pubic regions, buttocks and female breast below a point immediately above the top of the areola; human male genitals in a discernibly turgid state, even if completely and opaquely covered.
3. Any adult use is permitted if:
- a. The use is located within a zone district where the use requires special land use approval.
 - b. The use is not located within a 1,000 feet of any other such use or Indian reservation containing a gambling casino nor within 300 feet of any residentially zoned district, including AG-R, public park, playground, house of worship, school or athletic field measured from lot line to lot line except that such restrictions may be waived by the Township Board, if the following findings are made:
 - i. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this subsection will be observed.

- ii. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - iii. That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation.
 - iv. That all applicable state laws and local Ordinances will be observed.
 - v. Prior to the granting of any waiver as herein provided, the Township Board may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may, in its judgment, be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- c. No adult use shall permit any person under the age of eighteen years to enter the premises. *Signs* shall be conspicuously posted noting that such minors are not allowed.
 - d. All parking areas and the *building* shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one hour after closing each night.

B. Agribusinesses

- 1. *Structures* shall be located at least 100 feet from all property lines.
- 2. All storage, processing, and truck parking shall take place at least 50 feet from all property lines.
- 3. The use must include a Health Department approved sewage disposal and water system.

C. Banks, credit unions, savings and loan associations, and other similar financial institutions having drive-through facilities.

- 1. Sufficient stacking capacity for the *drive-through* portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four stacking spaces for each *drive-through* teller operation, whether personal or automatic, shall be provided.
- 2. Parking areas shall have a *front yard setback* of twenty feet.
- 3. Access driveways shall be located no less than 75 feet from the nearest right-of-way line of any intersecting street or fifty feet from the nearest edge of any other driveway on the same side of the street.

D. Campgrounds

- 1. The proposed campgrounds shall in every respect be in compliance with and meet the requirements of Michigan's Public Health Code, 1978 PA 368, as amended (the Act), and the administrative rules adopted pursuant to the Act which establish the requirements for building and operating a campground. A license from the Michigan Department of Environmental Quality is required to operate a campground in the State of Michigan.
- 2. The applicant shall provide and file proof that it has met the requirements of the Act.

E. Bed and breakfast establishments.

- 1. No such use shall be permitted on any property where there exists another *bed-and-*

- 2. *breakfast establishment* within 750 feet, measured between the closest property lines.
- 3. Such uses shall only be established in a single *family* detached dwelling.
- 4. Parking shall be located to minimize negative impacts on adjacent properties.
- 5. The number of guest rooms in the establishment shall not exceed six (excluding rooms used exclusively by the resident operator).
- 6. Commercial type exterior refuse storage facilities shall be prohibited.
- 7. *Signs* for *bed and breakfast establishments* shall comply with the requirements of the zone district in which the use is located.
- 8. The establishment shall contain the principal residence of the operator.
- 9. *Accessory* retail or service uses to a *bed-and-breakfast establishment* shall be prohibited, including but not limited to gift shops, antique shops, restaurants, and bakeries.
- 10. Meals shall be served only to the operator's *family*, employees, and overnight guests.

F. Cemeteries

- 1. Minimum lot size of ten acres is required.
- 2. Plan must show any roads, and plot areas.
- 3. A four foot tall fence is required along any property line not adjacent to a road right-of-way.
- 4. One *sign* is permitted that must conform with the district restrictions for *signs*.

G. Churches.

- 1. Minimum *lot width* shall be 200 feet.
- 2. Minimum *lot area* shall be two acres; plus an additional 15,000 sq. ft. for each 100 seating capacity or fraction thereof in excess of 100.
- 3. The property location shall be such that at least one side of the property abuts and has access to a county, state, or federal roadway.

H. Mini-Warehouses

- 1. One (1) residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-*family detached* dwelling.
- 2. Two parking spaces shall be required for the residence of security personnel or on-site operator employed on the premises.
- 3. Two parking spaces shall be required for each residence storage cubicles. However, the maximum number of spaces required by this provision shall be 10, regardless of the total number of storage cubicles.

H. Establishments with drive-through facilities.

- 1. Sufficient stacking capacity for the *drive-through* portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. For restaurants, a minimum of ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the *drive-through* portion of the facility.
- 2. In addition to parking space requirements, at least three parking spaces shall be provided, in close proximity to the exit of the *drive-through* portion of the operation, to allow for customers waiting for delivery of orders.

3. Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersection street or 75 feet from the nearest edge of any other driveway on the same side of the street.

I. Funeral homes and mortuary establishments.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any *residential district* or use.
2. Minimum *lot area* shall be one acre and minimum *lot width* shall be 150 feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any *public street*.
5. Access driveways shall be located at least 100 feet from the nearest right-of-way line of any intersecting street or from the nearest edge of any other driveway on the same side of the street.

J. Group day care homes.

1. A drop off/pick up area shall be provided for motorists off the *public street*, which permits vehicles to exit the property without backing into the street.
2. Fencing no less than four feet nor more than six feet in *height* shall be provided around all outdoor recreation areas.
3. There shall be a contiguous open space of a minimum of 1,200 square feet provided on the subject parcel. Said open space shall not be located within a required *front yard setback* area. This requirement may be waived by the Township Board if public open space is available within 500 feet of the subject parcel, measured from the nearest lot line of the use to the nearest lot line of the public open space.
4. Parking areas shall have a front yard setback of twenty feet.

K. Hotels and motels.

1. Minimum *lot area* shall be one acre and minimum *lot width* shall be 200 feet.
2. Parking areas shall have a *front yard setback* of twenty feet.
3. Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway on the same side of the street.

K. Housing for the elderly.

1. All *dwelling units* in the *building* shall have a minimum of 450 square feet per unit.
2. Retail and service uses may be permitted on the site if such uses are *accessory* to the elderly housing use. All such uses shall be within the principal residential *structure*. No exterior *signs* of any type are permitted advertising such *accessory use*.
3. The allowable density of the zoning district may be increased by no more than 50 percent for all nursing care units licensed by the state of Michigan and no more than 25 percent for non-licensed nursing care and supportive care units.
4. All medical waste facilities shall be secured and meet the requirements of the Michigan Department of Health.
5. Walkways shall be provided from the *main building* entrances to any sidewalk along the adjacent *public street*.

M. Intensive Livestock Operations (ILO)

1. All applicants shall file proof that they have verification from the Michigan Department of Agriculture (MDA) that they will be in compliance with the Generally Accepted Agricultural and Management Practices (GAAMPs) promulgated under the Michigan Right to Farm Act (RFA), or shall demonstrate why they are exempt.
2. All minimum setbacks for ILO's with 1000 or more animal units shall be 600 feet. All minimum setbacks for ILO's of 50-999 animal units shall be 250 feet unless a greater setback is required by the GAAMPs.
3. Whenever the Township receives notice from the MDA of a siting request for a facility covered by this Section, the Clerk shall send a notice by mail or personal delivery to the owner of the property making the request to all persons to whom real property is assessed within one mile of the property in question. The notice shall state that the neighbors within one mile may appeal the MDA's final decision to the Michigan Commission of Agriculture. This shall be in addition to the notice required by Section 15.3(A) 2.
4. To comply with the preemption provisions of the RFA, final approval by the MDA shall be conclusive evidence of compliance with standards, 1,2,3,4, and 6 in Section 15.4 (a). The Township Board may not set any Conditions which conflict in any manner with RFA.

N. Kennels

The minimum lot size shall be two acres.

O. Lumber and planing mills.

The principal and *accessory buildings* and *structures* shall not be located within 300 feet of any residential use or district property line.

P. Lumberyards

1. The *lot area* used for parking, display, or storage shall be paved or surfaced and shall be graded and drained so as to dispose of all surface water.
2. Any display materials or equipment stored or displayed outside of an enclosed *building* shall not extend into any *required yard* or occupy any required parking or maneuvering areas for vehicles.
3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any *residential district* or use property line.

Q. Manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.

The principal and *accessory buildings* and *structures* shall not be located within 300 feet of any residential use or district property line.

R. Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of Paris.

1. Access driveways shall be located no less than one hundred 100 feet from the centerline of the intersection of any street or any other driveway.
2. The principal and *accessory buildings* and *structures*, shall not be located within one 1,000 feet of any residential use or district.

S. Marinas

1. No building, structure, dock, or parking area which is part of the marina shall be located closer than fifty feet to any residential lot line.
2. On-land boat storage areas shall be either inside an enclosed building, or fenced and screened.
3. Accessory restaurants and lounges and retail sales may be permitted.

T. Metal plating, buffing, and polishing.

The principal and *accessory buildings* and *structures* shall not be located within 300 feet of any residential use or district property line.

U. Open air business

1. Access driveways shall be located at least 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway on the same side of the street.
2. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any *residential district* or use property line.
3. Any display materials or equipment stored or displayed outside of an enclosed *building* shall not extend into any *required yard* or occupy any required parking or maneuvering areas for vehicles.

V. Outdoor storage, display, and sale of farm implements and commercial construction equipment.

1. Access driveways shall be located at least one hundred 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway on the same side of the street.
2. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any *residential district* or use.
3. Any display materials or equipment stored or displayed outside of an enclosed *building* shall not extend into any *required yard* or occupy any required parking or maneuvering areas for vehicles.

W. Private noncommercial and public recreation areas or community recreation centers.

1. The use shall be located on property with direct access to a *public street*.
2. Any outdoor activity areas shall be set back a minimum of 50 feet from any residential use.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential use or district.
4. Access driveways shall be located at least 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway on the same side of the street.

X. Recycling centers.

1. A six foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
2. The principal and *accessory buildings* and *structures* shall not be located within 200 feet of any residential use or district property line.
3. All hazardous and toxic materials shall be properly handled, stored and contained.

Y. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or mineral resources.

The following information shall be provided and the Township shall find that the proposed use will not unduly impact surrounding properties and the Township in general, in accordance with the following.

1. The applicant shall indicate the size of the property from which such topsoil, sand, gravel or other such materials are to be removed; the amount of topsoil, sand, gravel or other such materials which is to be
2. All o closer than 100 feet to any street right-of-way, or adjacent property line .
3. The removal shall not cause a safety hazard, create erosion problems, or alter the groundwater table.
4. The removal shall not cause sand blows, stagnant water pools, or swampy areas.
5. All truck traffic shall be directed away removal activities shall be set back a minimum of 200 feet to the nearest adjacent residence or *residential district* or non residential streets, and traffic patterns shall have prior approval of the Township.
6. Any change of the natural contour of the land, both during mining operations and at the time of abandonment, shall be maintained in a safe condition. The owner shall be responsible for taking such protective steps and measures as may be necessary to satisfy and secure public safety.
7. No business or industrial *buildings* or *structures* of a permanent nature shall be *erected*, except where such *building* is a Permitted Use within the District in which the extraction activity is located.
8. No storage or truck parking shall be located within 200 feet of any adjacent residence or within 50 feet of any other adjacent property.
9. All of the operation shall be screened either with a well maintained painted wooden fence or landscape screening or the planting of greenbelts as may be required in the discretion of the Township Board.
10. As the natural resources are being removed, the property shall be restored by the placement of topsoil where feasible; and all excavations shall be sloped to a gradient with not more than a 30 degree slope and the contour be caused to blend as nearly as possible with the natural surroundings. A topographic contour plan of proposed restoration elevation shall be presented to the Township Board. No removal permit shall be issued unless the Township Board finds that the restored elevation will be compatible with the surrounding areas and suitable for subsequent development for uses compatible with the District.
11. Trees and vegetation shall not be stripped off dunes or hills preparatory to sand removal so as to unnecessarily expose large areas of sand subject to wind erosion that will cause sand and dust to be carried by the wind onto adjacent properties or public or *private streets* and create a nuisance thereby. Insofar as it is practical to do so, hills and dunes shall be bared or stripped in limited areas and only with the prior approval of the Township Board so as to limit and restrict bared areas to sections where active day to day sand removal is being carried on, so as to avoid unnecessary erosion, blowing sand and

- dust. The Township Board may, at any time after written notice to the owner and with or without a public hearing thereon, limit any and all further stripping of dunes or further stripping of trees and vegetation from dunes or hills, until all areas previously bared are cleaned up, topsoil replaced and stabilized by plantings thereon.
12. Where operations are carried on adjacent to a residential use and where the noise created by earth moving machinery and trucks is such that the operation would unreasonably disturb the peace and tranquility of the occupants of such residences, the Township Board may restrict the hours of operation as might be necessary.
 13. The Township Board may require such bond as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not maintained.
 14. Topsoil or sand may be removed from a lot for the purpose of erecting or constructing a *building* or *structure* on the lot, provided a permit is first obtained from the *Zoning Administrator*. If any removal from a parcel shall exceed 500 cubic yards of material, then the applicant shall comply with the provisions of this Section. In addition, topsoil or sand may be moved from one part of a lot to another part if such action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs or possible future injury to adjoining properties.
 15. The applicant shall secure all necessary permits from Township, County and State authorities prior to commencing operations.

Z. Salvage yards, Junk yards.

1. Requests for a special land use approval for establishment of a salvage or *junk yard* shall also require submission of a detailed proposal identifying the predominant type of salvage or *junk* to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary State, County, and local laws.
2. The site shall abut and have suitable access to a paved County primary, State or Federal road to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within 1,000 feet of any residential use or district, or any church, school, park, or cemetery.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six feet in *height* constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two non-transparent gates not exceeding 48 feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets when the gate is closed. Said fence or wall shall be of uniform appearance and continuously maintained in good condition and shall contain only approved *signs*.
5. Stored materials shall not be stacked higher than ten feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or *junk* be stored at a *height* exceeding the *height* of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet all applicable *building setback* requirements for the zoning district.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with a minimum of 20 foot wide

- continuous loop drives separating each row of vehicles.
11. 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 storage 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.
 12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the *salvage yard*.
 13. The property shall be a minimum size of six acres excluding road right-of-way.
 14. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
 15. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground.
 16. The Township may impose other conditions which have a reasonable relationship to the health, safety and general welfare of New Buffalo Township. These conditions may include a provision for an annual inspection by the *Zoning Administrator* or outside agency to ensure continuing compliance with the above standards.
 17. Parking areas shall have a front yard setback of twenty feet.

AA. Truck terminals.

1. Access driveways shall be located at least one 100 feet from the nearest right-of-way line of any intersecting street or any other driveway.
2. Trucks and trailers parked overnight shall be set back from the front lot line a minimum of 100 feet.
3. The principal and *accessory buildings* and *structures* shall not be located within 200 feet of any residential use or district.
4. The *lot area* used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
5. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any *residential district* or use.
6. Any vehicle or equipment stored outside of an enclosed *building* shall not be located within any *required yard*.
7. The minimum required *lot area* shall be two acres with a minimum *lot width* of 200 feet.

BB. Utility and public service buildings.

1. Any such *buildings* shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
2. Any such *building* shall comply with the *lot area* and *yard setback* requirements of the district in which it is located.
3. There shall be no outdoor storage except in commercial or industrial districts.

CC. Vehicle gas station

1. If the premises includes a *vehicle repair facility*, minimum *lot area* shall be 40,000 square feet and all the conditions in the following section apply:
2. All development shall be physically separated from the local road by a curb and planting strip or other suitable barrier. Such barrier shall effectively eliminate unchanneled vehicle ingress or egress except for authorized access ways.

3. Pump islands shall be a minimum of fifteen feet from any public right-of-way or lot line.
4. Stacking capacity shall be provided for at least four cars in either direction on either side of each pump island.
5. Storage of vehicle components and parts, uncontained trash, supplies, or equipment outside of a *building* is prohibited.
6. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use.
7. Canopy roofs shall be permitted to encroach into any *required yard*, provided that a minimum *setback* of five feet is maintained, and further provided that the fascia of such canopy is a minimum of ten feet above the *average grade*.
8. Access driveways shall be located at least 300 feet from the intersection of an entrance or exist ramp, 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.
9. Where adjoining residentially zoned property, a solid wall or fence, six feet in *height* shall be *erected* along any common lot line. Such fence or wall shall be continuously maintained in good condition.

DD. Vehicle repair facility.

1. The principal and *accessory buildings* and *structures* shall not be located within 100 feet of any residential use or district property line.
2. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed *building*.
3. Inoperative vehicles left on the site shall be stored within an enclosed *building* or in an area screened by an opaque fence not less than six feet in *height*. Such fence shall be continuously maintained in good condition.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a *building* is prohibited, except in designated and approved storage areas screened from view of adjoining properties and streets.
5. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground.
6. Access driveways shall be located at least one hundred 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway.
7. Where adjoining residentially zoned property a solid wall or fence, six feet in *height* shall be *erected* along any common lot line. Such fence or wall shall be continuously maintained in good condition.

EE. Vehicle wash establishment, either self-serve or automatic.

1. Sufficient stacking capacity for the *drive-through* portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of fifteen stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two stacking spaces at the entrance and one space at the exit.
2. Vacuuming activities, if outdoors, shall be at least 100 feet from any *residential district* line. Wash bays for self-service establishments shall be located at least 50 feet from any residential use or district property line.
3. Only one access driveway shall be permitted on any single street. Access driveways shall be located no less than 100 feet from the nearest right-of-way line of any intersecting street or 75 feet from the nearest edge of any other driveway. [amended 2/19/02]
4. Where adjoining residentially zoned property, a solid wall or fence, six feet in *height*

shall be *erected* along any common lot line. Such fence or wall shall be maintained in good condition.

FF. Veterinary hospitals and veterinary clinics.

Runs, exercise areas, pens or other outdoor areas where animals are kept shall meet the requirements for *kennels*, as provided in this Chapter.

GG. Wireless communications tower

1. The tower shall be of the minimum *height* necessary to serve its intended function.
2. The applicant must demonstrate that it is not feasible to provide equivalent service by locating the antenna on an existing tower or other existing *structure* in the Township.
3. The tower will not have an adverse impact on significant views from properties within one quarter mile of the tower site. For purposes of this section, a significant view is defined as a view from a residential property which has one or more of the following characteristics:
 - a. A view from a residence and its immediate perimeter which encompasses landscape features substantially free of man-made alteration, as a result of the unique topographic siting of the home.
 - b. A view which is a dominant feature of a residential *building site*, and which contributes significantly to the value of the residential *building site*, as evidenced by the siting of a *dwelling unit* on the site, the size, number and orientation of windows of the *structure*, and the location and orientation of improved outdoor spaces on the site, such as patios and decks.
4. Any *building* housing equipment needed for operation of the tower shall be of a size, type and exterior materials which are aesthetically and architecturally compatible with the surrounding areas, and as minimally obtrusive as possible.
5. The applicant shall provide documentation for any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Township Board determines that it will not have a significant adverse aesthetic impact on properties and residents of the surrounding area.
6. The transmitting facilities shall not interfere with any radio or TV transmission or reception in the surrounding area.
7. Towers shall be designed to withstand a uniform wind loading as prescribed in the *Building Code*.
8. The plans of the tower construction shall be certified by a registered engineer.
9. The applicant must present to the Township Board copies of all state and federal permits (FCC, FAA, etc.), licenses, approvals, conditions and rulings pertaining to the proposed use, and must guarantee compliance therewith. [amended 2/19/02]
10. The owner/operator of the tower shall agree to permit use of the tower by other low power mobile radio service providers, on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower.
11. If, for any reason, the tower ceases operation or is abandoned, the landowner and the tower owner shall be jointly and severally responsible for removing the tower within six months of termination of service.
12. If the *height* required for the tower to serve its intended function decreases from the installed *height* due to technological advances, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum *height*

on a schedule to be determined by the Planning Commission after a public hearing.

HH. Wind Turbines [added 12/17/01]

1. The tower shall be of the minimum *height* to serve its intended function. The height in a C-1 district shall not exceed 100 feet measured to the top of the arc of the propeller.
2. The tower will not have an adverse impact on significant views from residential properties within one-quarter mile of the tower site. For purposes of the section, a significant view is defined as a view from a residential property which has one or more of the following characteristics:
 - a. A view from a residence and its immediate perimeter, which encompasses landscape, features substantially free of man-made alteration as a result of the unique topographic siting of the home.
 - b. A view which is a dominant feature of a residential *building site*, and which contribute significantly to the value of the residential *building site* as evidenced by the siting of a *dwelling unit* on the site, the size number and orientation of windows of the structure, and the location and orientation of improved outdoor spaces on the site such as patios and decks.
3. Any building housing equipment needed for the operation of the wind turbine(s) shall be of a size, type and exterior materials which are aesthetically and architecturally compatible within the surrounding areas, and as minimally obtrusive as possible.
4. The applicant shall provide documentation for any lighting to be installed on the turbine tower(s). If such lighting is required or proposed, the SLU may not be approved unless the Township Board determines that it will not have a significant adverse aesthetic impact on properties or residents of the surrounding area.
5. The wind turbines and supporting towers shall be designed to withstand a uniform wind loading as prescribed in the *Building Code*.
6. Construction plans shall be certified by a registered engineer.
7. The applicant must present to the Township Board copies of all state and federal permits, licenses, approvals, conditions and rulings pertaining to the proposed use, and must guarantee compliance therewith.
8. If, for any reason, the wind turbine ceases operation or is abandoned, the landowner and the turbine owner shall be jointly and severally responsible for removing the turbine and all supporting structures within six months of termination of service.

CHAPTER 16
ZONING BOARD OF APPEALS

SECTION 16.1 MEMBERSHIP

A. Continuation of Present Zoning Board of Appeals.

The Zoning Board of Appeals existing at the time of adoption of this Ordinance shall perform its duties and exercise its powers as provided in Article VI of the Michigan Zoning Enabling Act as amended, for all matters then before it. [amended 2/19/02 and 9/18/06]

B. Composition and Terms

The Zoning Board of Appeals shall consist of five members appointed by the Township Board. The first member the of Board of Appeals shall be a member of the Planning Commission, and his term of office on the Zoning Board of Appeals shall be concurrent with his/her term of office as Planning Commission member. The second member of the Zoning Board of Appeals may be a member of the Township Board appointed annually for a term of one year, but not to exceed the term of the Township Board by the Township Board. An elected official of the Township shall not serve as chairman of the Zoning Board of Appeals.

C. Alternate Members

Up to two alternate members may be appointed by the Township Board for three year terms. If two alternate members have been appointed, either may be called to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall only serve to discuss or vote upon a case in the absence of a regular member or upon the conflict of interest of a regular member. [amended 9/18/06]

D. Vacancies

Any vacancies in the Zoning Board of Appeals shall be filled by appointment by the Township Board. Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A successor shall be appointed by the Township Board at the next regular meeting subsequent to the vacancy on the Board of Appeals. Vacancies shall be filled for the remainder of the term.

E. Officers

The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary.

F. By-Laws

The Zoning Board of Appeals may adopt by-laws necessary to conduct its affairs and in keeping with the provisions of this Ordinance.

G. Conflict of Interest

A member must disqualify him or herself from a vote if the member has a conflict of interest. Failure of a member to do so constitutes misconduct in office.

SECTION 16.2 MEETINGS

A. Meetings

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or a majority of the Board. All hearings conducted by the Zoning Board of Appeals shall be open to the public. The Secretary to the Board or his or her representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

B. Hearings

The Zoning Board of Appeals shall make no decision regarding a variance until it conducts a Public Hearing. The Zoning Administrator shall send notice in accordance with the General Notice Requirements in Section 15.3A2 above. A decision shall be made within 60 days of the close of the Public Hearing. [amended 9/18/06]

SECTION 16.3 JURISDICTION

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, or authorization of a variance. The Zoning Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use or *planned unit development*. The Zoning Board of Appeals may hear an appeal for a variance from any written standard of this Ordinance relating to a special use or *Planned Unit Development*, prior to a decision of the Township Board but not on the question of approval or denial of the use. The powers of the Zoning Board of Appeals include:

A. Hearing of Appeals

The Zoning Board of Appeals may 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 any other administrative official in carrying out or enforcing the provisions of this Ordinance.

B. Granting of Variances

A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals (non-use variances except temporary uses) in accordance with the requirements and procedures of this Chapter.

C. Zoning Ordinance Interpretation

The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provision is uncertain.

D. Granting of Temporary Uses and *Buildings*

1. The Zoning Board of Appeals may permit, upon proper application, temporary uses not otherwise permitted in the district. Such temporary uses shall not exceed a duration of twelve months, however, the Zoning Board of Appeals may grant one extension, of up to twelve months, when appropriate.
2. The Zoning Board of Appeals, in granting permits for temporary uses, shall do so under the following conditions:
 - a. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district, nor on the property where the temporary use is permitted.
 - b. The granting of the temporary use shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
 - c. All *setbacks*, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
 - d. The use shall be in harmony with the general character of the district.
 - e. No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Ordinance.
 - f. Prior to granting a temporary permit the Zoning Board of Appeals may seek the review and recommendation of the Planning Commission.
3. For temporary *buildings*, the procedure as outlined in Section 1.20 (Temporary Dwellings), shall be followed.

E. Variance from the Provisions of Section 12.7, Flood Plain Overlay District

Variations from the Flood Plain Overlay District shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standard for variances contained within this Chapter and each of the following specific standards.

1. A variance shall not be granted within a regulatory floodway where the result would be any increase in flood levels during a base flood discharge.
2. A variance shall be granted only upon:

- a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood *heights*, additional threats to public safety, extraordinary public expense, nuisances, cause fraud on or victimization of the public, or conflict with existing laws or Ordinances.
3. The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
 4. Variances may be granted for the reconstruction, rehabilitation or restoration of *structures* listed on the National Register of Historic Places or the Michigan Historic markers listing of historic sites, or any other state register of historic places without regard to the requirements of this Chapter governing variances in flood hazard areas.

SECTION 16.4 APPEALS

A. Procedure

An appeal may be taken by a person aggrieved, or by an officer, department, or board of the Township. Such appeal shall be taken within 21 days of receipt of the decision, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.

B. Filing

The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan, including the following, unless determined to be inapplicable to the request and specifically waived by the Zoning Board of Appeals:

1. The Zoning Administrator has issued a Letter of Denial specifying why applicant would not be in compliance with the Ordinance. [Subsec. 1 added 4/15/02; following subsections renumbered]
2. Project Information, including:
 - a. the applicant's name;
 - b. name of the development;
 - c. the preparer's name;
 - d. north arrow;
 - e. complete and current legal description and size of property in acres; and
 - f. small scale location sketch of sufficient size and scale.
 - g. exact description of what is being sought.
3. Existing Features
 - a. property lines and dimensions;
 - b. zoning and current land use of applicant's property and all abutting properties and of properties across any public or private road from the site;

- c. *lot lines* and all *structures* on the property, the Zoning Board of Appeals may require *buildings* and *structures* within 100 feet of the site's property lines, also be shown; and
- d. location of any access points on both sides of the street within 100 feet of the site along streets where access to the site is proposed.

4. Proposed Construction

- a. *building* footprints, *setbacks*, floor plans and elevations showing *height* and materials for all proposed *structures*, including any residential units, with the acreage allotted to each use;
- b. location and dimensions of parking spaces; and
- c. details of site circulation and access design, including:
 - (1) indication of street right-of-way and pavement widths and pavement type;
 - (2) names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths; and
 - (3) written verification of access easements or agreements, if applicable.

C. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

D. Decisions

- 1. The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Zoning Board of Appeals is required to pass, or to effect a variation in the Ordinance.
- 2. All decisions of the Zoning Board of Appeals shall become final five days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

E. Record of Actions

For each decision of the Zoning Board of Appeals, a record shall be prepared and filed in the office of the Township Clerk. Such record shall include, at a minimum, the following items:

- 1. Description of the applicant's request.
- 2. The Zoning Board of Appeal's motion and vote.
- 3. A summary or transcription of all relevant material and evidence presented at hearing; and,
- 4. Any conditions attached to an affirmative decision.
- 5. Detailed findings on which the decision was based.
- 6. A finding that the reasons set forth in the application justify the granting of the Variance and that the Variance is the minimum Variance which will make possible reasonable use

of the land, *building*, or *structure*.

F. Appeals to Circuit Court

The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Township or Township Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action. An appeal must be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. [amended 9/18/06]

G. Resubmission

No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a three year period from the date of the original application unless the Zoning Board of Appeals finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.
2. That new conditions or circumstances exist which change the nature of the original request.

SECTION 16.5 CONDITIONS OF APPROVAL

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the Michigan Zoning Enabling Act, and related to the standards by which the decision is reached. Violation of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 17.5. [amended 9/18/06]

SECTION 16.6 VARIANCE PROCEDURES

A. Authority for Variances

The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of *buildings* or *structures* so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

B. Granting of Non-Use Variances

The Zoning Board of Appeals may in specific cases authorize variances from the provisions of the Ordinance relating to the construction, equipment or alteration of *buildings* or *structures* upon its findings that all of the following conditions have been met:

1. There are special conditions or circumstances peculiar to the property in question, which cause practical difficulty to the applicant and are not generally applicable to other properties in the same zoning district.

2. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by the owners of other properties in the same district.
3. The special conditions or circumstances did not result from the actions of the applicant or applicant's predecessors in interest.
4. Granting the variance will not confer on applicant any special privilege denied by this Ordinance to other lands, *structures* or *buildings* in the same district.
5. The variance shall be no greater than reasonably necessary.
6. Nonconforming use of neighboring lands, *structures* or *buildings* shall not be grounds for a variance, except that *front yard setback* requirements may be reduced to conform generally with other *buildings* on the same side of the *block*.
7. Increased financial return shall not by itself be grounds for a variance.
8. The variance will not be significantly detrimental to adjacent property, the surrounding neighborhood, public health, safety and welfare or the intent and purpose of this Ordinance.
9. The condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, *building* or *structure* or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties.

C. Granting of Use Variances

The Zoning Board of Appeals shall grant no use variances except those related to temporary buildings and uses, as provided by Section 16.3D.

**CHAPTER 17
ADMINISTRATION**

SECTION 17.1 ZONING ADMINISTRATOR

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the *Zoning Administrator*, or such other official or officials as may be designated by the Township Board. The *Zoning Administrator* shall have the power to:

- A. Insure zoning compliance;
- B. Make inspections of *buildings* and premises necessary to carry out the duties of administration and enforcement of this Ordinance;
- C. Issue and serve notices to appear on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense; and
- D. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

SECTION 17.2 PERMITS

- A. Zoning Compliance Review

No existing use of land shall be changed to a different use classification unless a Zoning Permit is first obtained for the new or different use.

- B. Building Permits

No *building, structure*, or commercial *sign* shall be *erected*, altered, moved, or substantially repaired, demolished or excavation begun unless a building permit shall have been first issued for such work as specified under the Township's *Building Code*, as amended.

- C. *Certificate of Occupancy*

- 1. No existing use of land shall be changed to a different class of use unless a *Certificate of Occupancy* is first obtained for the new or different use.
- 2. No *building* or *structure* which is hereafter *erected* or altered shall be occupied or used unless and until a *Certificate of Occupancy* shall have been issued for such *building* or *structure* by the Building Official.

SECTION 17.3 DUTIES AND FUNCTIONS OF THE PLANNING COMMISSION

The Planning Commission serves a dual role as the planning advisory board and the zoning advisory board of the Township.

- A. Planning Duties- The Planning Commission shall have the following prescribed local planning activities and responsibilities:

- 1. Preparation and adoption of the *Master Plan*;
- 2. Monitor and oversee the effectiveness and status of the *Master Plan* and recommend such changes in the *Master Plan* as may from time to time be required;
- 3. Review proposed land development regulations, or amendments thereto, and make

- recommendations to the Township Board as to consistency of the proposal with the adopted *Master Plan*; and
4. Perform any other functions, duties, and responsibilities which may be assigned to it by the Township Board or by a general or special Ordinance.
- B. Zoning and Development Review Duties- The Planning Commission shall have the following prescribed duties and responsibilities:
1. Initiate studies and prepare recommendations for changes or amendments relating to the boundaries for the various zoning districts or the regulations applicable thereto, to the Township Board;
 2. Conduct Site Plan reviews; and
 3. Make recommendations to the Township Board regarding the following types of development:
 - a. Applications for rezonings, including *Planned Unit Developments*;
 - b. Applications for Special Land Use Permits;
 - c. Applications for Subdivision Plats; and
 - d. All other development reviews the Township Board assigns to the Planning Commission.
- C. A member must disqualify himself or herself if the member has a conflict of interest. [Subsec. C added 9/5/03]

SECTION 17.4 DUTIES AND FUNCTIONS OF THE TOWNSHIP BOARD

The duties of the Township Board, in connection with this Ordinance, shall include:

- A. Consideration and the adoption or rejection of proposed amendments, issuance of special land use permits, approval of *Planned Unit Developments* and Plats, and the repeal of this Ordinance or provisions contained herein, as provided by law.
- B. Appointing members of the Planning Commission, Zoning Board of Appeals, and the *Zoning Administrator* and prescribing the duties of such Commission, Board, and Administrator, as provided by law.
- C. The establishment of fees and charges to administer and enforce the *Zoning Ordinance*.

SECTION 17.5 ENFORCEMENT

- A. Violations
1. Any person, firm, or corporation, or any owner of any *building, structure*, or premises, or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be guilty of a civil infraction and fined as established in the New Buffalo Township Civil Infraction Ordinance.
 2. Any *building or structure* which is *erected*, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se.
 3. Each day that the violation occurs or continues may be deemed a separate offense.
 4. The rights and remedies provided herein are cumulative and in addition to any other

remedies provided by law.

B. Performance Guarantees

1. As a condition of approval of a *private street*, site plan review, special land use, or *planned unit development*, the Planning Commission or Township Board, whichever is designated as the approving authority, may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
2. Performance guarantees shall be processed in the following manner:
 - a. Prior to the issuance of a *Certificate of Occupancy*, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the *Zoning Administrator*. The amount of the performance guarantee shall be 100 percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
 - b. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
 - c. Upon receipt of the required performance guarantee, the Building Official shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.
 - d. The *Zoning Administrator*, upon the written request of the obliger, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
 - e. When all of the required improvements have been completed, the obliger shall send written notice to the *Zoning Administrator* of completion of said improvements. Thereupon, the *Zoning Administrator* shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
 - f. A record of authorized performance guarantees shall be maintained by the *Zoning Administrator*.

C. Stop Work Orders

If construction is being undertaken contrary to a building permit, this Ordinance or other applicable laws or ordinances, the Zoning Administrator or Building Inspector shall give written notice to the holder of the building permit, or if a permit has not been issued then to the person doing the construction, notifying

him of the violation and to appear and show cause why the construction should not be stopped. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. If the holder of the permit or the person doing construction fails to appear and show good cause within one full working day after notice is delivered, the Zoning Administrator or Building Inspector shall cause a written order to stop construction to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction in violation of a stop construction order, except with the permission of the Zoning Administrator or Building Inspector to abate the dangerous condition or remove the violation, or by court order. If an order to stop construction is not obeyed, the Zoning Administrator or Building Inspector may apply to the Berrien County Circuit Court for an order enjoining the violation of the stop construction order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order. MCL Section 125.1512. [amended 11/18/02]

SECTION 17.6 AMENDMENTS

The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented or changed. Proposals for amendments may be initiated by the Township Board, the Planning Commission or by petition of one or more owners of property in New Buffalo Township affected by such proposed amendment. The procedure for amending this Ordinance shall be as follows (pursuant to the requirements of the Michigan Zoning Enabling Act: [amended 9/18/06]

- A. Each petition shall be submitted to the Township Clerk, accompanied by a fee as established by the Township Board. The Zoning Administrator shall send notice in accordance with the General Notice Requirements in section 15.3A 2 above [amended 2/19/02 and 9/18/06]

- B. Hearings
 - 1. The Planning Commission shall conduct a public hearing. [amended 9/18/06]
 - 2. [deleted 9/18/06]
 - 3. [deleted 9/18/06]
 - 4. [deleted 9/18/06]
 - 5. Following the public hearing, the Township Clerk shall submit the proposed amendment to the County Planning Commission for advisory view and recommendation. The approval of the County Planning Commission shall be conclusively presumed unless the County Planning Commission, within 30 days of receipt, notifies the Township Clerk otherwise. [amended 4/15/02]
 - 6. The Planning Commission shall transmit a summary of comments received at the public hearing and its proposed zoning amendment to the Township Board.
 - 7. The Township Board may hold additional hearings if it considers them necessary or if a property owner has requested a hearing by certified mail addressed to the Clerk. Notice of hearing shall be given in accordance with the General Notice Requirements in Section 15.3A2 above. [amended 9/18/06]
 - 8. No petition for rezoning or other Ordinance amendment, which has been disapproved , shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.
 - 9. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements shall be filed with the Township Clerk. A notice of Ordinance adoption shall be published in a newspaper of general circulation in the Township within fifteen days after adoption. The notice of Ordinance adoption shall include the following

information:

- a. In the case of a newly adopted Zoning Ordinance, the following statement: “A Zoning Ordinance regulating the development and use of land has been adopted by the Township Board of the township of New Buffalo.”
 - b. In the case of an amendment to an existing Ordinance, a summary of the regulatory effect of the amendment including the geographic area affected.
 - c. The effective date of the Ordinance or amendment
 - d. The place and time where a copy of the Ordinance or amendment may be purchased or inspected.
 - e. [changed to Sec. B10 9/18/06]
10. The Ordinance or amendments shall take effect upon the expiration of seven days after publication or at such later date after publication as may be specified by the Township Board unless a notice of intent to file a petition is properly filed under the Michigan Zoning Enabling Act. [amended 9/18/06]

SECTION 17.7 FEES

The Township Board shall by resolution establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during Township office hours at the Township Hall. Such fees may be changed from time to time by resolution of the Township Board. The applicant shall pay all applicable fees upon the filing of any application, any proposed site plan or any other request or application under this Ordinance and as to which a fee is prescribed. In addition to regularly established fees, the Township Board in its discretion may also require an applicant to submit to the Township (prior to Township review of an application or proposed site plan) an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except when authorized under appropriate provision of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part. Such costs and expenses to be charged or assessed to the applicant, for reimbursement of the Township’s reasonable costs and expenses, may include but shall not be limited to township attorney fees, township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded.

SECTION 17.8 SURVEYS

If the *Zoning Administrator* in the performance of his or her duties under this Ordinance (or the Planning Commission, Zoning Board of Appeals, or Township Board pursuant to their zoning review and approval powers under this Ordinance) shall deem it necessary that a survey be done by a professional surveyor or engineer for property at issue (including a written drawing and stakes set on property boundaries or corners) in order to ensure that all requirements of this Ordinance will be met, such survey and related information may be required by the Township and shall be paid for and provided by the property owner or applicant and no zoning compliance permit, building permit or other Township permit(s) shall be issued or approved until and unless such survey and related information has been provided to the Township. All

corners shall be monumented in the field with iron stakes and shall include points of intersection of boundary or lot lines with highways (MCLA 54.212(2)). [amended 2/19/02]

CHAPTER 18
TITLE

SECTION 18.1 TITLE

This Ordinance shall be known, and may be cited as, the New Buffalo Township Zoning Ordinance.

SECTION 18.2 INTENT

This Ordinance, enacted under the authority of the Township Zoning Act and now governed by the Michigan Zoning Enabling Act, is intended to insure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. [amended 9/18/06]

SECTION 18.3 SCOPE

A. Interpretation and Application

In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance. However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

B. Vested Rights

Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.

SECTION 18.4 SEVERABILITY

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 18.5 EFFECTIVE DATE

Public hearing having been held hereon, the provisions of this Ordinance are hereby adopted, and this Ordinance shall take effect on the first day of December, 2000

SECTION 18.6**REPEAL OF PRIOR ORDINANCES**

The Zoning Ordinance previously adopted by New Buffalo Township, known as Ordinance No. 90-05-15, and all amendments thereto, and the following additional ordinances: #690610 Lot Division, #900717 Private Roads are hereby repealed. This repeal does not affect any act done or offense committed, or any liability, penalty, forfeiture, or punishment acquired thereunder. This repeal includes the Official Zoning Map of the New Buffalo Township Zoning Ordinance, the new version of which is hereby adopted as a part of this Ordinance.

CHAPTER 19 DEFINITIONS

SECTION 19.1 DEFINITIONS

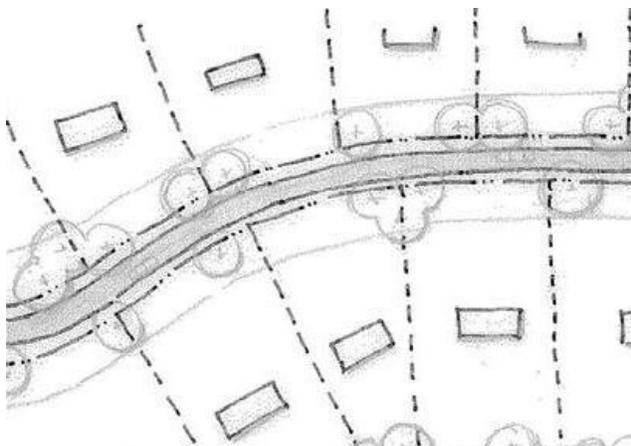
The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A "*building*" or "*structure*" includes any part thereof.
- F. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 - 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning of common or standard utilization. A dictionary may be consulted.
- I. The masculine form of a word shall also mean the feminine and vice versa.
- J. Definitions as described herein are identified by *italics* in the document.
- K. References to Township Board, *Building Code*, Planning Commission, Zoning Board of Appeals, Zoning Ordinance, and *Zoning Administrator* shall refer to those of the New Buffalo Township.

SECTION 19.2 DEFINITIONS - A

ABUTTING

Having a common border with. In the diagram below, each parcel abuts the parcels on either side of it, but not the parcels immediately across the street.



ACCESSORY BUILDING

A subordinate *building* on the same *lot* with a *main building* occupied or devoted to an *accessory use*. When *attached* to a *main building*, the *accessory building* shall be considered part of the *main building*.

ACCESSORY USE, OR ACCESSORY

A use which is clearly incidental to the *principal use* of the *lot* and customarily found in connection with the *principal use*. An accessory use shall be located on the same *lot* as the *principal use*. When “accessory” is used in this text, it shall have the same meaning as accessory use.

ADULT ENTERTAINMENT BUSINESS

This term shall have the meaning as defined in subsection 15.7.A

ADULT FOSTER CARE FACILITY

A facility defined as an “adult foster care facility” by the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An “adult foster care facility” includes licensed homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an on-going basis, but who do not require continuous nursing care. The following two (2) types of Adult Foster Care Homes are provided for by these rules:

1. ADULT FOSTER CARE FAMILY HOME

A private residence with the approved capacity under the Adult Foster Care Licensing Act of the State of Michigan to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care *family* home licensee shall be a member of the household, and an occupant of the residence.

2. ADULT FOSTER CARE GROUP HOME

A private residence with the approved capacity under the Adult Foster Care Licensing Act of the State of Michigan to receive more than six adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care group home licensee shall be a member of the household, and an occupant of the residence.

AGRIBUSINESS

An animal slaughter house or slaughter operation, meat processing plant, *farm* implement sales, *farm* implement reconditioning, fertilizer sales, seed cleaning and distribution, custom crop application, and wood chip processing and distribution operations. See Section 15.7.B.

ALLEY

Any dedicated public way affording a secondary means of access to an *abutting* property, and not intended for general traffic circulation.

ALTERATIONS

Any change, addition, or modification in construction or type of occupancy, or in the structural members of a *building*, such as walls or partitions, columns, beams or girders.

APARTMENT

A *dwelling unit* that only occupies a portion of the *building* within which it is located, generally occupied by a renter or tenant.

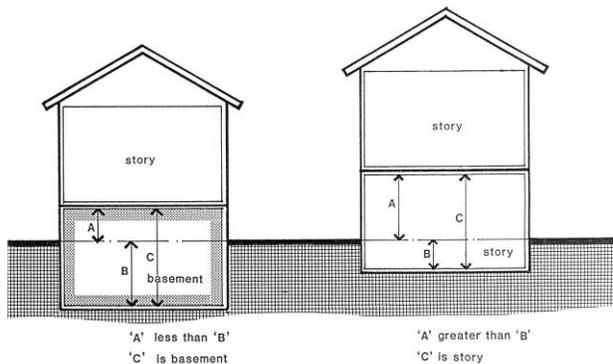
ATTACHED (BUILDING)

A *building* which has at least part of a wall in common with another *building*, or which is connected to another *building* by a roof or *breezeway*.

SECTION 19.3 DEFINITIONS - B

BASEMENT

That portion of a *building* which has part, but not less than one-half (1/2) of its *height* below *average grade*. A basement shall not be counted as a *story*. In the diagram below, "A" is the space above *average grade* and "B" is the space below *average grade*. If "A" is greater than "B", then the area (labeled as "C") in the diagram is a *story*. If "B" is greater than "A", then "C" is a basement.



BERM

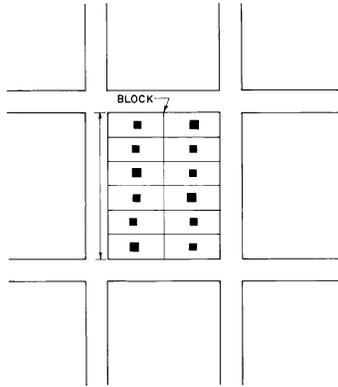
An earthen mound designed to provide visual interest on a site, screen undesirable views, and/or reduce noise.

BED & BREAKFAST ESTABLISHMENT

A use within a *detached* single family dwelling in which transient guests are provided a sleeping room, breakfast, and access to bathing and lavatory facilities in return for payment. See Section 15.7.E.

BLOCK

The property contained within or bounded by multiple streets or other barriers to the continuity of development. The diagram below shows a block bounded by streets. Other barriers to the continuity of development could include, but are not limited to, water, Township boundary lines, publically protected lands, or natural features that preclude development.



BREEZEWAY

A roofed structure for the principal purpose of *attaching a building or buildings* on a *lot* with other *buildings* on the same *lot*.

BUILDING

An independent *structure*, temporary or permanent, having a roof supported by columns, walls, or any other support.

BUILDING CODE

The code or codes governing the erection and maintenance of *buildings* or *structures* as currently adopted by New Buffalo Township.

BUILDING LINE

A line parallel to the *street* line formed by the face of the *building* or touching that part of a *building* closest to the *street*. For the purposes of this Ordinance, a minimum *building* line is the same as the front *setback*.

BUILDING SITE

This term shall be used in connection with site *condominiums* and shall mean ~~either~~ the area within the site *condominium* unit by itself (i.e., exclusive of any appurtenant limited common element) dedicated exclusively for the use of the unit, including the area under the *building* envelope, the area around and contiguous to the *building* envelope, and any limited common element dedicated solely to the one unit.

BUSINESS

A commercial establishment, office, institutional, or industrial use which produces and/or distributes goods and/or services.

BUSINESS, PERMANENT

A *business* that operates continuously and does not close for more than 6 consecutive weeks in any 12-month period.

BUSINESS, SEASONAL

A *business* that regularly closes for 6 or more consecutive weeks during a 12-month period but is open continuously otherwise. *Businesses* that operate for less than 60 consecutive days in any 12 month period shall be considered *temporary* regardless if they operate annually or not.

BUSINESS, TEMPORARY

A *business* in operation only for a pre-specified amount of time, which either closes permanently when the specified time frame is over or is in operation for less than 60 days in any 12-month period.

SECTION 19.4 DEFINITIONS - C

CERTIFICATE OF OCCUPANCY

A document signed by the *building* official as a condition precedent to the commencement of a use which acknowledges that such use, *structure* or *building* complies with the provisions of the Zoning Ordinance.

CHILD CARE CENTER

A facility, other than a private residence, licensed by the State of Michigan, in which one or more preschool or school age children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center is limited to a facility which provides care for two or more consecutive weeks, regardless of the number of hours of care per day. Child care center does not include:

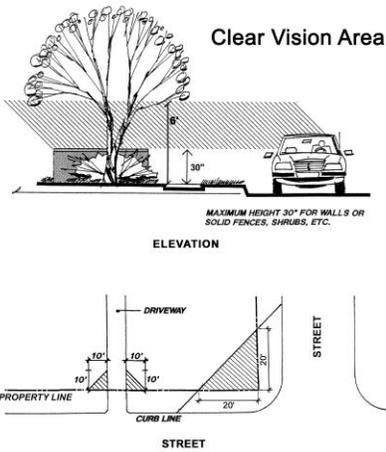
- A) A Sunday school, a vacation Bible school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks.
- B) A facility operated by a religious organization where children are cared for not greater than four hours, while persons responsible for the children are attending religious classes or services.

CHURCH

A facility where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, including all *accessory buildings* commonly associated with such purpose. For the purposes of this Ordinance, the term "*church*" shall be synonymous with the terms synagogue, temple, mosque, or any other term for a religious house of worship. See Section 15.7.G.

CLEAR VISION AREA

An area of unobstructed vision at *street* intersections between thirty (30) inches and six (6) feet from *grade* and within a triangular area bounded by the right-of-way lines of each intersecting *street* and line connecting points 20 feet distant from the intersection of the *streets*. A similar clear corner vision area using points 10 feet from the intersection shall be required at the intersection of a *street* and a *driveway*. The intent of the clear corner vision area is to ensure that automobile drivers can see cars approaching them on intersecting streets.



CLUB

A *building* or facility, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation and which is not open to the general public.

COMMERCIAL STORAGE WAREHOUSE

A *building* or *buildings* used primarily as a commercial *business* for the storage of goods and materials, excluding *mini-warehouses*.

CONDOMINIUM

A *lot* or *building* consisting of an undivided interest in common in a portion of the *lot* or *building*, together with a separate interest in a portion of the *lot* or *building* by a resident in a *dwelling unit* or a *business* in commercial or industrial space. Condominiums shall be established and approved only in accordance with the Condominium Act, Public Act 59 of 1978 (MCL 559.101 etc. seq), as amended.

CONVALESCENT or NURSING HOME

A *building* with sleeping rooms, where persons are housed or lodged for an extended time due to illness, injury, or infirmity and are furnished with meals, nursing and medical care, excluding *hospitals* and *adult foster care facilities*.

CROSS-ACCESS

A non-right-of-way connection for automobiles between two or more separately owned or leased ~~commercial~~ non-residential uses, usually controlled by an easement among the benefitted and burdened properties or some other similar license or agreement.

SECTION 19.5 DEFINITIONS - D

DETACHED

A *building* which does not have at least part of a wall in common with another *building*, or which is not connected to another *building* by a roof or *breezeway*.

DRIVE-THROUGH BUSINESS

A *business* establishment so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a *building* or *structure*.

DWELLING UNIT

A room or rooms connected together, constituting a separated, independent housekeeping establishment for one *family* occupancy, physically *detached* from any other rooms or dwelling units and containing independent cooking, bathroom, and sleeping facilities. In no case shall a motor home, trailer, automobile chassis, tent, or portable *building* be used as a dwelling. In the case of mixed occupancy, the part of a *building* occupied as a dwelling shall be deemed the dwelling unit and shall comply with all applicable provisions of this Ordinance for dwellings.

SECTION 19.6 DEFINITIONS - E

ESSENTIAL PUBLIC 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, distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including *buildings* and storage *yards*, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. The term “essential services” shall not include wireless communication towers, unless located on public property and used as part of a municipal emergency communications network, nor shall it include energy production facilities.

SECTION 19.7 DEFINITIONS - F

FAMILY

A person living alone in a single *dwelling unit* or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single *dwelling unit*. “Family” does not include a collective number of individuals occupying a *motel*, fraternity, sorority, society, *club*, boarding, or lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

FAMILY DAY CARE HOME

A private home in which at least ~~which~~ one (1) but less than seven (7) minor children are given care and supervision for periods of less than 24 hours per 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 any four (4) weeks during any calendar year. Family Day Care Homes must meet the standards set forth by the State of Michigan.

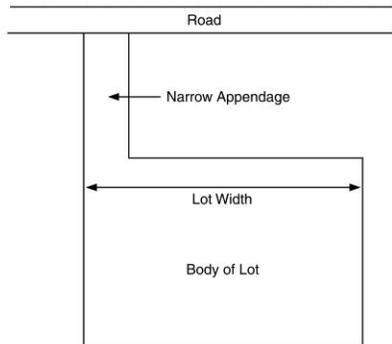
FARM

All the contiguous neighboring or associated land operated as a single unit on which farming is carried on directly by the owner-operator, manager, or tenant farmer by his own labor or with the assistance of members of his household or hired employees. Farms may be considered as including establishments

operated as greenhouses, nurseries, orchards, livestock and poultry farms, and apiaries.

FLAG LOT

A *lot* that has access to a *street* only by a narrow strip of land and does not meet the frontage requirements of the district in which it is located. The creation of flag lots is prohibited.



FLOOR AREA, GROSS

The aggregate sum of the total horizontal areas of the several floors of all *buildings* on a *lot*, measured from the exterior faces of exterior walls for each floor.

FLOOR AREA, USABLE (For the purposes of computing parking)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. *Floor area* which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of "usable *floor area*." Measurement of usable *floor area* shall be the sum of the horizontal areas of the several floors of the *building* measured from the interior faces of the exterior walls.

FRONTAGE

The continuous linear distance of that portion of a *parcel abutting* upon a *public street* right-of-way or *private street* easement.

SECTION 19.8 DEFINITIONS - G

GARBAGE

See *Unwholesome Substance*

GRADE

The elevation at any point on the ground surface of a *lot*.

GRADE, AVERAGE

The average finished ground elevation at all walls of a *building* established for the purpose of regulating the number of stories and the *height of buildings*. The *building grade* shall be the average of the level of the ground at the wall. If the ground is not entirely level, the grade shall be determined by averaging the

elevation of the ground for each face of the building.

GOLF COURSE

A tract of land improved with a principal *building*, tees, greens, fairways, and hazards designed for the game of golf. Also includes related *accessory buildings*.

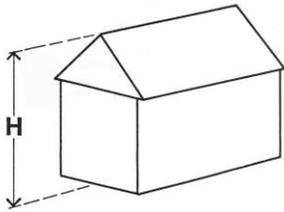
GROUP DAY CARE HOME

A private home in which more than six but not more than twelve minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the *family* by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children for more than any 4 weeks during any calendar year. See Section 15.7.J.

SECTION 19.9 DEFINITIONS - H

HEIGHT

The vertical distance measured from the *average grade* to the highest point of a *structure*. In the case of a *building*, height shall be measured from the *average grade* to the highest point of the roof surface or *parapet wall* that extends above the roof, whichever is higher.



HOME OCCUPATION

An occupation or profession carried on within a portion of a *dwelling unit* that is clearly a customary, incidental, and secondary use of the residential *dwelling unit*. Instruction in music, crafts or fine art, within a dwelling, by a member of the *family* residing in the dwelling, shall be considered a home occupation.

HOSPITAL

An institution providing health services for human inpatient or medical or surgical care for the sick or injured, and including the related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facility. *Convalescent or Nursing homes* shall not be considered hospitals.

HOTEL/MOTEL

A facility offering lodging accommodations to the general public for a daily rate and which may or may not provide additional services, such as *restaurants*, meeting rooms, and recreational facilities. See Section 15.7.K

HOUSING FOR THE ELDERLY

A residential facility that provides room, board and supervised care to unrelated, non-transient individuals 60 years of age or older or couples where either the husband or wife is 60 years of age or older. Such facility shall be licensed as a “home for the aged” by the State of Michigan under Article 17 of the Public Health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq., MSA 14.15 (20101)), as amended. This does not include a development that contains *convalescent* or *nursing home* as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental *hospital* for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

SECTION 19.10 DEFINITIONS - I

INTENSIVE LIVESTOCK OPERATIONS or ILO

Any livestock production facility with a capacity of 1000 or greater animal units, or any new or expanded livestock production facility with a capacity of 50-999 animal units if there are four or more residences not affiliated with the facility within 1/4 mile. Animal units are calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4 , plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. 40 CFR 122, Appendix B. See Section 15.7.M.

SECTION 19.11 DEFINITIONS - J

JUNK

Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including discarded appliances and *yard* debris.

JUNK YARD

An open or outdoors area where waste, *junk* or used or second-hand materials are bought and sold, exchanged, stored, maintained, kept, bailed, packaged, disassembled or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junk yard” includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of *junk*, but does not include uses established entirely within enclosed *buildings*. See Section 15.7.Z

SECTION 19.12 DEFINITIONS - K

KENNELS, COMMERCIAL

Any *lot* or premise on which six or more dogs, cats, or other household pets, six months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any *lot* or premises where household pets are bred or sold for commercial purposes. See Section 15.7.N

SECTION 19.13 DEFINITIONS - L

LAKE

A permanent body of open water over two acres in size, regardless of “public” or “private” status under State of Michigan law.

LOADING SPACE

An off-*street* space on the same *lot* with a *building*, or group of *buildings*, for the temporary parking of a vehicle while loading and unloading merchandise or materials.

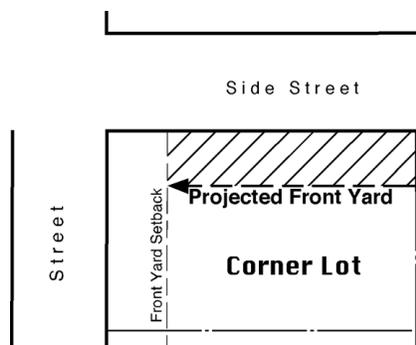
LOT

A *parcel*, vacant land, occupied land, or land intended to be occupied by a *building* and *accessory buildings*, or utilized for principal and *accessory use(s)* together with *yards* and open spaces required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may consist of any of the following, or a combination of any of the following, excluding any portion of property subject to a public easement or right-of-way and provided that in no case shall a division or combination of properties create a residual lot which does not meet the requirements of this Ordinance:

- A. A platted lot, or a portion of a platted lot;
- B. A *parcel* of land described by metes and bounds, or a portion of a *parcel* of land described by metes and bounds; or
- C. A *building site* as defined in this Ordinance in connection with a site *condominium* project.

LOT, CORNER

Any *lot* having at least two contiguous sides *abutting* upon a *street*, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A *lot abutting* upon a curved *street* or *streets* shall be considered a *corner lot* if the tangents to the curve, at its points of beginning within the *lot* or at the points of intersection of the *side lot lines* with the *street* line, intersect at an interior angle of less than 135 degrees.



LOT, INTERIOR

A lot other than a *corner lot* or *through lot*.

LOT, THROUGH

Any *interior lot* having *frontage* on two parallel *streets*. In the case of a row of through lots, all *yards* of said *lots* adjacent to *streets* shall be considered *frontage*, and through *yard setbacks* shall be provided as

required.

LOT, UNBUILDABLE

Any *lot* that, when created, did not meet the zoning standards in force at the time of its creation. If there was no zoning ordinance when the lot was created, then it is a buildable, non-conforming lot of record. Two lots with common ownership and continuous frontage that, when combined, did not meet the Zoning Standards also constitute an unbuildable lot.

LOT, WATERFRONT

A *lot* having a property line *abutting* water.

LOT AREA

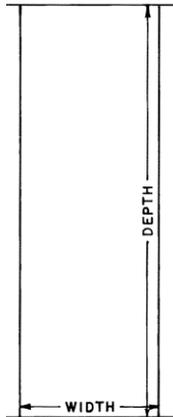
The total horizontal area within the *lot lines*.

LOT COVERAGE

The part of the *lot* occupied by any *building*, including *accessory buildings* and *structures*.

LOT DEPTH

The longest horizontal distance between the *front* and *rear lot lines* of any lot, regardless of the lot's shape.



LOT LINES

The lines bounding a *lot* as defined herein:

A. FRONT LOT LINE

The line separating the *lot* from any *street, public or private*. *Through lots* and *corner lots* will have more than one *front lot line* and ~~may~~ will have no *rear lot line*.

B. REAR LOT LINE

That *lot* line opposite and most distant from the front *lot* line. In the case of a *lot* which is pointed at the rear, the rear *lot* line shall be an imaginary line parallel to the front *lot* line, not less than ten feet long lying farthest from the front *lot* line and wholly within the *lot*.

C. SIDE LOT LINE

Any *lot* line other than the *front lot line* or *rear lot line*. [amended 2/19/02]

LOT WIDTH

The horizontal straight line distance between the *side lot lines*, measured between the two points where the required front *setback* line intersects the *side lot lines*.

SECTION 19.14 DEFINITIONS - M

MAIN BUILDING

A *building* in which is conducted the *principal use* of the *lot* upon which it is situated.

MANUFACTURED HOME

A transportable, factory-built home with an *attached* undercarriage frame, designed to be used as a year-round residential dwelling.

MANUFACTURED HOME PARK

A *parcel* or tract 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 incident to the occupancy of a *manufactured home* and which is not intended for use as a campground or temporary trailer park.

MARINA

A commercial facility that extends into or over a lake or stream for the mooring, berthing, storing, sales, repair, or securing of watercraft. A marina may include fuel sales for watercraft. See Section 15.7.S.

MASTER PLAN

The Master Plan currently adopted by New Buffalo Township, including graphic and written proposals, indicating the general location for *streets*, parks, schools, public facilities, and all physical development of the Township, and any unit or part of such plan and any amendment to such plan.

MICHIGAN ZONING ENABLING ACT

P.A. 110 of 2006 (MCL 125.3101) as amended

MINI-WAREHOUSE

A *building* or group of *buildings* divided into separate compartments used to meet the temporary storage needs of small *businesses*, *apartment* dwellers, and other residential uses. May include refrigerated

facilities, but excludes *commercial storage warehouses*.

SECTION 19.15 DEFINITIONS - N

NON-CONFORMING BUILDING OR STRUCTURE

A *building* or *structure*, the size, dimensions, setbacks, lot coverage, or location of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the zoning district in which it is located.

NON-CONFORMING LOT

A *lot*, the area, dimensions, width, or location of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present *lot* requirements of the zoning district in which it is located.

NON-CONFORMING USE

A use or activity that was lawful prior to the adoption or amendment of this Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the zoning district in which it is located.

NURSING HOME

A nursing care facility licensed as a “nursing home” by the State Department of Public Health under article 17 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.2010 et seq., MSA 14.15(20101) et seq.), as amended. A “nursing home” as defined by this section shall include extended care facility and *convalescent home*.

SECTION 19.16 DEFINITIONS - O

OFF-STREET PARKING LOT

A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three vehicles on any lot other than a *single-family lot*.

OPEN AIR BUSINESS

A *permanent, seasonal, or temporary* retail sales establishment operated substantially in the open air, including but not limited to: (See Section 15.7.U)

- A. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, artisan products, playground equipment and other home garden supplies and equipment, but not including lumber yards.
- B. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- C. Outdoor display area and sale of garages, motor homes, recreation vehicles, *manufactured homes*, snowmobiles, swimming pools and similar activities, but not including *farm* implements or commercial construction equipment.

See Section 15.7.U

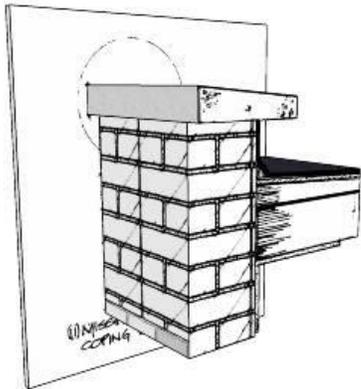
ORDINANCE

New Buffalo Township Zoning Ordinance as amended.

SECTION 19.17 DEFINITIONS - P

PARAPET WALL

Any wall that extends above the roof line of a *building*. In the diagram below, the horizontal element is the roof line of the *building*, which the parapet wall extends above.



PARCEL

A tract of land which has been legally described and is capable of being located by survey.

PARK

Any public or private land available for recreational, cultural, or aesthetic use by the general public.

PERSONAL SERVICE ESTABLISHMENT

Establishments providing non-medically related services, including but not limited to beauty and barber shops, clothing rental, dry cleaning pick up stores, laundromats, psychic readers, shoe repair, and/or tanning salons.

PLANNED UNIT DEVELOPMENT (PUD)

A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages permitted as a separate, newly created zoning district by the Planning Commission. The development may include *streets*, circulation ways, utilities, *buildings*, open spaces, and other site features and improvements.

PRINCIPAL USE

The main use to which the premises are devoted.

PRIVATE DRIVEWAY

An improved or unimproved path or road extending from a public right-of-way or private road easement to a single *building*, dwelling, undeveloped *lot*, or *structure*, intended to provide ingress and egress primarily for the owners, occupants, visitors, or tenants thereof.

SECTION 19.18 DEFINITIONS - R

RECYCLING CENTER

A facility for the processing, separation, recovery, and/or collection of recyclable material from solid wastes. Recycling of oil or other liquids (but not wastewater) may also occur. See Section 15.7.X.

RESIDENTIAL DISTRICT

This term shall include the R-1, R-2, R-3, and R-4 Districts, and any residential uses within an approved *Planned Unit Development* District.

RESTAURANT

A use for which the primary purpose is the preparation and sale of food and beverage.

RIGHT-OF-WAY

A strip of land owned by the public or dedicated to the public by easement and intended to be occupied by a *street*, trail, or utility.

ROOF PEAK

The highest point on a roof.

SECTION 19.19 DEFINITIONS - S

SALVAGE YARD

See *junk yard*.

SATELLITE DISH

An apparatus capable of transmitting to or receiving communications from an orbiting satellite.

SETBACK

The distance required to obtain minimum *front*, *side* or *rear yard* open space provisions of this Ordinance.

SHORELINE

The ordinary high water line of a *lake*, stream, or other natural or man-made body of water, as defined by the State of Michigan and/or the Federal Government.

SIGN

This term shall be used as defined under subsection 14.3.B.21

SIGNIFICANT NATURAL FEATURE

A natural area as designated by the Michigan Department of Environmental Quality which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a *wetland*, flood plain, river, *lake*, or other unique natural features. In addition, the Planning Commission may designate any natural element of site as a significant natural feature.

SLOPE

The gradient, the rate of incline or decline expressed as a percent. For example, a rise of 25 feet in a horizontal distance of 100 feet would be expressed as a grade of 25 percent

STORY

That part of a *building* included between the surface of any floor, excluding *basements*, and the surface of the next floor, or if there is no floor above, then the ceiling next above.

STREET, PRIVATE

A private street shall mean any roadway or drive which is not a dedicated public road right-of-way and which provides or is intended to provide the primary means of ingress/egress to two or more *lots* or *dwelling units*, whether created by private road right-of-way, agreement, license, lease, joint ownership, easement or prescription. Any and all extensions, to a private street shall be considered part of the primary private street to which the extension is attached. The term "private street" shall also include a path, drive, trail or road which is privately built and maintained and which is located on a public road right-of-way or easement. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

STREET, PUBLIC

A public dedicated right-of-way other than an *alley*, which affords the principal means of access to property *abutting* the street. The term "street" shall be synonymous with the terms road, avenue, place, way, drive, lane, boulevard, highway or other thoroughfare.

STRUCTURE

Any constructed or placed item or material or combination of materials or items in, on or upon the ground having a fixed location, including, but not limited to, *buildings*, sheds, towers, *signs*, swimming pools, animal enclosures, garages, *accessory buildings*, decks, patios, docks, platforms, *satellite dishes*, gazebos, tennis courts, fences over six feet high and storage bins, but excluding sidewalks and paving on *streets*, driveways or parking areas. The definition of *structure* also excludes retention walls, seawalls, decks or patios, no portion of which is located more than 12 inches above the natural *grade*.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a *structure*, the cost of which equals or exceeds 50 percent of the market value of the *structure* either, before improvement or repair is started, or if the *structure* has been 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 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 any alteration of a *structure* listed on the National Register of Historic Places or the Michigan Register of Historic Places.

SECTION 19.20 DEFINITIONS - T

TRUCK TERMINAL

A *building* or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

SECTION 19.21 DEFINITIONS - U

UNWHOLESOME SUBSTANCE

Any trash, *garbage*, tin can, automobile body, *junk* vehicle, trailer body, stone, *junk*, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, clinkers, cinders, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public.

SECTION 19.21 DEFINITIONS - V

VEHICLE GAS STATION

Any facility which sells gasoline or diesel fuel at retail through pumps. See Section 15.7.CC

VEHICLE REPAIR FACILITY

Any garage, bay or other area in which vehicles or trailers or parts thereof are commercially serviced, repaired, reconditioned, rebuilt, straightened, painted, rustproofed, refinished, or steam cleaned. An air pump shall not be considered a vehicle repair facility. See Section 15.7.DD.

VEHICLE WASH ESTABLISHMENT

A *building* or portion thereof, the primary purpose of which is that of washing motor vehicles. See Section 15.7.EE.

SECTION 19.22 DEFINITIONS - W

WATERCOURSE

A natural or artificial channel in which the flow of water occurs, either continuously or regularly. Such flow must be in a definite direction and cover a generally predictable area.

WETLAND

Land characterized as a regulated wetland by the State of Michigan NREPA Part 303.

WILDLIFE PRESERVE

Any facility which requires a license or permit from the State of Michigan such as but not limited to a Permit to Hold Wildlife in Captivity or a Game Breeder's License. The species allowed will only be those listed as permitted species listed with the Michigan Department of Environmental Quality.

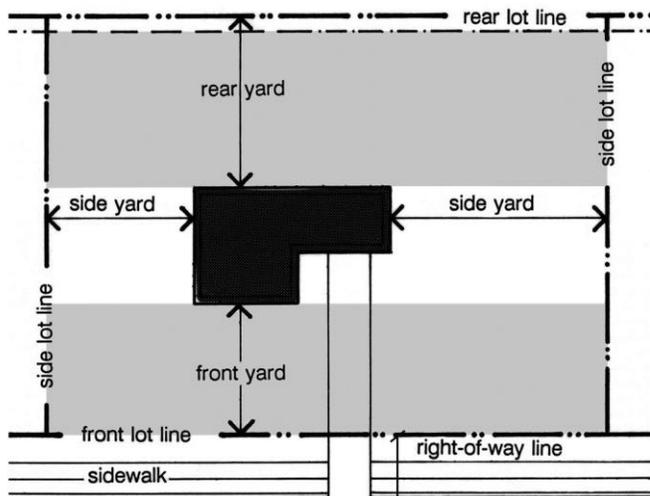
WIRELESS COMMUNICATIONS TOWER, COMMERCIAL

A *structure* designed and constructed to support one or more antennas used for licensed telecommunication services including cellular-and similar services that are marketed to the general public. See Section 15.7.GG

SECTION 19.23 DEFINITIONS - Y

YARDS

The open spaces on the same *lot* with a *main building* that are unoccupied and unobstructed by the foundation of the principal *building*.



- A. **FRONT YARD**
An open space extending the full width of the lot, the *depth* of which is the minimum horizontal distance between the *front lot line* and the *building line* of the *main building* as measured from the foundation of the structure.
- B. **REAR YARD**
An open space extending the full width of the *lot*, the *depth* of which is the minimum horizontal distance between the *rear lot line* and the *building line* of the *main building* as measured from the foundation of the structure.
- C. **SIDE YARD**
An open space between a *main building* and the *side lot line*, extending from the *front yard* to the *rear yard*, the width of which is the horizontal distance from the nearest point on the *side lot line* to the *building line* of the *main building* as measured from the foundation of the structure.

YARD, REQUIRED

The required *yard* shall be that set forth as the minimum *yard setback* requirement for each district.

SECTION 19.24 DEFINITIONS - Z

ZONING ADMINISTRATOR

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

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