

Van Buren County, Michigan

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Antwerp Township Zoning Ordinance

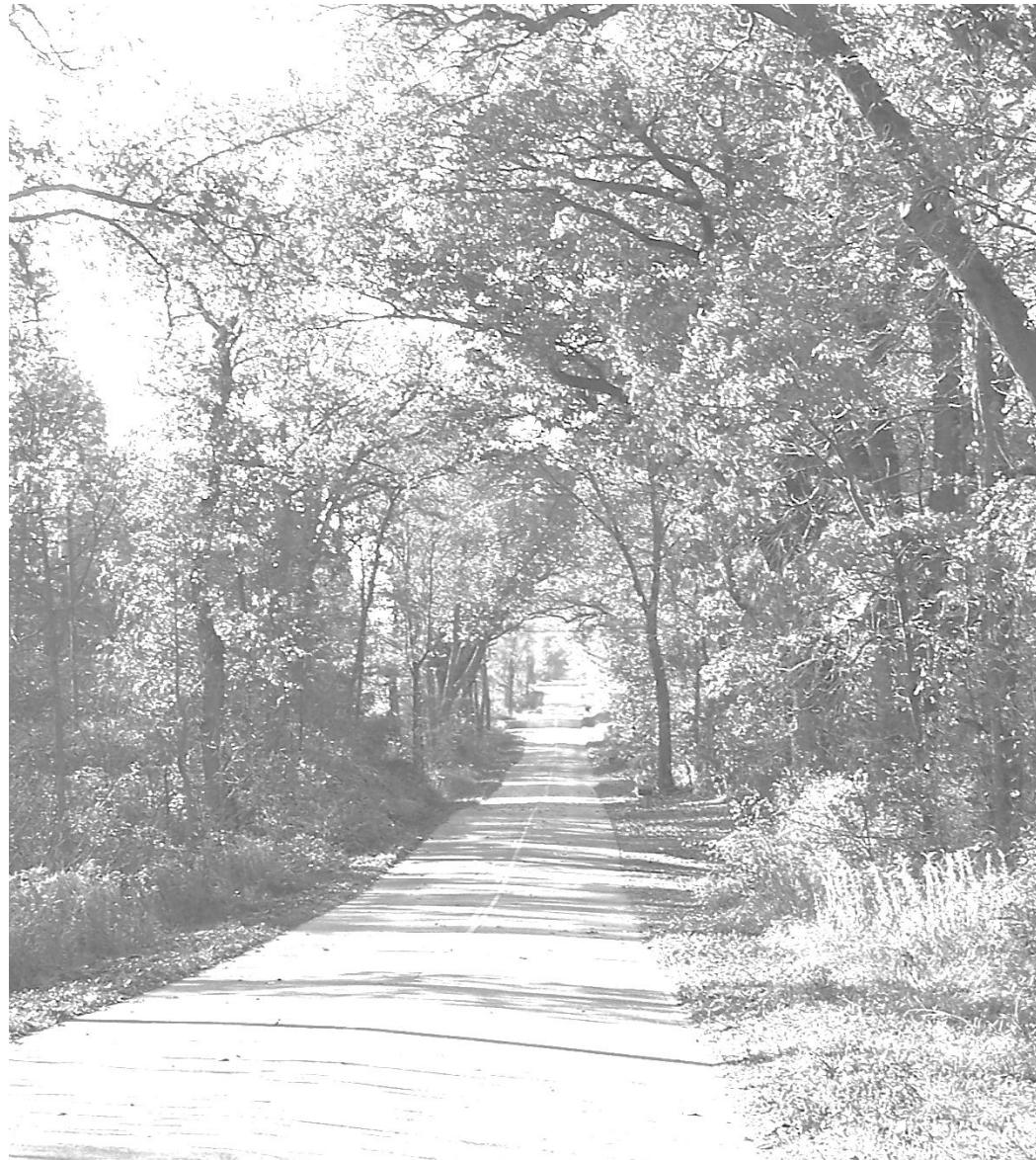


TABLE OF CONTENTS

CHAPTER 1	TITLE, PURPOSE AND SCOPE	1-1
Section 1.1.	Short title.....	1-1
Section 1.2.	Purpose	1-1
Section 1.3.	Scope.....	1-1
Section 1.4.	Interpretation.....	1-1
Section 1.5.	Conflict with other laws.....	1-1
Section 1.6.	Vested rights.....	1-1
CHAPTER 2	DEFINITIONS	2-1
Section 2.1.	Rules applying to the text	2-1
Section 2.2.	Definitions A – B	2-1
Section 2.3.	Definitions C – D.....	2-8
Section 2.4.	Definitions E – F	2-11
Section 2.5.	Definitions G – H.....	2-15
Section 2.6.	Definitions I – J – K.....	2-16
Section 2.7.	Definitions L – M	2-16
Section 2.8.	Definitions N – O.....	2-21
Section 2.9.	Definitions P – Q.....	2-22
Section 2.10.	Definitions R – S	2-24
Section 2.11.	Definitions T – U – V.....	2-29
Section 2.12.	Definitions W – X – Y – Z.....	2-30

ANTWERP TOWNSHIP ZONING ORDINANCE

CHAPTER 3	GENERAL PROVISIONS	3-1
Section 3.1.	Principal use per lot	3-1
Section 3.2.	Similar uses	3-1
Section 3.3.	Front setback requirements	3-2
Section 3.4.	Minimum lot frontage.	3-2
Section 3.5.	Projections into required setbacks	3-2
Section 3.6.	Required yards or lots.....	3-2
Section 3.7.	Maximum lot width to depth ratio	3-2
Section 3.8.	Cul-de-sac lots.....	3-3
Section 3.9.	Height exceptions	3-3
Section 3.10.	Building grades and lot drainage	3-3
Section 3.11.	Buildings to be moved	3-4
Section 3.12.	Corner clearance and visibility.....	3-4
Section 3.13.	Riparian access (anti-funneling)	3-5
Section 3.14.	Health department approval	3-5
Section 3.15.	Trash, litter or junk	3-6
Section 3.16.	Nonconforming lots, uses and structures	3-6
Section 3.17.	Private roads.....	3-9
Section 3.18.	Excavations	3-16
Section 3.19.	Essential services	3-16
Section 3.20.	Satellite dish stations	3-16

Section 3.21. Ponds.....	3-17	Keeping and raising livestock	5-12
Section 3.22. Outdoor swimming pools	3-18	Household domestic pet animals.....	5-15
Section 3.23. Temporary uses.....	3-18	Motor vehicle storage in residential districts	5-16
Section 3.24. Site condominiums	3-19	Vehicle sales on residential property	5-18
Section 3.25. Land divisions and plats of subdivision	3-24	Section 5.5. Open space development option	5-18
Section 3.26. Flood plain	3-24	Section 5.6. Large flag lot preservation option	5-23
Section 3.27. Recreational marihuana establishments prohibited	3-24	CHAPTER 6 COMMERCIAL AND INDUSTRIAL DISTRICTS	6-1
CHAPTER 4 ZONING DISTRICTS AND ZONING MAP ...	4-1	Section 6.1. Purpose and intent.....	6-1
Section 4.1. Zoning districts.....	4-1	Section 6.2. Table of uses	6-1
Section 4.2. Zoning map.....	4-1	Section 6.3. Development requirements.....	6-5
Section 4.3. Zoning of vacated areas	4-2	Section 6.4. Specific district requirements.....	6-6
Section 4.4. Zoning of disconnected, formerly incorporated areas	4-2	Section 6.5. Commercial and industrial districts general requirements	6-8
CHAPTER 5 AGRICULTURAL AND RESIDENTIAL DISTRICTS	5-1	Section 6.6. General Commercial and Commercial Corridor Overlay Building Form and Design Requirements	6-10
Section 5.1. Intent and Purpose	5-1	CHAPTER 7 OTHER DISTRICTS	7-1
Section 5.2. Table of uses	5-1	Section 7.1. MHP Manufactured Home Park District	7-1
Section 5.3. Development requirements.....	5-4	Section 7.2. Environmental Buffer Overlay District..	7-4
Section 5.4. Agricultural and residential districts general requirements	5-6	Section 7.3. Wellhead Protection Overlay District ...	7-8
Accessory structures	5-6	CHAPTER 8 PUD PLANNED UNIT DEVELOPMENT DISTRICT	8-1
Fences	5-9	Section 8.1. Purpose	8-1
Home occupations	5-10	Section 8.2. Types of PUDs.....	8-1

Section 8.3. General PUD provisions	8-2
Section 8.4. Residential PUD – RPUD	8-3
Section 8.5. Commercial PUD – CPUD	8-6
Section 8.6. Mixed Use PUD – MPUD.....	8-7
Section 8.7. General design standards	8-9
Section 8.8. Approval procedure	8-12
Section 8.9. Preliminary PUD and rezoning	8-13
Section 8.10. Standards of review.....	8-16
Section 8.11. Final PUD plan.....	8-17
CHAPTER 9 USE REQUIREMENTS.....	9-1
Section 9.1. Specific use requirements	9-1
Section 9.2. Adult entertainment uses	9-1
Section 9.3. Adult foster care small group homes ...	9-2
Section 9.4. Agribusiness uses.....	9-2
Section 9.5. Airports and landing fields	9-3
Section 9.6. Bed and breakfasts.....	9-3
Section 9.7. Boarding houses.....	9-4
Section 9.8. Commercial boarding stables/riding academies.....	9-4
Section 9.9. Campgrounds	9-5
Section 9.10. Cemetery	9-5
Section 9.11. Composting facilities.....	9-6
Section 9.12. Contractor's facilities.....	9-7
Section 9.13. Convalescent and nursing homes	9-7
Section 9.14. Day care centers.....	9-7
Section 9.15. Detached accessory structures in excess of the number permitted in Section 5.4.A.....	9-8
Section 9.16. Drive through facilities serving a use other than a restaurant.....	9-8
Section 9.17. Farm markets.....	9-9
Section 9.18. Farm wineries and micro breweries...	9-9
Section 9.19. Funeral homes and mortuaries.....	9-10
Section 9.20. General amusement attraction	9-10
Section 9.21. Golf courses and country clubs	9-12
Section 9.22. Group day care homes	9-14
Section 9.23. Home based businesses	9-14
Section 9.24. Hospitals and clinics	9-16
Section 9.25. Hotels and motels	9-17
Section 9.26. Junkyards and salvage centers	9-17
Section 9.27. Reserved	9-18
Section 9.28. Kennels, commercial	9-18
Section 9.29. Medical marihuana facilities.....	9-19
Section 9.30. Mini-warehouses/self-storage facilities	9- 20
Section 9.31. Mineral extraction	9-21
Section 9.32. Nurseries/greenhouses (commercial)..	9- 24
Section 9.33. Outdoor wood furnaces	9-24
Section 9.34. Outdoor display or sales	9-25

Section 9.35. Outdoor Donation Collection Facilities	9-26	Section 9.55. Outdoor storage	9-51
Section 9.36. Public facilities and places of worship	9-27	CHAPTER 10 SPECIAL LAND USES	10-1
Section 9.37. Public utility facilities	9-28	Section 10.1. Statement of purpose	10-1
Section 9.38. Recreation facilities and health clubs, indoor (commercial)	9-28	Section 10.2. Review and approval authority	10-1
Section 9.39. Recreation facilities, outdoor, (commercial)	9-29	Section 10.3. Submission requirements	10-1
Section 9.40. Restaurants	9-30	Section 10.4. Public hearing requirements	10-2
Section 9.41. Schools, trade/commercial	9-31	Section 10.5. General standards for approval	10-2
Section 9.42. Accessory non-commercial solar energy collectors	9-31	Section 10.6. Specific requirements	10-2
Section 9.43. Two-family dwellings	9-34	Section 10.7. Attachment of Special Conditions	10-3
Section 9.44. Vehicle repair, major	9-34	Section 10.8. Reapplication	10-3
Section 9.45. Vehicle sales	9-35	Section 10.9. Amendments	10-3
Section 9.46. Vehicle service stations	9-35	Section 10.10. Validity and revocation of special land use permits	10-4
Section 9.47. Vehicle wash establishments	9-36	Section 10.11. Fees	10-4
Section 9.48. Veterinary hospitals and clinics	9-37	CHAPTER 11 SITE PLAN REVIEW	11-1
Section 9.49. Warehousing, storage, distribution, and truck terminals	9-37	Section 11.1. Purpose and intent	11-1
Section 9.50. Wind energy conversion systems	9-37	Section 11.2. Scope of application	11-1
Section 9.51. Wireless communication facilities	9-41	Section 11.3. Submittal requirements	11-3
Section 9.52. Commercial solar energy systems	9-47	Section 11.4. Procedures and requirements	11-7
Section 9.53. Agricultural tourism	9-48	Section 11.5. Changes to approved site plans	11-10
Section 9.54. Accessory dwelling units	9-49	Section 11.6. Standards for site plan approval	11-10
		CHAPTER 12 SITE DEVELOPMENT REQUIREMENTS	12-1
		Section 12.1. Landscaping	12-1
		Section 12.2. Exterior lighting requirements	12-10

Section 12.3. Parking and loading requirements	12-14
Section 12.4. Signs	12-21
CHAPTER 13 ZONING BOARD OF APPEALS	13-1
Section 13.1. Creation and membership	13-1
Section 13.2. Meetings and public hearings	13-1
Section 13.3. Jurisdiction and decisions	13-2
Section 13.4. Administrative appeals	13-2
Section 13.5. Dimensional variances	13-3
Section 13.6. Conditions of approval	13-4
Section 13.7. Rehearing and reapplication	13-5
Section 13.8. Limitation on powers	13-5
Section 13.9. Official record; findings of fact	13-5
Section 13.10. Miscellaneous	13-6
CHAPTER 14 ADMINISTRATION AND ENFORCEMENT	14-1
Section 14.1. Administration and enforcement	14-1
Section 14.2. Zoning compliance	14-1
Section 14.3. Zoning Administrator; additional duties	14-2
Section 14.4. Schedule of fees, charges and expenses established by the township	14-3
Section 14.5. Interpretation	14-3
Section 14.6. Performance guarantee	14-3
Section 14.7. Amendments and rezoning	14-4
Section 14.8. Conditional rezoning	14-7
Section 14.9. Revocation of approvals	14-12
Section 14.10. Public hearings	14-12
Section 14.11. Violations and penalties	14-12
Section 14.12. Stop work order	14-13
Section 14.13. Severability clause	14-13
Section 14.14. Repeal of prior ordinance	14-13
Section 14.15. Effective date	14-13

CHAPTER 1 TITLE, PURPOSE AND SCOPE

Section 1.1. *Short title*

This Ordinance shall be known and may be cited as the Antwerp Township Zoning Ordinance.

Section 1.2. *Purpose*

The purpose of this Ordinance is to promote the public health, safety, morals, and general welfare; to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to avoid overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, and with reasonable consideration among other things, to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development, as studied and recommended within the Master Plan by the Antwerp Township Planning Commission, and endorsed, and regulations adopted, therefore, by the Township Board.

Section 1.3. *Scope*

No building or structure or part thereof, shall hereafter be erected, constructed, reconstructed or altered and no building, structure, or land, or part thereof, shall be used except in conformity with the provisions of this Ordinance. Any building or structure for which a building permit has been issued and

the construction of the whole or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to the effective date of this Ordinance, may be completed and used in accordance with the plans and application on which said building permit was granted.

Section 1.4. *Interpretation*

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare.

Section 1.5. *Conflict with other laws*

It is not intended by this Ordinance to repeal, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises. Provided, however, that 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.

Section 1.6. *Vested rights*

Nothing in this Ordinance should 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, they are hereby declared to be subject to subsequent amendment, change or modification

as may be necessary to the preservation or protection of public health, safety, and welfare.

CHAPTER 2 DEFINITIONS

Section 2.1. Rules applying to the text

- A. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.
- B. Rules of Construction: The following rules of construction apply to this Chapter:
 1. The particular shall control the general. For terms used in this Chapter, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a "dry cleaning retail establishment," as used in this Chapter, shall not be interpreted to be the same as a "retail business supplying commodities on the premises," since each is listed as a separate and distinct use.
 2. In case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control.
 3. A building or structure includes any part thereof.
 4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
 5. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that the connected items, conditions, provisions or events apply.

- b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- c. "Either . . . or" indicates that the connected items, conditions, provisions or events apply singly but not in combination.

6. Terms not defined in this Chapter shall have the meaning customarily assigned to them.

Section 2.2. Definitions A – B

Abutting lot, parcel or right-of-way: A lot, parcel or public or private street right-of-way that shares a common property line with the subject lot or parcel.

Accessory Building: A detached structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal building.

Accessory Dwelling Unit: An attached or detached dwelling unit that is secondary and subordinate to a principal single-family dwelling that contains an independent living area, including sleeping quarters, bathroom, living area, and kitchen facilities.

Accessory Dwelling Unit, Attached: An accessory dwelling unit that is physically attached to a principal single-family dwelling as an addition; incorporated internally within a principal dwelling within the basement or attic; or above an attached garage. Except for an accessory dwelling unit above an attached garage, an attached accessory dwelling unit is connected by internal access between separate living spaces. The inclusion of a secondary kitchen or kitchenette within the

principal dwelling does not alone result in the classification as an attached accessory dwelling unit.

Accessory Dwelling Unit, Detached: An accessory dwelling unit that is physically detached from a principal single-family dwelling as a standalone and separate building.

Accessory Use: A use that is clearly incidental to, customarily found in connection with, and (with certain exceptions) located on the same lot as the principal use to which it is related.

Addition: An extension or increase in floor area or height of a building or structure.

Adult: A person having arrived at the legal age of adulthood defined by the laws of the state of Michigan.

Adult Entertainment Use: Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas." Definitions related to adult entertainment uses include the following:

A. Adult Book Store: A use which has a display containing books, magazines, periodicals, newspapers, slides, pictures, cassettes, videotapes, videodiscs, motion picture films, or other printed, recorded, or electronic material which has as a significant portion of its content or exhibit matter or actions depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" or an establishment with a substantial segment or section devoted to the sale or display of such material. "Usable Retail Space" is defined as 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. The portion of the floor area that is used or intended to be used principally for the storage or processing of

merchandise, hallways, or for utilities or sanitary facilities shall be excluded from the computation of "Usable Retail Space."

- B. Adult Cabaret:** A nightclub, theater, or other establishment which features live performances by one or more topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, wait staff, or other persons, where a significant portion of such performances show, depict, or describe "Specified Sexual Activities" or "Specified Anatomical Areas."
- C. Adult Mini-Motion Picture Theater:** An enclosed building with a capacity for fewer than 50 persons used for presenting motion picture films, video cassettes or tapes, cable television, or other visual display depicting, describing, or presenting "Specified Sexual Activities" or "Specified Anatomical Areas."
- D. Adult Model Studio:** Any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar educational institution.
- E. Adult Motel:** A motel wherein matter, actions, or other displays are presented which contain a significant portion depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
- F. Adult Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, video machines, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict,

describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."

G. Adult Motion Picture Theater: An enclosed building with a capacity of 50 or more persons used for presenting motion picture films, videotapes or cassettes, cable television, or other visual display depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.

H. Adult Novelty Business: Any establishment which offers for sale devices which stimulate human genitals or devices designed for sexual stimulation.

I. Adult Personal Service Establishment: Any business, agency, or service which arranges, solicits, or provides for the benefit of its customers or clients, escorts, dates, models, unlicensed therapists, companions, or entertainers, either on or off the premises, for the purpose of engaging in "Specified Sexual Activities" or "Specified Acts of Violence," or displaying "Specified Anatomical Areas" as defined herein. These establishments include, but are not limited to: escort services, exotic rubs, modeling, body painting studios, wrestling studios, baths, and theatrical performances.

J. Adult Physical Culture Establishment: Any establishment, club, or business by whatever name designated, that provides, offers, or advertises, or is equipped or arranged so as to provide as part of its services, either on or off the premises, massages, body rubs, physical stimulation, baths, tattoos, or other similar treatment by any person. The following uses shall not be included within the definition of an adult physical culture establishment:

1. Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or

massage therapist, a licensed practical nurse, or any other similarly licensed medical professional;

2. Electrolysis treatment by a licensed operator of electrolysis equipment;
3. Continuing instruction in martial or performing arts or in organized athletic activities;
4. Hospitals, nursing homes, medical clinics, or medical offices; and,
5. Barber shops or beauty parlors, health spas and/or salons which offer massage to the scalp, face, neck, or shoulders only.

K. Adult Sexual Encounter Center: Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons may congregate, assemble, or associate for the purpose of engaging in "Specified Sexual Activities" or exposing "Specified Anatomical Areas."

L. Display: Any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes, or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

M. Restricted Adult Business: Any of the defined adult entertainment uses, that are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

N. Specified Acts of Violence: The graphic depiction, whether real or simulated, of human or animal decapitation, dismemberment, physical torture, stabbing, shooting, strangulation, drowning, electrocution, aggravated assault (whether accomplished by human

contact, instruments, or weapons), rape, disfigurement, mutilation, burning, or disembowelment.

- O. Specified Anatomical Areas:** The graphic depiction, whether real or simulated, of less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- P. Specified Sexual Activities:** The graphic depiction, whether real or simulated, of human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Adult Foster Care: See *Foster Care*.

Agricultural and Related Operations:

- A. Agribusiness:** Businesses catering to the agricultural community, which may include, but not necessarily be limited to, grain elevators, the processing of farm products, the sale of seed and feed, implement sales (not including other vehicle sales as defined in this Ordinance) and livestock auctioning.
- B. Agricultural Products:** Includes but is not limited to, crops (corn, wheat, hay, potatoes, etc.); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, and similar.

- C. Agriculturally Related Products:** Items sold at a farm market or agricultural tourism operation to attract customers and promote the sale of agricultural products. Such items include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farm and agriculture in Michigan, including value-added agricultural products.
- D. Agriculturally Related Use:** Those activities that predominantly use agricultural products, buildings or equipment, such as pony rides, corn mazes, pumpkin rolling, barn dances, sleigh/hay rides, and educational events, such as farming and food preserving classes, etc.
- E. Agricultural Storage Facility:** A building or structure or part of a building or structure used for the storage of agricultural products to be later sold or distributed for use by other than the person producing the products. This definition shall include commercial grain elevator facilities but shall not include on-site storage facilities for individual farming operations.
- F. Agricultural Tourism:** Agriculturally-oriented commercial endeavors on active and annually-producing farm properties that are accessory to, and have a direct and intrinsic relationship to the principal agricultural use of the subject property unless determined to be preempted by the Right to Farm Act and the State of Michigan Generally Accepted Agricultural and Management Practices (GAAMPS). Agricultural tourism uses and activities are conducted for the enjoyment or education of the public to promote the products of the farm and to generate additional farm income. Agricultural tourism uses and activities include the following; petting zoos, pony rides, and animal displays; educational events related to agriculture (classes, lectures, farm tours, 4H-related

events, and seminars); bakery and food service in association with a farm market; corn mazes; hayrides/sleigh rides; concession food sales and catered food in association with any other listed use and activity; picnic facilities; playgrounds; historic exhibits; and nature trails.

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

H. Farm Buildings: Any building or structure other than a dwelling, moved upon, maintained, used or erected on a farm which is essential to and customarily used on farms of that type for the pursuit of their agricultural activities.

I. Farm Market: The sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land. (Also known as "on-farm market" or "roadside stand").

J. Farm Operation: the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

1. The generation of noise, odors, dust, fumes, and other associated conditions.
2. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300

of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, as amended.

3. Field preparation and ground and aerial seeding and spraying.
4. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
5. Use of alternative pest management techniques.
6. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
7. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
8. The conversion from a farm operation activity to other farm operation activities.
9. The employment and use of labor.

K. Farm Winery: A winery operated on the same farm at which the grapes or other produce used for making wine or wine-related products are grown or produced.

L. Generally Accepted Agricultural Management Practices: Agricultural management practices as defined and published by the Michigan Commission of Agriculture

M. Non-Agriculturally Related Products: Those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries, etc.

N. Non-Agriculturally Related Uses: Activities that are part of an agricultural tourism operation's total offerings but not tied to farming or the farm's buildings, equipment, fields, etc. Such non-agriculturally related uses include

amusement rides, concerts, wedding ceremonies or receptions, playgrounds, nature trails, gift shops, etc.

Agricultural district: the AG Agricultural and Open Space zoning district.

Alteration: Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; any change in the dimensions or configuration of the roof, exterior walls or foundation, or any change which may be referred to herein as altered or reconstructed.

Animals, Farm: See *Livestock*

Animals, Household Domestic Pet: An animal kept at home for companionship, interest or amusement which is typically kept or may be kept outdoors. This definition includes dogs, cats, rabbits, poultry, fowl, oriental potbellied pigs (*sus scrofa vittatus*) and similar animals not used for commercial purposes and in numbers less than that used in defining a kennel, boarding, breeding or agricultural operation. This definition shall not apply to domestic pets that are generally not kept outdoors, such as birds (other than poultry or other fowl) fish, lizards, snakes, small rodents (such as gerbils, hamsters, guinea pigs, etc) and similar indoor pets.

Apartment: See *Dwelling Unit*.

Apartment House: See *Dwelling, Multiple-family*.

Auction Sales Establishment: A place where objects of art, furniture, or other goods are offered for sale to persons who bid on the object in competition with each other.

Automobile Filling Station: See *Vehicle Filling Station*.

Automobile Sales, Storage: See *Vehicle Sales, Storage*

Automobile Service and Repair Facility: See *Vehicle Service and Repair*

Basement: That portion of a building between floor and ceiling which is partly below and partly above ground level but so located that the vertical distance from grade to the floor below is greater than the vertical distance from grade to the ceiling above. A basement shall not be counted as a story (see **Figure 2-1**).

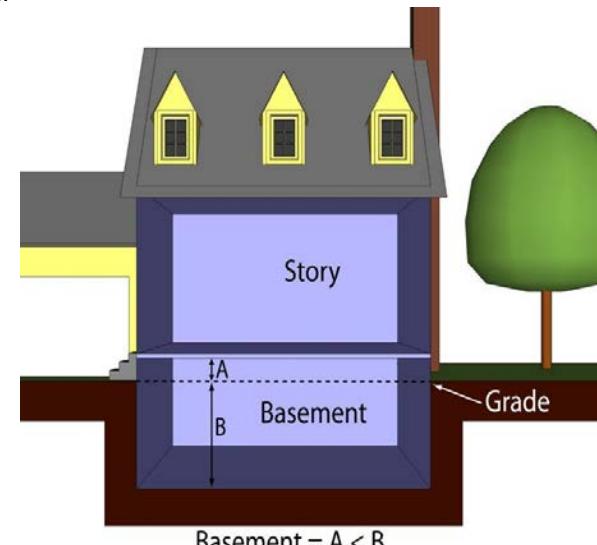


Figure 2-1: Basement

Bed and Breakfast: A structure which was constructed for, and is used as, a single-family residence and is occupied by the owner but which may be used as temporary lodging for travelers/guests. Bedrooms are rented on a nightly basis, with breakfast, as regulated and limited by the State, included in the price of the room subject to the limitations outlined in the Ordinance.

Bedroom: A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom. Bedrooms shall meet all current township building code requirements.

Berm: A mound of earth, a minimum of eighteen (18") inches in height, graded, shaped and improved with sod or

landscaping to provide a visual and/or noise screen and a transition between differing uses.

Best Management Practice (BMP): Structural and non-structural practices and techniques that mitigate the adverse impacts caused by land development on water quality and/or water quantity.

Block: The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the township.

Board: The Antwerp Township Board.

Boarding House: A dwelling that provides lodging for tenants for terms no less than 30 days for compensation where rooms are rented under separate rental agreements or leases. A communal kitchen may be available to tenants and bathrooms may be shared or provided in individual rooms. The owner may provide meals for residents. A boarding house is distinct from a hotel, motel, bed and breakfast, convalescent, nursing, or group home.

Boarding Stables, Commercial: A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises receives compensation. This definition shall also include riding stables and riding academies.

Boathouse: An enclosed or partially enclosed accessory structure designed for the use and storage of private watercraft, general marine and recreational equipment.

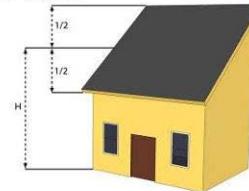
Brewery: An industrial use that brews ales, beers, meads and/or similar beverages on site.

Buffer Zone: See *Greenbelt*.

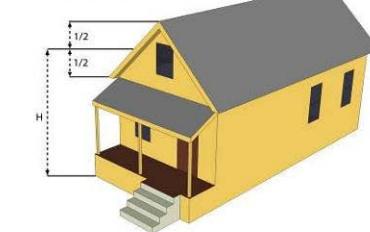
Buildable Area: See *Building Envelope*.

Building: A temporary or permanent independent structure with a roof supported by walls, columns or other supports that is designed for the shelter, housing or enclosure of persons,

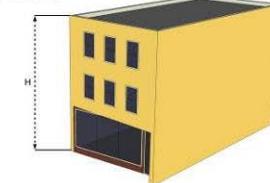
Shed Roof



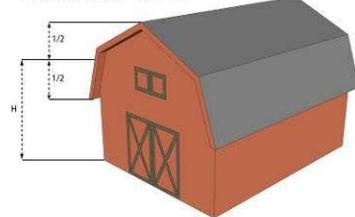
Gable Roof



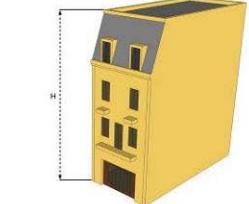
Flat Roof



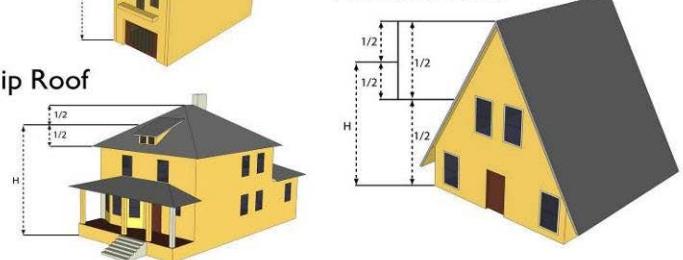
Gambrel Roof



Mansard Roof



A-Frame Roof



Hip Roof



Figure 2-2: Building Height

animals, possessions or property of any kind, or to conduct business activities.

Building Height: The vertical distance measured from the finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs, or to a point equivalent to the foregoing on any other roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. For the purposes of this Ordinance, height shall be determined from the building front (see **Figure 2-2**).

Building Line: A line established, in general, parallel to the front street right-of-way line formed by the building itself extending between each side property line. For the purposes of this ordinance, a minimum building line shall be the same as a front setback line.

Building Site: A lot, parcel of land, or combination or portion of the two, which is used for the construction of a single principal structure.

Business Center: A group of two or more commercial, office or light industrial establishments (or combination thereof) located in one or more buildings, developed in accordance with an overall plan and designed and built as an interrelated project.

Section 2.3. Definitions C – D

Campgrounds: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Carport: A partially open structure, intended to shelter one or more vehicles.

Cattle: All bovine (genus *bos*) animals, bovine-like animals (genus *bison*) also commonly referred to as American buffalo or bison and any cross of these species unless otherwise specifically provided.

Cattle, miniature: All bovine (genus *bos*) animals, bovine-like animals (genus *bison*) also commonly referred to as American buffalo or bison and any cross of these species unless otherwise specifically provided, which are 42" or less at the hip at maturity.

Cemetery: Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings.

Cemetery, Pet: Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased household animals.

Certificate of Occupancy: A document issued by the Township allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all the applicable codes and ordinances.

Change of Use: Any use of a building, structure, or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance or in the State Building Code, as amended.

Child Care Center: See *Day Care Center*.

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professionals. . This term does not include a marihuana collective, cooperative or dispensary or the business of a primary caregiver or other business or use involved in the medical use of marihuana.

Clinic, Veterinary: An establishment where non-human animal patients are admitted for examinations and treatment on an outpatient basis by one or more veterinarians and where patients are not usually lodged overnight.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members, rather than the general public.

Commercial Kitchen or Bakery: A facility for food production, preparation, packaging, warehousing, and shipping, but not on-site dining. Because of the nature of the cooking or food preparation activities, facilities typically have commercial food heat-processing equipment, such as compensating hoods, grease filters, kitchen hoods, and similar types of equipment. Retail sales may occur on-site, or sales may involve off-premise distribution or wholesale.

Commercial district: The GC, General Commercial zoning district.

Commission: The Antwerp Township Planning Commission.

Common Elements: Portions of a condominium project other than condominium units, as described in the condominium master deed as required by State law.

Common Open Space: Land within or related to a development, not individually owned or publicly dedicated, that is designed and intended for the common use or enjoyment of the residents and their guests, including such improvements as necessary.

Composting Facilities: A facility dealing with the controlled process of degrading organic matter.

Conditional Rezoning: A rezoning of property that is conditioned by a specific use and approved site plan that has been voluntarily proposed by the applicant.

Condominium Documents: All those documents required by the Michigan Condominium Act, (PA 59 of 1978, MCL 559.101 et seq., as amended).

Condominium Project: A plan or project consisting of not less than two condominium units established and approved in conformance with the provisions of the Condominium Act, PA 59 of 1978, MCL 559.101 et seq., as amended.

Condominium Subdivision: A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended, MCL 506.101 et seq.

Condominium Subdivision Plan: The drawings and information required by the Michigan Condominium Act (PA 59 of 1978, MCL 559.101 et seq., as amended). For the purpose of this Ordinance, a condominium subdivision plan shall be equivalent to the term "condominium plan."

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

Congregate Care Facility: See *Housing for the Elderly*.

Convalescent Homes: A facility that provides, on a regular basis, personal care, including dressing and eating and health related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing center provides.

Convenience Retail Uses: Any retail establishment offering for sale prepackaged food and beverage products, household items, newspapers and magazines, and sandwiches and other foods, such as salads, for off-site consumption.

Cul-de-sac Street: A street terminated on one end with a turning radius.

Customer brew-on-premises store: A facility that provides the ingredients and equipment for a customer to use to brew and bottle their own beer on the premises. The product brewed by a customer may not be sold and must be used by the customer for personal or family use.

Day Care:

A. Day Care Center: A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. A day care center includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. Such a facility is also referred to as a day nursery, nursery school, child care center, parent cooperative preschool, playgroup, or drop-in center. A day care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks during a calendar year.
2. A facility operated by a religious organization where children are cared for not greater than three hours while persons responsible for the children are attending religious services.
3. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion.

This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.

4. A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- B. Family Day Care Home:** A private home in which six or fewer minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.
- C. Group Day Care Home:** A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Deck: A structure abutting a dwelling with no roof or walls, except for railings, which is constructed on piers or a foundation above-grade for use as an outdoor living area.

Density: The number of dwelling units situated on or to be developed on a net or gross acre (or smaller unit) of land. Net acreage shall be calculated by taking the total gross acreage

and subtracting the area in rights-of-way for streets and roads, unless otherwise specified in this ordinance.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

Direct Access: Access not requiring trespass over adjacent property or rights-of-way.

Drive-in or Drive-Through Facility: A facility that, by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Donation Collection Bin: An unattended outdoor receptacle designed with a door, slot, or other opening that is intended to accept donated items from the public, such as clothing and other household or office goods, and store them for a temporary period of time at a semi-permanent location.

Driveway: A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance.

Dwelling: A building or a portion thereof which is occupied as the home, residence or sleeping place of one or more persons, either permanently or as transients. In no case shall a travel trailer, recreational vehicle, vehicle chassis or tent be considered a dwelling. In the case where a building is occupied in part as a dwelling unit, the part so occupied shall comply with the provisions relative to dwellings.

A. Dwelling, One Family Attached: A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

D. Dwelling, One Family Detached: A one-family dwelling that is not attached to any other dwelling by any means.

E. Dwelling, Multiple Family: A building containing three or more dwelling units designed for residential use where each unit may have access to common hallways, stairs, and elevators, or where each unit may have individual access to a street or common courtyard.

F. Dwelling, One Family: A building designed, arranged, or occupied as a dwelling unit for one family only.

G. Dwelling, Townhouse: A one-family dwelling in a row of two or more such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

H. Dwelling, Two-Family: A structure containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. (Also known as the term "duplex").

Dwelling Unit: A room or rooms within a dwelling connected together, constituting separate independent living quarters for one household, physically separated from any other rooms or dwelling units and containing permanent provisions for its own independent bathroom, sleeping and kitchen facilities.

Section 2.4. Definitions E – F

Easement: A grant of one or more rights by the property owner to and/or for the use by the public, a utility, or another person or entity.

Environmental Impact Statement: Statement and/or drawings and studies detailing the change to a parcel of land or its environment by a particular use of that land.

Erected: Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including wireless telecommunication towers, wind energy conversion systems, office buildings, substations, or structures that are enclosures or shelters for service equipment, or maintenance depots. (see also *Public Utility Facilities*.)

Establishment: Any business or enterprise that utilizes any building, structure, premises, parcel, place, or area.

Excavation: The process of altering the natural grade elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

Equine: All animals of the equine family which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras.

Equine, small: All animals of the equine family which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras, which are 34" or less at the withers at maturity.

Family: Either of the following:

- A. A domestic family, which is one or more persons related by blood, marriage or adoption occupying a dwelling unit and living as a single housekeeping unit in a dwelling.
- B. The functional equivalent of the domestic family, which is persons living together in a dwelling unit whose relationship is of a permanent and distinct domestic character, and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise operating as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, or group, coterie, or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character.

Farm: See *Agricultural and Related Operations*.

Farm Micro Brewery: A brewery producing no more than 30,000 barrels annually that operates on the same property as a working farm at which some of the ingredients used for making ales, beers, meads, and/or similar beverages or related products are grown or produced.

Farm Product: Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products,

cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

Filling: The depositing or dumping of any matter into or onto the ground.

Floor Area, Gross: The sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed courtyards, porches or patios shall not be considered as part of the gross floor area, except where they are utilized for commercial purposes, such as the outdoor sale of merchandise (see **Figure 2-3**).

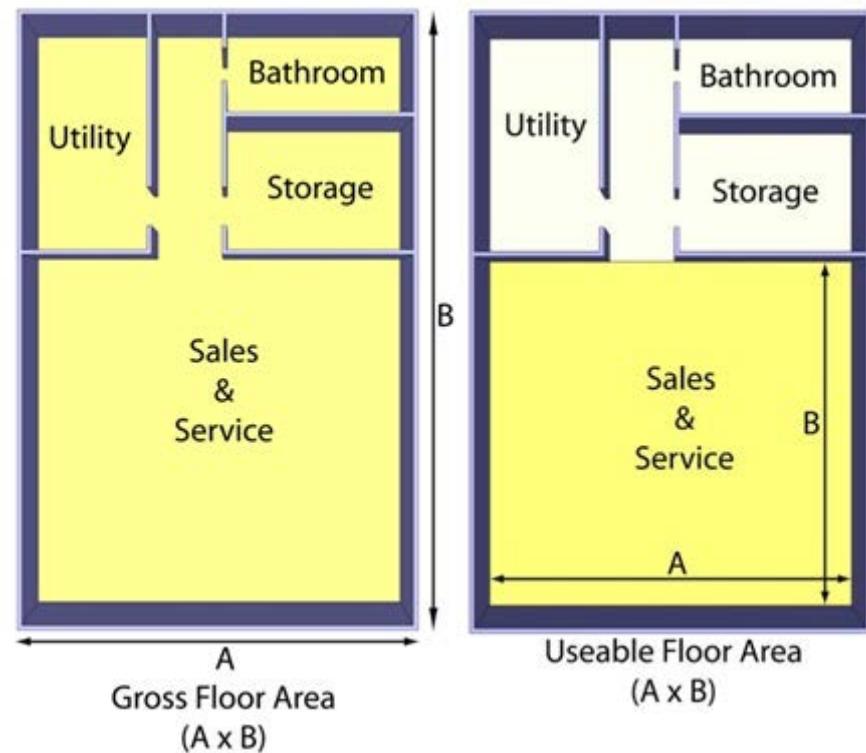


Figure 2-3: Gross and Usable Floor Area

Floor Area, Usable: The area used for or intended to be used for the sale of merchandise or services, or to serve patrons, clients, or customers and all areas devoted to employee work space. The floor area that is used or intended to be used principally for the storage or processing of merchandise, hallways, elevator, stairs, bulkheads or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurements 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 outside walls (see **Figure 2-3**).

Footing: That portion of the foundation of a structure which spreads and transmits loads directly to the soil or the pilings.

Foster Care definitions:

- A. Adult Foster Care Facility:** Facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. "Adult Foster Care Facility" does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.
- B. Adult Foster Care Family Home:** A private residence with the approved capacity 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 must be a member of the household and an occupant of the residence.
- C. Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care.
- D. Adult Foster Care Small Group Home:** A governmental or non-governmental establishment that provides foster care to seven but not more than 12 adults.
- E. Foster Family Home:** A private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code (chapter X of the probate code of 1939, 1939 PA 288), are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

F. Foster Family Group Home: A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code (chapter X of the probate code of 1939, 1939 PA 288), are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

Frontage: See *Lot Frontage*.

Funeral Home or Mortuary: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Funneling: The use of an inland waterfront property, parcel or lot as common open space for waterfront access for development located away from the property (also commonly known as "keyholing"). More particularly, funneling includes, but is not limited to, the use of a waterfront property, parcel or lot for waterfront access by the owners, lessees, or licensees (or by members of the family or occasional guests of any such persons) or any of the following types of property:

- A. Waterfront property under a separate legal description on the County Tax Roll or property accrued under separate deed on file with the County Register of Deeds, as of the effective date of this ordinance.**
- B. Non-riparian property as of the effective date of this ordinance.**
- C. Properties separated from shoreline properties by a public road.**

Section 2.5. Definitions G – H

Garage, Private: Any building for the storage of self-propelled vehicles or trailer coaches where no storage or servicing for hire is conducted.

Garage, Public: Any garage which is not private.

General Amusement Attraction: A facility, building, outdoor area, or course that is arranged for customers to be entertained or amused by theatrical displays, imagery, and general attractions.

Governmental Agency: Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or governmental unit.

Grade: The ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the grade for each face of the building.

Greenbelt: A strip of land of definite width and location reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties of differing intensity or density.

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

Home and Garden Centers: see *Landscaping/Home and Garden Center*.

Home Based Business: a business operated on the same property as a single family dwelling that is of a nature and intensity such that the activity and equipment associated with the business is not customarily found on a single family property, such as artisan equipment (e.g., woodworking machines, pottery wheels and kilns, and similar), or equipment, vehicles or processes of a more intensive nature, such as that used by construction contractors, landscaping contractors, and similar. A home based business is operated by the occupant(s) thereof, and is clearly an incidental and secondary use of the residential property. A hobby or activity pursued for enjoyment and not for monetary gain, provided it is conducted in such a manner as to be in compliance with the provisions of this Ordinance, shall not be considered to be a home based business.

Home Occupation: Any use customarily and traditionally conducted entirely within a single family dwelling or accessory structure which, except for a sign allowed by this Ordinance, is generally not discernible from outside the dwelling, is carried on by the occupant(s) thereof, only utilizes equipment customarily found in a single family dwelling, such as a computer and computer peripherals, telephone, and similar, and which is clearly incidental and secondary to the use of the residence for dwelling purposes.

Hospital: An institution or place where sick or injured inpatients are given medical or surgical care at either public or private expense, and operating under license from the Michigan Department of Public Health.

Hospital, Veterinary: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Household: All persons who occupy a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, regardless of their relationship to one another.

Household Domestic Pet: An animal kept at home for companionship, interest or amusement that is typically kept or may be kept indoors and not raised for the production of products or for sale. This definition includes dogs, cats, oriental potbellied pigs (*sus scrofa vittatus*) and similar animals not used for commercial purposes and in numbers less than that used in defining a kennel, boarding, breeding or agricultural operation. This definition includes domestic pets that are generally not kept outdoors, such as birds (other than poultry or other fowl), fish, lizards, snakes, small rodents (such as gerbils, hamsters, guinea pigs, etc.) and similar indoor pets.

Housing for the Elderly: A building or group of buildings containing dwellings where occupancy is intended for or restricted to persons 62 years of age or older, or couples where either spouse is 62 years of age or older. This does not include an adult foster care facility or nursing home.

Section 2.6. Definitions I – J – K

Impervious Surface: Any material that substantially reduces or prevents the infiltration of stormwater into land, including gravel or crushed rock travel surfaces, buildings, paved driveways, concrete patios, parking lots and drives, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed. Impervious surfaces do not include fences, walls, or hedges used as fences, unroofed decks or patios, swimming pools, materials used as stormwater best management practices (BMPs), and other similar improvements that allow stormwater infiltration.

Industrial district: the LI, Light Industrial zoning district.

Junk: Any motor vehicles, machinery, appliances, products, or merchandise with parts missing or scrap metals or other trash, rubbish, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building. Further, any inoperable or abandoned motor vehicle which is

not licensed for use upon the highways of the State of Michigan for a period in excess of 30 days, and any motor vehicle, whether so licensed or not, which is inoperative for any reason for a period in excess of 30 days and which is not in a completely enclosed building. It does not include domestic refuse if it is stored so as to not create a nuisance and is 30 feet or more from any residential structure for a period not to exceed seven days.

Junkyard or Salvage Center: Includes vehicle wrecking yards and any area of more than 200 square feet for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of motorized vehicles, or machinery or parts thereof, but does not include uses established entirely within enclosed buildings.

Kennel, Commercial, and Pet Services: Any lot or premises on which six or more dogs or cats or other household pets, six months old or over, are kept temporarily or permanently for sale, boarding, breeding, training, competition, showing, or day care.

Kennel, Private: Any lot or premises on which more than two dogs or cats or other household pets, six months old or over, that are owned by the resident, are kept.

Keyholing: See *Funneling*

Section 2.7. Definitions L – M

Landfill: Any premises used primarily for disposal of trash, refuse or waste material of any kind, by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose.

Landscaping:

- A. An expanse of natural scenery;
- B. Lawns, trees, plants, including existing vegetation, and other natural materials such as rocks and wood chips arranged in a natural or formal manner.

Landscaping/Home and Garden Center: A commercial sales establishment selling landscaping materials, home improvement materials and tools and related accessories.

Library: An establishment that lends reading material, music, video, and related products to the public and which may also provide related services and part-time social activities.

Limited Common Elements: Portions of the common elements reserved in the condominium master deed for the exclusive use of less than all of the co-owners.

Livestock: Grazing animals kept either in open fields or structures for training, boarding, home use, sales, breeding and production, customarily kept on farms for profit or other productive purposes. This definition does not include bees, household domestic pets, poultry and fowl.

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

Lot: Land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records (see **Figure 2-4**).



Figure 2-4: Lot types and lot lines

- A. **Lot, Corner:** A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, and any two chords of which form an angle of 135 degrees or less. Each yard must also comply with the front set back.
- C. **Lot, Flag:** A lot that does not comply with frontage and width requirements and where access to the building

envelope is provided by a narrow strip of land extending to a public or private street.

- D. Lot, Interior:** Any lot other than a corner lot.
- E. Lot, Through:** Any interior lot having frontage on two or more parallel streets as distinguished from a corner lot.
- F. Lot Width:** The horizontal distance between the side lot lines, measured at the two points where the minimum building line, or setback, intersects the side lot line.
- G. Lot, Zoning:** A single tract of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developed as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the Van Buren County Register of Deeds, but may include one or more lots of record.

Lot Area: The total lot area as deeded.

Lot Coverage: The amount of a lot, stated as a percentage, which is covered by impervious surfaces. Lot coverage for buildings shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof. For the purposes of calculating the total percentage of a lot covered by impervious surfaces, the square footage of gravel and crushed rock surfaces may be reduced by 20 percent.

Lot Depth: The average distance measured from the front lot line to the rear lot line as deeded.

Lot Frontage: The length of the front lot line, as deeded, measured at the road right-of-way line, except as provided for flag lots.

Lot Lines (see Figure 2-4)

- A. Front Lot Line:** The front lot line shall mean the line separating a deeded lot from the street right-of-way. A corner lot has two front lot lines and a multi-frontage lot has multiple front lot lines. Lot lines separating deeded lots from I-94 right-of-way are not front lot lines.
- B. Rear Lot Line:** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or flared lot, the rear lot line shall be a line at least 10 feet in length entirely within the lot parallel to and at the maximum distance from the front lot line as deeded.
- C. Side Lot Line:** Any lot line not a front lot line or a rear lot line.

Lot of Record: A lot that actually exists in a subdivision plat as shown on the records of the Van Buren County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has also been recorded. Whenever an owner has combined two or more lots as contained on any recorded plat into a single building site, or combined two or more lots contained on any recorded plat in the records of the Township Assessor or Treasurer, the combination of lots shall be deemed to be a single lot of record for the purposes of this Ordinance.

Major Thoroughfare: See *Streets*.

Manufactured Home: A factory built, single-family dwelling that meets the national manufactured Home Construction and Safety Standards Act, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.

Manufactured Home Park: A parcel or tract of land under the control of an individual, partnership, association, trust, corporation, or any other legal entity or combination of legal entities upon which three or more mobile/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 occupancy of a manufactured home or trailer coaches.

Manufactured Home Site: A parcel of land, within a manufactured home park, designed for the placement of a single manufactured home.

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Marginal Access Drive: A street that is parallel to and adjacent to a primary street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the primary street and so that the flow of traffic on the primary street is not impeded by direct driveway access from a large number of abutting properties.

Marihuana:

A. Marihuana, also known as *marijuana*, also known as *cannabis*. That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marihuana used in this ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

B. Marihuana Collective, Cooperative or Dispensary: Any facility, structure, dwelling or other location where medical

marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to an individual registered primary caregiver that provides necessary care and medical marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective, cooperative or dispensary" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirm; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a for-profit or nonprofit marihuana dispensary, collective or cooperative within the Township, even if such use is intended for the medical use of marihuana.

C. Marihuana Dispensary or Dispensary: See *Marihuana Collective, Cooperative or Dispensary*.

D. Medical Use of Marihuana. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the

debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq.

Massage Establishment: See *Adult Physical Culture Establishment*.

Master Deed: The condominium document recording the condominium project to which are attached, as exhibits and incorporated by reference, the approved bylaws for the condominium project and the condominium plan for the project. The master deed shall include all the information required by MCL 559.108, as amended.

Master Plan: The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions, and includes any unit or part of such plan, and any amendment of such plan or parts thereof.

Medical Marihuana Facility: A location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016.

A. Grower: A facility where the operation cultivates, dries, trims, cures, or packages marihuana for sale to a processor, provisioning center, or another grower.

B. Processor: A facility where the operations involve extracting resin from the marihuana or creating a marihuana-infused product for sale and transfer in packaged form to a provisioning center or another processor.

C. Provisioning Center: A facility where the operations involve selling, supplying, or providing marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of the Medical Marihuana Facilities Licensing Act, Act 281 of 2016 and the Antwerp Township Zoning Ordinance.

D. Safety Compliance Facility: A facility where the operations involve taking marihuana from a marihuana facility or receiving marihuana from a registered primary caregiver, testing the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returning the test results, and sometimes returning the marihuana to the marihuana facility.

E. Secure Transporter: A facility where the operations involve storing marihuana and transporting marihuana between marihuana facilities for a fee.

Mezzanine: An intermediate floor in any story occupying not more than one-third (1/3) of the floor area of that story.

Mineral Extraction: The extraction from the ground of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gas, including any processing or handling on the same site of the minerals.

Mini-Warehouse/Self-Storage Facility: A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to

different tenants for the dead storage of customers' goods and wares.

Mobile Donation Collection Equipment: A mobile type of equipment placed or parked outdoors that is designed with a door, slot, or other opening that is intended to accept donated items from the public, such as clothing and other household or office goods, and store them for a temporary period of time.

Motel: A building or a group of buildings operated and used as a unit to furnish overnight sleeping accommodations, primarily for transient occupancy. The term "Motel" shall include tourist cabins, motor courts, motor lodges, hotels and similar facilities, but it shall not include rooming houses, boarding houses, tourist homes, apartments, or multiple dwellings. Not more than 10 percent of the units shall have kitchenettes or cooking facilities. This definition shall also include the term "Hotel."

Motor Home: See *Recreational Vehicle*.

Motor Vehicle, Inoperable or Abandoned: Any wheeled vehicle which is self-propelled and intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

Section 2.8. Definitions N – O

Nonconforming Structure: A building or portion thereof lawfully existing at the effective date of this Ordinance, or affecting amendment, that does not conform to the current provisions of the Ordinance in the district in which it is located.

Nonconforming Lot of Record: A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, that fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

Nonconforming Use: A use of a building or of a parcel of land, lawfully existing at the effective date of this Ordinance, or affecting amendment, that does not conform to the current regulations of the zoning district in which it is located.

Nuisance: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise of a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

Nursery/Greenhouse: A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees or similar vegetation together with gardening tools and implements which are sold at retail from such building or lot to the general public.

Nursery School: See *Day Care Center*.

Nursing Home: A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, being Sections 36.1 to 36.12 of the Michigan Compiled Laws, which provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

Occupied: Includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

Office: A place, such as a building, room, or suite, in which services, clerical work, professional duties or the like are carried out.

Off-Street Parking Lot: A facility providing vehicular parking spaces for more than three vehicles along with adequate drives and aisles for maneuvering within the facility and to provide access for entrance and exit to the facility.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Ordinary High Water Mark: The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present. (Section 324.30101 of Public Act 451 of 1994, as amended.)

Outdoor Display or Sales: The outdoor placement of retail goods, construction equipment, lawn equipment, sheds, landscaping materials, building materials, commercial trailers, cars, trucks, vans, motorcycles, recreation vehicles, and other similar goods for display or sale on permanently established sales areas on a commercial property. This use includes any preparation, service, or repair work conducted as an accessory use.

Outdoor Donation Collection Facility: A donation collection bin or mobile donation collection equipment located in an outdoor setting that provides the general public with the opportunity to voluntarily donate items for which no valuable consideration is given in exchange.

Outdoor Storage: The outdoor placement of goods for commercial purposes, such as building or construction

materials, equipment, landscaping materials, aggregate, vehicles, trailers, and other supplies for future use, production, assembly, preservation, or disposal. This definition does not include materials related to permitted on-site construction projects.

Section 2.9. Definitions P – Q

Parcel: A lot described by metes and bounds or described in a recorded plat.

Park: A tract of land designated and used by the public for active and passive recreation.

Parking Space: Space within a parking area or building, of definite length and width, exclusive of driveways, ramps, aisles, or entrances giving access thereto, for the parking or storage of one permitted vehicle.

Patio: An uncovered courtyard or platform, usually (but not always) extending horizontally out from the main building or structure, which is less than six inches above the surrounding grade.

Person(s): This definition shall include a corporation, company, association, society, firm, partnership, LLCs or joint stock companies as well as an individual, state and other political subdivisions of a state or any agency or instrument thereof.

Personal Service Establishment: A business that provides services involving the care of a person or his or her personal goods or apparel. This definition includes, but is not necessarily limited to, repair shops (watches, shoes, radio, television, etc.), tailor shops, barber and beauty shops, hair stylists, photography studios, laundries or any combination.

Place of Worship: A building primarily designed and constructed for organized religious services, maintained and

controlled by a religious body organized to sustain public worship, together with all accessory structures and uses customarily associated with such primary purpose.

Planned Unit Development: An area of a minimum contiguous size, as specified by this Ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential neighborhoods, appropriate commercial, public or private recreational uses, and common open space areas in such combination as provided in this Ordinance.

Planned Unit Development Agreement: A written agreement specifying the details of a planned unit development submittal and the conditions under which the submittal received final approval.

Planning Commission: The Antwerp Township Planning Commission.

Plat: A map of a subdivision of land recorded with the Register of Deeds pursuant to the Subdivision Control Act, PA 288 of 1967, Land Division Act, PA 591 of 1996 (MCL 560.101 et seq.), as amended.

Playground: An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

Pond: A natural or manmade body of water used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation, and other related uses for the personal use of the property owner and/or tenants.

Porch: A covered projection on a building or structure containing a floor, which may be either totally enclosed or open except for columns supporting the porch roof, and projects out from the main wall of the building or structure, and has a separate roof or an integral roof with the principal

building or structure to which it is attached. An enclosed space that is heated or air conditioned, or a room where the percentage of window area is less than fifty percent (50%) of the wall area, shall not be considered a porch.

Principal Building: The building on a lot in which the principal use of the lot is conducted.

Principal Use: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

Private Road or Street: A privately owned and maintained roadway serving three or more parcels of land or residential building sites and constructed on a privately owned easement.

Private Stable: A structure for the sheltering of one or more horses owned by a resident or residents dwelling on the same premises, which is not used for any commercial boarding, breeding or training of horses or any other commercial purpose.

Private Sanitary Sewage Disposal System: An individual on-site sewage disposal system as defined in the Van Buren County Health Department Sanitary Code.

Private Water Supply: A well or other water supply system approved by the Van Buren County Health Department pursuant to Part 127 of the Public Health Code, PA 368 of 1978, as amended.

Professional Service Establishment: The office or other working space used by a member of a profession for the conduct of that profession. This definition includes, but is not limited to, offices of doctors, dentists, real estate companies, insurance companies, and attorneys. This definition shall not include Adult Personal Service Establishments, as defined herein.

Public Facility: Any facility other than a recreation area which is maintained by public funds, including, but not limited to, libraries, museums, administrative offices, and fire and police stations. This definition does not include schools, community hospitals or any facility involving outdoor storage.

Public Open Space: Land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Public Sanitary Sewer: A system of pipe owned and maintained by a governmental unit, or an authority or commission comprised of one or more governmental units, used to carry human, organic and industrial waste from the point of origin to a point of discharge.

Public Utility: Any persons, firm, corporation, municipal department, board, or commission duly authorized to furnish and furnishing, under Federal, State or municipal regulations to the public: electricity, gas, sanitary sewers, steam, communications, telegraph, transportation, or water services.

Public Utility Facilities: Building, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

Public Water Supply: A water supply system owned by a governmental unit or an authority or commission comprised of one or more governmental units.

Section 2.10. Definitions R – S

Radio and Television Broadcasting Station: An establishment engaged in transmitting audio or video

programs to the public and that consists of a studio, transmitter, and antennas.

Recreation Facility and Health Club, Indoor, (commercial): A recreation facility that is completely housed within a building and which is operated as a business and open to the public. Included in this definition are bowling alleys, pool halls, indoor soccer facilities and arcades.

Recreation Facility, Outdoor (commercial): An outdoor recreation facility operated as a business and open to the public. Buildings and structures that are located on the property are accessory to the primary outdoor nature of the activities provided. Included in this definition are golf courses, baseball, softball and soccer fields, archery and shooting ranges, riding stables and campgrounds.

Recreational Vehicle: any type of vehicle used primarily for recreation. Examples include but are not limited to travel trailers, motor homes, boats, snowmobiles, etc. as well as any trailer used to transport them. Recreational vehicles shall include any mobile structure designed for temporary occupancy, but shall exclude manufactured homes.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Repair and Light Assembly Shops: Any establishment specializing in the repair or assembly of products that may include bicycles, appliances, outdoor equipment, electronics, furniture, clothes and similar items.

Research Facilities: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

Residential District: The R-1, R-2 or R-3 zoning districts.

Restaurant: Any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state and whose design or principal method of operation includes one or more of the following characteristics:

- A. A standard, "sit-down" operation at which customers, normally provided with an individual menu, are served foods, desserts, and/or beverages by a restaurant employee at the same table or counter at which said items are consumed.
- B. A cafeteria type of operation where foods, desserts, and/or beverages are received in a cafeteria line and are generally consumed within the restaurant building.
- C. A carry-out operation where foods, desserts, and/or beverages are usually served in paper, plastic, or other disposable containers, and where the consumption of foods, desserts, or beverages is intended primarily to be consumed off the premises.
- D. A fast food operation where customers are served by ordering at a counter and food, desserts and/or beverages are delivered directly to the customer at a counter or brought to the customer in a seating or waiting area; and foods, desserts, or beverages are usually served in paper, plastic, or other disposable containers.
- E. **Restaurant with Drive-through Facilities:** A restaurant in which the foods, desserts, and/or beverages are provided to the customer in a ready-to-consume state and whose design or method of operation includes the following characteristics:
 1. Foods, desserts, or beverages are ordered by and served directly to the customer in a motor vehicle,

either by restaurant personnel ("carhop") or through a service window from within the building.

2. The consumption of foods, frozen desserts, or beverages takes place within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, or is taken off the site for consumption elsewhere.

Restoration: The reconstruction or replication of an existing building's original architectural features.

Restrictive Covenant: A provision in a deed restricting the use of property and prohibiting certain uses. Such restrictions are binding on subsequent owners. Unless the Township has an ownership interest in the property, a restrictive covenant is enforced by the parties to the agreement, not by the Township. (Also known as a deed restriction.)

Right of Way: A strip of land acquired by reservation, dedication or condemnation and intended to be occupied by a road, crosswalk, railroad, utility line or other similar uses.

Right of Way Line: The legal line of demarcation between a street right-of-way and abutting land.

Riparian Buffer: A protected and regulated area next to a surface water feature where development is limited. Buffers preserve water quality by filtering sediments and pollutants from stormwater before it enters the surface water feature, protects banks from erosion, provides storage area for flood waters, preserves open space, provides food and habitat for wildlife and slows stormwater velocity.

Road: See Street.

Roadside Stand: A temporary structure used solely by the owner, manager or tenant of the land on which it is located for the sale of produce grown on said land. This does not allow

the sale of produce or other commodities on a state or county road right-of-way.

Sanitary Landfill: A tract of land developed, designed and operated for the disposal of solid waste in a manner consistent with criteria established by Act 641 of the Michigan Public Acts of 1978, as amended, and any rules or regulations established based on this Act.

School: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

- A. Schools, Colleges and Universities:** An educational institution authorized by the state to award baccalaureate or higher degrees.
- B. Schools, Trade/Commercial:** A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.
- C. School, Parochial:** A school supported and controlled by a church or religious organization.
- D. School, Private:** Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.
- E. School, Public:** Any school licensed by the state and that meets the state requirements for public education.

Screening: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Self-Storage Facility: See *Mini-Warehouse/Self-Storage Facility*.

Service Area: An outdoor area used, in connection with a nonresidential use, for loading and unloading operations and for the receipt and temporary storage of goods, materials, and equipment.

Setback: The minimum required horizontal distance measured from the lot lines to a building as designated by the applicable zoning district (see **Figure 2-5**). Setbacks shall not apply to buildings less than fifteen (15) square feet.

- A. Front Setback Line.** The line marking the required setback from the road right-of-way or road easement that establishes the required front yard setback. Front setback lines and front yards are not established along I-94 right-of-way
- B. Rear Setback Line.** The line marking the required setback distance from the rear lot line that establishes the required rear yard.
- C. Side Setback Line.** The lines marking the required setback distance from the side lot lines that establish the required side yards.

Shore Line: The area where land and water meet, established at the ordinary high water mark along watercourses and on water bodies.

Sign: Any announcement, declaration, display, billboard, illustration, and insignia when designed and placed so as to attract general public attention, including the use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known and visible to the general public such as are used to show an individual firm, profession, business, or business location, and also any banner, bulbs, or other lighting devices, streamer, pennant, balloon, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind whether bearing lettering or not. Specific definitions applying to signs are provided in Section 12.4

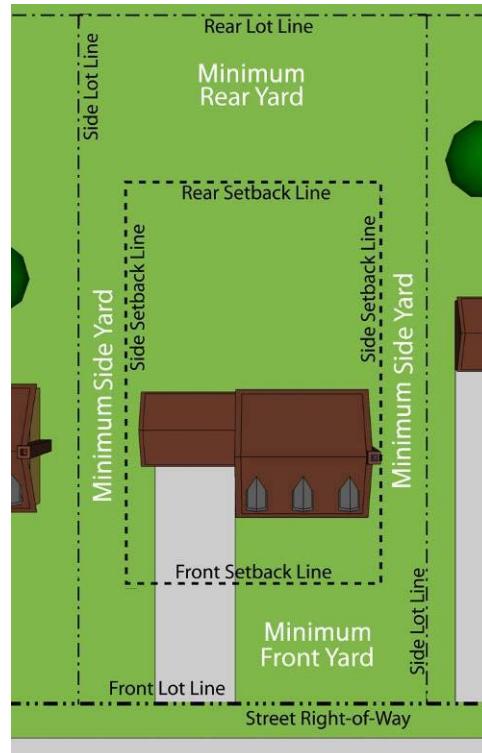


Figure 2-5: Setbacks

Single Ownership: One or more parcels of land held entirely in the same ownership, which may include one or more persons and may be in any form.

Site Plan: A plan showing all salient features of a proposed project, so that it may be evaluated in order to determine whether the request meets the provisions of this Ordinance.

Sketch Plan: A minimal site plan for uses that have minimal impact upon the land or surrounding uses.

Solar Energy

- A. **Accessory Non-Commercial Building-Mounted Solar Energy System:** A solar energy collector attached to the roof or wall of a building.
- B. **Accessory Non-Commercial Ground-Mounted Solar Energy System:** A solar energy collector that is mounted directly to a support structure on the ground and is not connected to a building. The system is intended to generate energy for the principal and accessory land uses and buildings on the lot or parcel of land on which the system is located.
- C. **Commercial Solar Energy System:** A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Also known as a solar farm.
- D. **Non-Participating Parcel:** A parcel that is not a participating commercial solar energy parcel.
- E. **Participating Commercial Solar Energy Parcel:** A parcel of land that is to be used, occupied, maintained, let, leased, or authorized to be used for any purposes of developing a commercial solar energy system, including the construction of improvements, providing access to improvements, or to meet zoning requirements.

F. **Responsible Party:** The party responsible for the construction, maintenance, and/or long-term operation of a commercial solar energy system. The responsible party may be the owner or lessee of the land on which the commercial solar energy system is established.

G. **Solar Energy Collector:** A panel, or series of panels, along with associated equipment, that collect, store, distribute, and/or transform solar, radiant energy into electrical, thermal, or chemical energy.

Solid Waste: Garbage, rubbish, paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, ashes, incinerator residue, street cleanings, municipal and industrial sludges, and solid commercial and solid industrial waste, animal waste, but not including human body waste, liquid or other waste regulated by statute, ferrous or nonferrous scrap directed to a scrap metal processor or to a re-user of ferrous or nonferrous products, and slag or slag products directed to a slag processor or to a reuser of slag or slag products.

Stop Work Order: An administrative order either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

Story: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined shall not be counted as a story when the space meets the definition of a basement.

Story, Half: An uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy five (75) percent of the floor area of the story immediately below. Tri-level shall be considered one and one-half story.

Street: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. For purposes of this Ordinance, "Streets" shall be defined to also include the term "Roads." Streets are further classified by the functions they perform.

A. **Street, Arterial:** A street primarily designed for the efficient movement of through traffic at speeds which are as high as can be reasonably allowed in view of safety considerations and the amount of access also being provided. Capacity is obtained by provision of wide street cross sections and high capacity controls at intersections, or by elimination of intersections by grade separation. Speed results from provision of good horizontal and vertical alignments and removal of potential safety hazards, especially access friction.

B. **Street, Collector:** A street primarily designed to provide access to abutting land parcels and also enable moderate quantities of traffic to move expeditiously between local streets and the major street network.

C. **Street, Local:** A street primarily designed to provide access to immediately adjacent properties. Through movement may be possible but is not encouraged by operational controls; it may be impossible in the case of cul-de-sacs. Part of the street width is usually allocated to vehicle parking without restrictions, although special snow emergency parking prohibitions may be necessary. Each abutting property may have a driveway connection to the street.

D. **Street, Private:** A privately maintained area used for ingress and egress to serve more than two parcels of land or residential building sites and constructed on a privately owned easement.

E. **Street, Public:** A thoroughfare which affords a principal means of access to abutting property and which has been

accepted either expressly or impliedly, by the Van Buren County Road Commission or other public road agency as a public street, or is used as such by the public.

Structural Alteration: Any change in the supporting members of a building or structure, such as bearing walls, or partitions, columns, beams, or girders, stairways, or any change in the width or number of exits, or any substantial change in the roof.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Subdivision: The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

Surface Water Feature: Lakes, ponds, watercourses and wetlands.

Swimming Pool: Any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of greater than 24 inches.

Section 2.11. Definitions T – U – V

Tavern (nightclub, lounge, bar): A commercial establishment licensed to sell at retail and serve beer, wine, liquor or other alcoholic beverages for consumption on the premises and where the service of food is incidental to the sales and consumption of such beverages. Taverns include nightclubs, lounges and bars.

Temporary Housing: A manufactured home without permanent foundation or footings or a recreational vehicle serving as a dwelling that is established for a limited duration and removed when the designated time period has lapsed, as regulated by the Zoning Administrator.

Temporary Use:

- A. A use established for a limited duration, set forth by the Zoning Board of Appeals, with the intent to discontinue such use when the designated time period has lapsed.
- B. A use or building permitted by the Township to exist during periods of construction of the main building or use, or for special events.

Topographical Map: A map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Township Engineer: The professional either employed by or under contract with the township to perform engineering reviews and services.

Travel Trailers: See *Recreational Vehicle*.

Usable Floor Area: See *Floor Area, Usable*.

Use: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Variance: Permission to depart from the literal requirements of this Ordinance.

Vehicle Repair: A building or land used for caring for, servicing, repairing, refinishing, equipping, adjusting or otherwise working on vehicles for compensation. For the purposes of this Ordinance, there shall be two classes:

- A. Vehicle Repair, Minor** includes sale and installation of oil and other fluids (other than fuel); installation of tires, batteries and other components that are manufactured elsewhere; interior upholstery; and other repairs and refurbishing of a minor nature.
- B. Vehicle Repair, Major** includes, but is not limited to, major engine, mechanical and body work, painting and rustproofing, and other vehicle repair work creating noise, glare, fumes, or smoke, not including wrecking, junking, or salvaging of vehicle parts.

Vehicle Service Station: Any building, land area, other premises, or portion thereof, used for the retail sales of gasoline, oil, grease, batteries, tires and other operational fluids and accessories for vehicles, which may also include minor vehicle repair. A vehicle service station may also include an accessory retail use, which may include but not be limited to a fast food restaurant (with or without a drive-through facility), gift shop, or convenience retail use.

Vehicle Service Station, Accessory Retail Use: The sale of convenience retail items commonly consumed by travelers (i.e., soft drinks, candy, packaged snacks, bread, milk, juice, cigarettes, and sundry items), and/or a fast food restaurant in which food is ordered at a counter or similar station or via a drive-through facility and consumed on or off the site, provided in connection with an Vehicle Service Station, provided such use(s) is/are clearly incidental to the principal vehicle service station use.

Vehicle Sales, Indoor: The use of any building for the indoor display and sale of new or used vehicles, including cars, trucks, vans, motorcycles, and recreation vehicles, and any vehicle preparation or repair work conducted as an accessory use.

Vehicle Wash Establishment: Any building or premises or portions thereof regularly used for washing vehicles, (also referred to as Car Wash).

Veterinary Clinic: See *Clinic, Veterinary*.

Veterinary Hospital: See *Hospital, Veterinary*

Section 2.12. Definitions W – X – Y – Z

Watercourse: Any waterway including a river, stream, channel, creek, ditch, canal, conduit, culvert, drain, gully, ravine, or wash, in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks, and shall include any area on adjacent tracts subject to inundation by reason of overflow of floodwater. [Amended 3/10/15]

Warehousing, Storage, Distribution, and Truck Terminals: Facilities for redistributing goods from one truck to another that serve as intermediate transfer points and are primarily used for staging loads and temporary storage. This definition does not include public truck stops.

Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

Wetland, regulated: A wetland area that satisfies the characteristics and location requirements to qualify as a wetland, according to the definition in Section 324.30301 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

Wind Energy Conversion System (WECS):

- A. A wind energy conversion system (see **Figure 2-6**) is a combination of:

1. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-

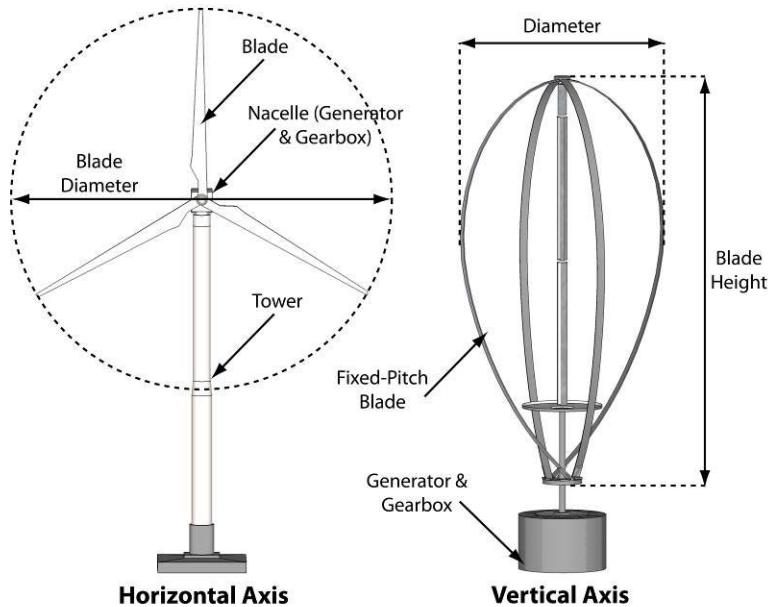


Figure 2-6: Wind Energy Conversion Systems

producing device; and

3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
4. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
5. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
6. A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground, or a vertical axis, with a rotor that spins parallel to the ground.

B. WECS Height: The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position). The height of a building mounted WECS shall be measured from the grade of the building upon which it is attached.

C. On-site Service WECS : A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.

Winery: The retail and/or manufacturing premises of a small winemaker or winemaker licensee as defined by the Michigan Liquor Control Commission.

Wireless Communication Facility:

A. Wireless Communication Facilities. All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be

limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. This definition does not include "reception antenna" for an individual lot as otherwise defined and regulated in this zoning ordinance.

- B. Attached Wireless Communication Facilities.** Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, towers, water tanks, or utility poles.
- C. Wireless Communication Support Structures.** Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
- D. Collocation.** Location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas within the township.

Yard: An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings, and the nearest lot line and is unoccupied from the ground upward, except as otherwise provided herein (see **Figure 2-7**).

- A. Yard, Front:** 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 nearest point of the

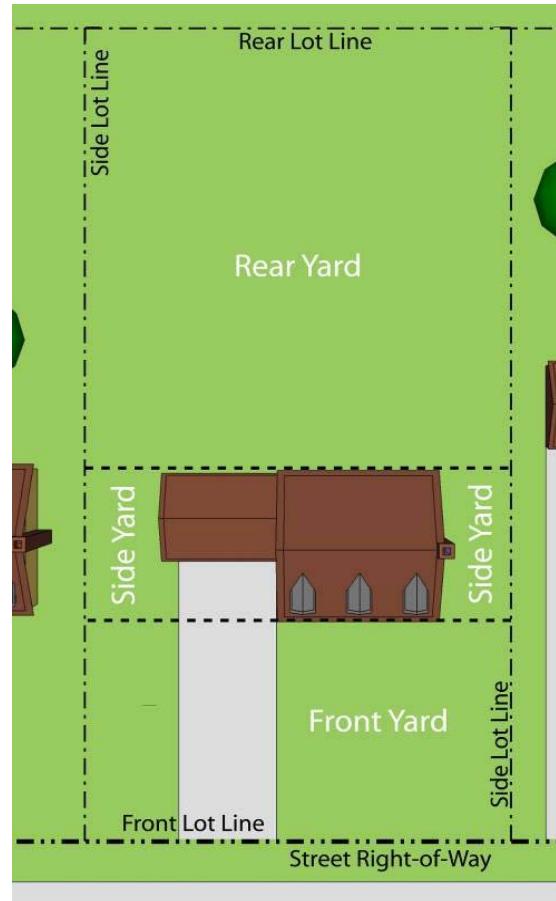


Figure 2-7: Yards

principal building. A corner lot has two front yards and a multi-frontage lot has multiple front yards.

- B. Yard, Rear:** An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

- C. Yard, Side:** An open space between a building and the side lot line, extending from the front yard to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the building or structure
- D. Yard, Required:** The area within the required setback on all four building sides.

Zoning Act: The Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Zoning Administrator: The authorized individual charged with the responsibility of administering this Ordinance and appointed by the Township Board.

Zoning Board of Appeals: The Antwerp Township Zoning Board of Appeals.

Zoning District (Zone): A portion of the Township within which specific regulations and requirements, or various combinations thereof, apply as provided in this Ordinance.

CHAPTER 3 GENERAL PROVISIONS

Section 3.1. *Principal use per lot*

A lot or parcel shall not be devoted to more than one principal use, or contain more than one principal building, except for mixed uses where permitted by this Ordinance, or groups of multiple family buildings, or retail, industrial or agricultural buildings which are determined by the Zoning Administrator to be a principal use collectively, based on the following considerations:

- A.** Individual buildings share common parking areas;
- B.** access to the buildings/uses is provided via shared access drives or streets;
- C.** buildings are under single ownership;
- D.** individual activities support one another (such as auto dealership/vehicle repair or a convenience store/restaurant/gas station), unless it is a mixed commercial and residential use allowed by this Ordinance; or
- E.** the buildings are architecturally consistent and compatible.

Section 3.2. *Similar uses*

- A. Intent.** Since every potential land use cannot be addressed in the Zoning Ordinance, each district may accommodate similar uses, as referenced in this section.
- B. Determination.** All applications for a use not specifically addressed in a zoning district, or inquiries concerning a use, shall be submitted to the Zoning Administrator for review and a determination.
 - 1. Factors.** The Zoning Administrator shall base the determination on the following factors:

- a.** The proposed use is not listed as a permitted or special land use in any other zoning district.
- b.** The use is consistent with the district purpose.
- c.** The use is similar to other allowed uses relative to its character, scale, and overall compatibility.
- d.** The use is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable zoning district.
- e.** The use would not be more appropriate within a different zoning district.

- 2. Planning Commission.** The Zoning Administrator may, in their sole discretion, submit a proposed use to the Planning Commission for a similar use determination if consideration of the review factors does not lead to a clear conclusion.
- C. Compliance.** If a proposed use is determined to be similar to a permitted use within the district, the similar use shall comply with all the standards or requirements associated with the permitted use. If the named use is a special land use within the applicable zoning district, the similar use shall be reviewed and approved per the applicable requirements for the named use.
- D. Determination.** The determination of whether a proposed use is similar to another listed use shall be considered as an interpretation of the use regulations and is not determined to be a use variance. Once a use has been determined to be similar, it shall be specifically determined to be the named use with which it shares similarities.

E. Prohibited Use. If a use is not specifically listed anywhere in this ordinance and is not determined to be similar to any other specifically listed uses, the use is prohibited.

F. Accessory Uses. Accessory uses are permitted in conjunction with all permitted and special land uses. The Zoning Administrator shall review and determine allowable accessory uses to ensure they are customarily associated with the permitted or special land use and are incidental and subordinate to the principal use.

Section 3.3. Front setback requirements

- A.** All yards abutting upon a public street right-of-way or private street easement, except for I-94 right-of-way, shall be considered as front yards for setback purposes, except as provided for accessory buildings on double frontage lots.
- B.** For the purpose of this Section, the front yard setback for lakefront property shall be measured from the median shoreline on the premises as measured from lot line to lot line.

Section 3.4. Minimum lot frontage.

- A.** Any lot with a building, dwelling unit or structure shall have frontage on a public street, private road, or approved access easement equal to the lot width required in the district. Farm buildings are exempt from this requirement.
- B.** Any lot created after the effective date of this Ordinance shall front upon a public street, or upon a private road right-of-way, private drive or access easement meeting the requirements of Section 3.17, for the minimum lot width required by this Ordinance.

Section 3.5. Projections into required setbacks

Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys (attached to a building), handicap access ramps, and similar features may project no further than three feet into a required front or rear setback, but may not project into a required side setback.

Section 3.6. Required yards or lots

No lot or lots in common ownership and no yard, court, parking area or other space shall be so divided, altered, or reduced as to make such area or space of a size less than the minimum size required under this Ordinance. If already less than the minimum size required under this Ordinance, such area or space shall not be further divided or reduced.

Section 3.7. Maximum lot width to depth ratio

- A.** In all zoning districts, no lot or parcel shall be created whose depth exceeds four times its width, unless the parcel (whether it is the remaining parcel or not) is over 10 acres in area; unless it is approved according to the requirements of the Township Land Division and Subdivision Ordinance.
- B.** The Township Board, after recommendation by the Planning Commission, may permit the creation of a lot or parcel that does not comply with this Section. In determining whether to grant this approval, the Township Board shall first find that the greater depth is necessitated by conditions of the land in question, such as topography, road access, soils, wetlands, or floodplain, and that creation or use of the lot will not conflict with other ordinances and regulations, unless an appropriate variance is received from any other regulations.

Section 3.8. Cul-de-sac lots.

In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the required front setback distance for buildings and structures. Cul-de-sac lots shall have a minimum width of 40 feet at the front lot line (see **Figure 3-1**).

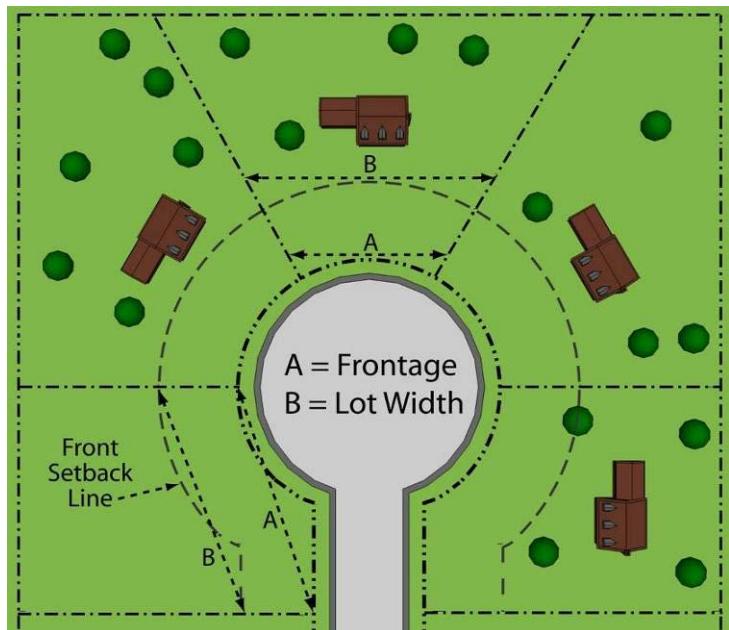


Figure 3-1: Cul-de-sac lots

Section 3.9. Height exceptions

Except as herein provided, no building shall be erected or altered to exceed the height limit established by this Ordinance for the zone in which such building is located.

- A. Chimneys, church towers and steeples, roof structures for the housing of elevators, stairways, tanks or ventilating

equipment, firewalls, skylights, electrical transmission and communication poles, towers and antennas, theater screens, flag poles, smokestacks, water tanks, silos, conveyors or similar structures may be erected above the height limits established for the zone in which such structure is located, provided the requirements of this Section are met.

- B. If the height of any building, structure or tower exceeds the height allowed in the zone in which the building or structure is located, then all required side-yard dimensions shall be increased by not less than one foot for each one foot that the structure exceeds the height allowed in that zone.
- C. Any structure intended for human occupancy that exceeds 40 feet in height shall require Fire Department approval.

Section 3.10. Building grades and lot drainage

In establishing the grade on a lot or parcel for the purpose of any construction thereon, the following condition shall control:

- A. The grades for all new development shall be completed so as to contain all runoff on the site or direct runoff to storm facilities without crossing abutting lands or via easements dedicated to stormwater collection and flow. Storm water may be released according to its natural flow, provided that any increase in the rate of release due to development shall be detained on the site, according to engineering best practices.
- B. Grades of a site may be raised above the crown of an abutting public road if such increase in grade does not cause runoff onto abutting property, other than dedicated public right-of-way.
- C. Where the grade on site is in any way to be increased above existing grades of the adjacent properties, the

owner of the property shall, upon application for a building permit, submit a certification signed and sealed by a Registered Land Surveyor or a Civil Engineer stating the existing and proposed grades and that conditions set forth in subsections A and B of this Section are met.

Section 3.11. Buildings to be moved

The term "moving of buildings" includes movement of any buildings or structures being relocated within the Township, moved out of the Township or moved into the Township. A building permit is needed when the building is being moved within or to the property lines of a lot or when such move necessitates movement along a County, State or Township road. Movement of buildings into, within and/or out of the Township shall be approved by the Township Zoning Administrator prior to such moving. Approval shall be contingent upon the Administrator determining that the following conditions have been met:

- A.** Any person desiring to move a building within or into Antwerp Township shall file an application for a building permit with the Zoning Administrator. Such moving of building application shall contain among other things, the following information:
 - 1. Name, description, and address of applicant.
 - 2. A completed Building Permit Application including site plan and building plans.
 - 3. Length of time for the anticipated move.
 - 4. Evidence that adequate insurance is provided to protect any improvements in the public right-of-way.
 - 5. Evidence that adequate police protection has been arranged with the appropriate agency.

- 6. Emergency telephone number for applicant and/or property owner.
- 7. A detailed description of the route and time of the move.
- 8. Proof that the building is capable of compliance with all township codes and ordinances prior to move.

- B.** Where a structure is moved into the Township, the structure must comply completely with all codes and ordinances prior to obtaining a certificate of occupancy.
- C.** The Township Treasurer must be in receipt of any necessary fee, licenses and bonds.
- D.** A cash deposit shall be required by the Township Board to insure that the ultimate moving, erection or construction of the building and the development of the site shall be in accordance with the approved plans and proposals. Such bond shall be in an amount equal to the estimated cost of the construction and the site improvements. The bond will not be returned until an occupancy permit has been granted.

Section 3.12. Corner clearance and visibility

- A.** On a corner lot or a lot with a driveway, no building, structure, plant material, berm, parking space, fence, sign, or obstruction between two and one-half (2 ½) and 10 feet above the ground, or anything which obstructs safe vision at a street corner, shall be located, erected, or maintained within the clear vision areas.
- B.** In the case of a street intersection, such unobstructed corner shall mean a triangular area formed by the street 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 street lines extended.

C. In the case of driveway/street intersection, the aforementioned technique shall also be used, however a 10 foot dimension situated along the driveway and property line shall be utilized. Decorative fencing which would be approved on a corner could include open weave, split rail, or similar fencing.

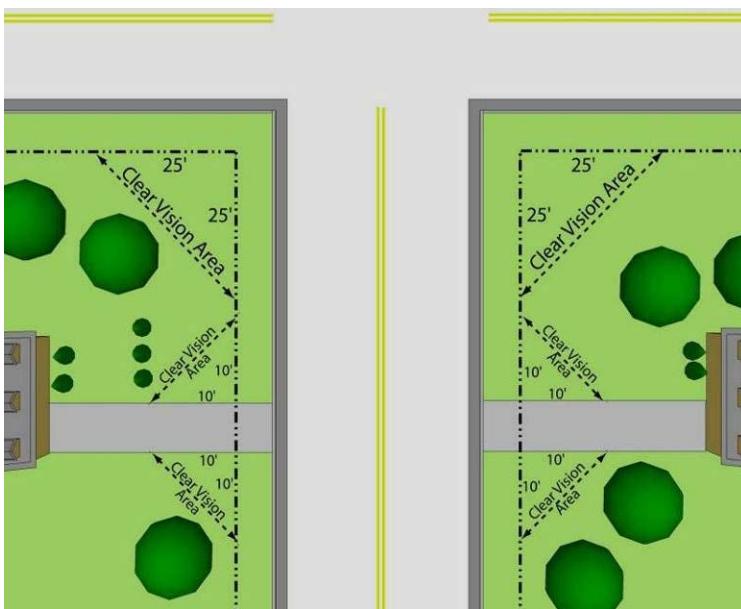


Figure 3-2: Corner Clearance and Visibility

Section 3.13. Riparian access (anti-funneling)

The following restrictions are intended to limit the number of users of navigable stream or lake frontage in order to preserve the quality of recreational use of all waters within the Township.

- A. Any riparian property for access to the water's edge is restricted to that of the property owner, except as may be otherwise permitted in this Section.
- B. There shall be at least 100 feet of lake frontage as measured along the ordinary high water mark of the lake, and 18,000 square feet of lot area for each dwelling utilizing or accessing the lake frontage.
- C. No lot shall have any wetlands altered, drained or filled so as to accommodate access or additional dwelling density .
- D. No canal or channel shall be excavated for the purpose of increasing the lot frontage required by this Section.
- E. The lot used for access shall not contain any other principal building or use or accessory use, except for docks or boat launching facilities approved by applicable state agencies.
- F. The restrictions of this Section shall apply to all lots and parcels on or abutting any lake over 10 acres in surface area within the township, regardless of whether access to the lake shall be by easement, park, common-fee ownership, single fee ownership, condominium arrangement, license or lease.
- G. The provisions shall not apply to publicly owned parks or lake access sites.

Section 3.14. Health department approval

- A. No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by public water and/or sanitary sewer facilities if its water and/or sanitary sewer disposal facilities, as the case may be, does not comply with the

rules and regulations of the State and County health departments governing waste and sewage disposal.

B. No permit shall be issued for the construction of a building with sanitary facilities and not served by public sewer, unless there has been obtained from the county health department and submitted to the Township a permit for two separate locations for private drainfield or other private sewage disposal facility on such lot or parcel.

C. No building or structure shall be erected, constructed or placed on any designated location for a private drainfield or other private sewage disposal facility.

Section 3.15. Trash, litter or junk

It shall be unlawful for any person to accumulate, place, store, or allow or permit the accumulation, placement or storage of trash, litter or junk on premises in the Township, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed 10 days storage in watertight storage receptacles designed for the temporary accumulation of trash. Waste receptacles shall not be left unattended in the front yard longer than a period of 48 hours, unless they are kept or enclosed in a permanent structure designed to prevent disturbance of such receptacles by animals or severe weather conditions.

Section 3.16. Nonconforming lots, uses and structures

A. Purpose. The purpose of this Section is to specify the conditions under which a nonconformity is permitted to continue to exist, as well as the conditions under which a nonconformity must be discontinued. A nonconformity shall not be permitted to continue to exist if it was unlawful at the time of establishment.

Nothing in this Ordinance shall be deemed to require a change of 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 construction has been diligently conducted. Actual construction shall include the placing and attaching of construction materials in a permanent position.

B. Nonconforming lots. A principal building and customary accessory buildings may be erected on a nonconforming lot provided that all applicable zoning requirements are met. If the variation of a setback or other zoning restriction is required in order to erect a structure on a nonconforming lot, then such structure shall only be permitted if the Zoning Board of Appeals grants a variance.

C. Nonconforming structures. A nonconforming structure may be continued provided it remains otherwise lawful.

1. A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity, except in cases in which the setback of a building or

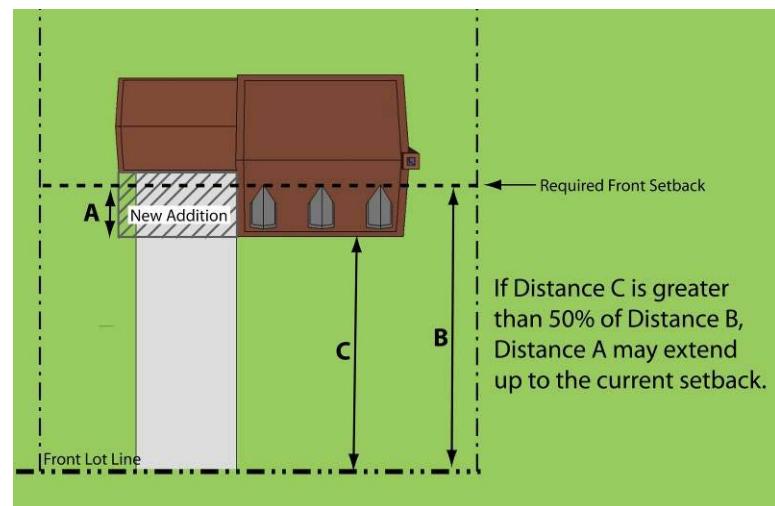


Figure 3-3: Allowed expansion of nonconforming structure

structure is non-conforming by no more than one half (½) 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 (see **Figure 3-3**).

2. If a nonconforming structure is moved, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

D. Nonconforming uses. Except as provided for nonconforming single family residential uses, a nonconforming use may be continued provided it remains otherwise lawful.

1. A nonconforming use shall not be enlarged or moved, in whole or in part, to any other portion of the lot or parcel that was not occupied by the use at the time the use became nonconforming. However, a nonconforming use may be extended throughout any part of a building that was designed for that use and which existed at the time the use became nonconforming.
2. A structure occupied by a nonconforming use shall not be structurally altered in any manner or moved except in connection with a change to a use permitted in the district in which it is located.

E. Intent to abandon. If any part of a nonconforming use is moved, that part shall be considered to be abandoned and any subsequent use shall conform to the requirements of this Ordinance.

1. If a nonconforming 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.

2. A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming 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. Signs or other indications of the existence of the nonconforming use have been removed;
- d. Equipment or fixtures which are necessary for the operation of the nonconforming 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 nonconforming use.

F. Nonconforming single family residential uses. A nonconforming single family residential use may be expanded or enlarged as follows:

1. The principal building may be enlarged by a maximum of 20 percent of the total square footage that existed when the use became nonconforming, provided that all applicable yard and other zoning restrictions are met.
2. An accessory building may be constructed in accordance with the applicable provisions of this Ordinance.

G. Substitution of uses. A nonconforming use may be changed to another nonconforming use upon approval of

the Zoning Board of Appeals, subject to the following conditions:

1. No structural alterations are required to accommodate the new nonconforming use and that the proposed use is equally or more appropriate in the district than the existing use. In approving such a request, the Zoning Board of Appeals may require appropriate conditions in accordance with the purposes and intent of this Ordinance.
2. Once a nonconforming use is changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.
3. When a nonconforming use is replaced by a permitted use, it shall thereafter conform to the regulations of the district in which the use is located and the nonconforming use may not thereafter be resumed.

H. General conditions. The following general conditions apply to all nonconforming lots, nonconforming structures, and nonconforming uses.

1. Change of Tenancy or Ownership: The tenancy or ownership of a nonconformity may be transferred or changed, however, in the case of a nonconforming use, there shall be no change in the nature or character of such nonconformity, except as permitted by this Ordinance.
2. Subject to the provisions of this chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure that is unsafe.
3. Reconstruction.
 - a. *Nonconforming use.* In the event that a building that contains a nonconforming use is damaged by fire,

wind, act of God or public enemy, the nonconforming use may not be re-established; however, a residential principal or accessory structure containing a nonconforming use may be reestablished upon the same footprint as the original structure, provided that:

- i. With regard to lot, yard, height or other requirements pertaining to the structure, the new structure shall not increase any nonconformity or result in any new nonconformity. Reconstruction under this subsection shall not affect the nonconforming status of the structure, as regulated by Subsection C, above
- ii. No portion of any reconstructed principal dwelling may be less than ten feet from any side or rear lot line; and
- iii. no portion of an accessory structure (measured from the drip line of the accessory structure) may be less than three feet from any side or rear lot line.
- iv. Reconstruction shall commence within one year of the date the damage or destruction occurred and shall progress meaningfully towards completion.

b. *Nonconforming structure, reconstruction allowed.* In the event any nonconforming building or structure is damaged by fire, wind, act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed 60 percent of the fair market value of the nonconforming building or structure prior to its damage or destruction.

- c. *Nonconforming structure, reconstruction prohibited.*
 - i. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, if replacement cost of the nonconforming building or structure exceeds 60 percent of the fair market value of the building or structure prior to such damage or destruction, the building or structure may be rebuilt or restored only in accordance with the requirements of this zoning ordinance;
 - ii. Notwithstanding the above, the Zoning Board of Appeals may approve the re-establishment of a nonconforming building or structure, after a public hearing, but only to the extent necessary to provide the minimum reasonable use of the building or structure. In considering the approval of any such re-establishment of a nonconforming building or structure, the Board of Appeals may impose reasonable terms and conditions and shall not permit an increase in the nonconformity.

Section 3.17. Private roads

A. Road access.

Any lot created after the effective date of this Ordinance shall have frontage upon and shall take access from a public road under the jurisdiction of the Van Buren County Road Commission, the Michigan Department of Transportation, or from an approved private road or shared driveway meeting the requirements of this Section.

B. General regulations applying to private roads and shared driveways.

- 1. *Definitions.* For the purposes of this Section, the following shall apply:
 - a. As used in this Section, the term "road" also includes "street," "avenue," "drive," "place," "way," "lane," "boulevard," "court," "highway," or other thoroughfare, except an alley.
 - b. *Public road:* A public thoroughfare located within a public road right-of way and dedicated to public use, which affords traffic circulation and provides access to abutting property.
 - c. *Shared driveway:* A driveway that provides the primary access from a public road to two contiguous lots which, because of their zoning, configuration, or other element related to the land, cannot be or are unlikely to be split into future additional lots.
 - d. *Private road:* A privately owned and maintained thoroughfare, located within a private road right-of-way easement, that is not a public road and that provides or has the potential to provide access to three or more lots.
 - e. *Lot:* A tract of land that can be legally described with certainty and is capable of being located by survey. This definition also includes "parcel" or a site condominium unit.
 - f. *Safe and unimpeded route of travel:* A road surface of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle.

C. Scope. The Township recognizes that, as large tracts of land are divided, sold, transferred and developed, private roads and shared driveways are being created to provide access to the newly divided properties. The Township determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private roads and other private means of access. Private roads and shared driveways shall meet the requirements of this Ordinance. These regulations shall be enforced to ensure that:

1. Private roads and shared driveways shall be designed and located to be consistent with the Master Plan and long term development policies of Antwerp Township.
2. Private roads and shared driveways and other private means of access shall be designed with sufficient width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles.
3. Private roads and shared driveways shall be constructed and maintained to be passable in all weather conditions and shall readily afford emergency access to the dwellings, buildings or other structures serviced by the private road.
4. Private roads and shared driveways shall be constructed of suitable materials to ensure minimal maintenance and safe passage.
5. Private roads and shared driveways shall be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features of the Township.

D. Permit Required. No individual, association, corporation or entity, either public or private, shall construct or extend a

private road or shared driveway without first having obtained a permit from the Township.

E. Lots with multiple frontage. A lot that has frontage on both a public road and a private road or shared driveway shall take its access from the private road or shared driveway; however, the Township may approve access from the public road if it can be shown that access to the public road provides a safer or more efficient means of access, and the access has been approved by the appropriate road agency.

F. Jurisdiction. For any proposed private road or shared driveway that intersects a public road or State trunk highway, permits from the appropriate agency shall be submitted. If the private road or shared driveway intersects an existing private road, written permission from the owners, private road association or other entity that owns the private road shall be submitted.

G. Lot area, width and setback requirements. All setbacks required by this Ordinance shall be measured from the easement right-of-way line. Minimum lot area and lot width requirements shall exclude any private road easements.

H. Land divisions, subdivisions and site condominiums. No land division, subdivision or site condominium that creates lots accessed by a private road or shared driveway shall be approved or recorded unless and until the private means of access has been approved according to this Section.

I. Private easement and maintenance agreement. A private easement and maintenance agreement shall be submitted with the application for a private road or a shared driveway, in recordable form that meets the following minimum standards:

1. The private easement and maintenance agreement shall require the property owner(s) served by the private road or shared driveway to be responsible for the ownership and maintenance of the private road or shared driveway.
2. The agreement shall contain the method for apportioning costs of construction, maintenance and repair of the private road or shared driveway among all of the benefitting property owners. The agreement shall also include provisions for a performance guarantee, if required.
3. The agreement shall contain a detailed legal description of the private road or shared driveway easement.
4. The agreement shall bind all of the benefiting lots and owners to the required maintenance of the private road or shared driveway, including all succeeding owners.
5. The agreement shall contain a clause stating that the applicant(s)/owner(s) of the private road or shared driveway agree that by applying for or securing a permit to construct the private road or shared driveway that 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 road or shared driveway or of the failure to properly construct, maintain, use, repair, and replace the private road or shared driveway.
6. The private easement and maintenance agreement for a private road serving three to 20 lots shall contain a provision to permit the Township Board to authorize the repair of any private road that is not being maintained adequately to permit safe access by users and emergency vehicles, and to assess the cost of such repair, including the costs of engineering and

administration, to the benefitting owners named in the agreement on a equitable basis. The decision to authorize repair of a private road shall be at the Township Board's sole discretion in accordance with its legislative powers.

7. The Township Attorney shall review and approve the private easement and maintenance agreement for the private road or shared driveway as part of the review and approval process.
8. After approval, the applicant shall record the private easement and maintenance agreement with the Van Buren County Register of Deeds. After recording the easements and maintenance agreements, a copy of the recorded documents shall be submitted to the Zoning Administrator.

J. General application requirements.

1. All applications for a private road or shared driveway permit shall be on a form or forms established by the Township and shall include any required fees, the required plans private easement and maintenance agreement and any other submittals as outlined below.
2. The Zoning Administrator shall determine the number of plan sets required to accompany the application.
3. Application 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 road plans, specifications, and maintenance agreements, and to do the necessary inspections. Any funds remaining in escrow after the

project has been inspected and approved shall be returned to the applicant.

K. Approval Process.

1. A shared driveway shall be reviewed and approved by the Zoning Administrator. If an application does not meet the requirements of this Section and is not approved, the Zoning Administrator shall provide a written explanation of the denial.
2. A private road shall be reviewed by the Planning Commission, who shall make a recommendation to the Township Board, according to Subsection M.3, below. In making a recommendation and decision, the Planning Commission and Township Board may impose such conditions necessary to ensure compliance with this Section and ensure protection of the public health, safety and welfare.
3. Occupancy permits. No occupancy permit for a structure on a lot accessed by a private road or shared driveway shall be approved until the road or driveway has been approved and inspected according to this Section.

L. Shared driveway.

1. Design and Construction Requirements
 - a. The shared driveway shall be located within an easement with a minimum width of forty (40) feet.
 - b. The shared driveway shall have a minimum width of 10 feet of travelled surface; however, any shared driveway that exceeds 400 feet in length shall provide a passing lane that is 60 feet long by 14 feet wide to permit passage by emergency vehicles. An additional passing lane shall be provided for each additional 400 feet of length. The

location of the passing lane(s) shall be determined by the Zoning Administrator. The passing lanes shall be compacted, but need not be paved, and shall be planted with turf and kept mowed.

- c. The road surface may be paved with a hard surface or may be aggregate (gravel).
2. Extension of shared driveway or increase in the number of lots served. A shared driveway may not be extended, nor may land accessed by the Shared Driveway be divided by any means, so that more than two lots are served by the shared driveway, unless the shared driveway is upgraded to the requirements for private roads serving three to 20 lots, or is dedicated to the public and meets the requirements for a public road.
3. Application and approval. Upon application, the Zoning Administrator shall determine that the shared driveway and the lots served meet the definition of "shared driveway" in Section 3.17.B.1. A shared driveway may be approved by the Zoning Administrator upon review of an application accompanied by a plan drawn and sealed by a surveyor and/or civil engineer licensed by the State of Michigan, showing all lots to be served, with dimensions and lot area, the location and width of the private road easement, the width of the proposed pavement, the materials to be used for pavement, the frontage and width of all lots served by the private road, and any drainage or utility structures to be located in the easement.

M. Private roads

1. Design requirements:
 - a. A private road, or any combination of interconnected private roads, shall not provide

access to more than 20 lots. Roads providing access to more than 20 lots must be dedicated as a public road.

- b. A private road with only one access to a public road shall not exceed 2,500 feet in length, as measured along the centerline of the private road. Any private road exceeding this length shall provide for at least one additional access to a public road.
- c. The specifications for roadway width, surface and base materials, longitudinal grade, drainage, method of construction, and signs shall conform to the Van Buren County Road Commission standards for local paved roads.
- d. *Right-of-way/easement width:* All private roads constructed after the effective date of this Ordinance shall have a recorded permanent right-of-way and easement with a minimum width of 66 feet. The right-of-way shall expressly permit public or private utilities to be installed within the right-of-way.
- e. The private road shall terminate at a dead-end that is extendable into adjacent, undeveloped lots, designed to allow emergency or maintenance vehicles to turn around safely, or a cul-de-sac with a right-of-way radius that meets the road development standards of the Van Buren County Road Commission. The Fire Department shall review and comment on the design of an extendable dead-end.

2. Application. An application for a private road shall include the following:
 - a. Completed application form, provided by the Township, along with any fees and escrow established for review.
 - b. A detailed written description of the development to be served by the private road, including a description of the private road association or other party to be responsible for the ownership, operation and maintenance of the private road.
 - c. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private road.
 - d. 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 road right-of-way. Copies of the instruments describing and granting such easements shall be submitted with the application.
 - e. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within 100 feet thereof.
 - f. The location of any other buildings and structures located within one hundred (100) feet of the private road right-of-way.
 - g. The applicant of the proposed private road shall provide a copy of a private road maintenance agreement, which shall provide for and assure that the private road shall be regularly maintained, repaired and snow plowed so as to assure that the private road is safe for travel at all times and the cost thereof paid.
 - h. An approved Soil Erosion and Sedimentation Permit, or proof of application.

- i. A narrative (shown on the site plan or submitted separately) describing in general terms the overall description of the proposal and the proposed method of providing sanitary sewer, water service, storm sewers and surface water drainage facilities, as well as other public and private utilities, including details of structures, light fixtures, etc.
- j. The Planning Commission may require that the plans be reviewed and commented upon by a civil engineer employed by the Township, the Van Buren County Drain Commissioner, Van Buren County Road Commission, the Fire Department or any other agency deemed affected by the proposed private road.
- k. The private road shall be named on the site plan, and road identification signs meeting the requirements of the Van Buren County Road Commission shall be shown to be installed at intersections. The road name shall be approved by the Van Buren County Road Commission or other responsible agency.

3. Approval process for private roads.

- a. *Planning Commission Review.* The Planning Commission shall review applications for private roads and shall make a recommendation to the Township Board. In making its recommendation, the Planning Commission shall find that the proposed private road:
 - i. Will not be detrimental to the public health, safety or general welfare.
 - ii. Will not adversely affect the use of land.
 - iii. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.
- iv. Will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and the natural environment of the Township.
- v. Will be in conformance with the Master Plan.
- vi. Will be in conformance with special conditions, as deemed necessary by the Planning Commission, such as greenbelts, landscaping, road lighting and other items, which have a reasonable relationship to the health, safety and general welfare of the Township.

- b. On a case-by-case basis, the Planning Commission may waive certain review requirements, as site conditions warrant.
- c. *Township Board Action.* Upon receipt of the recommendation by the Planning Commission, the Township Board shall approve, approve with conditions, or deny the private road application. The record shall include the basis of the Township Board's decision.
4. Performance guarantee. The Township shall require, as a condition of the permit for a private road serving three to 20 lots, that the applicant provide a performance guarantee in accordance with Section 14.6 of this Ordinance. The performance guarantee shall be released upon inspection and approval of the completed private road.
5. "As-built" drawings. After approval of a private road serving three to 20 lots, the applicant (at his/her 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 road has been completed in accordance with the requirements of the permit and the Van Buren County Road Commission.

N. Inspections/Certificate of Compliance

1. Inspection required. Upon completion of construction of the private road or shared driveway, the Township shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.
2. Failure of inspection. If the completed private road or shared driveway 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 constitute a violation of this Ordinance.

O. Maintenance and Repairs

1. Maintenance required. Private roads and shared driveways shall be maintained in a manner that complies with the provisions of this Section.
2. Safe and unimpeded route assured. All private roads and shared driveways shall be continuously maintained at the proper widths and be clear of brush or trees and branches to a height of fourteen (14) feet to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
3. Responsibility. All costs for maintenance and repair of the private road or shared driveway shall be the responsibility of the benefitting property owners or any property owners association.

P. Existing nonconforming private roads or shared driveways

1. Nonconforming use may continue. A nonconforming private road or shared driveway existing on the effective date of this Ordinance may continue and be maintained and used, even though it may not comply with the provisions of this Section. Any such private means of access shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
2. Extension. As of the date of this Ordinance, an existing private road or shared driveway that is nonconforming may not be extended to include additional lands and/or additional lots, unless the entire private means of access is upgraded to meet the requirements of this Section.
3. Existing vacant lots. A structure may be constructed upon an existing vacant lot of record that takes its primary access from an existing nonconforming private road, back lot access private drive or shared driveway, provided that the structure and all other development thereon meets the requirements of this Ordinance.
4. Inadequate easement width. Existing private roads, back lot access private drives or shared driveways that are nonconforming due to inadequate easement width may be improved without requiring the existing easement to be made conforming to the width requirements, provided that the pavement and any other improvements meet the requirements of this Section, and that the width of the easement is not further reduced.
5. Plans for improvement; process. Plans to improve an existing nonconforming private road, back lot access

private drive or shared driveway shall be reviewed and approved in the same manner as a new private road or shared driveway.

Section 3.18. Excavations

- A.** No soil, sand, gravel, or other earth material shall be removed from any land within the township without Township approval, except for the following:
 1. When the earth removal is incidental to an operation for which a building permit has been issued by the Township;
 2. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
 3. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
 4. The earth removal involves less than 300 cubic yards;
 5. The earth removal is for the purpose of construction of a swimming pool.
 6. The soil removal will not be in violation of any other section of this ordinance, other Township ordinance, the Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.
- B.** The existence within the limits of Antwerp Township of any unprotected, un-barricaded, open or dangerous excavations, holes, pits, or wells, or of any excavations, holes, pits, or wells which constitute or are reasonably likely to constitute a danger or menace to the public health, safety, or welfare, are hereby prohibited and declared a public nuisance; provided however, that this Ordinance

shall not prevent any excavations under a permit issued pursuant to the provisions of this Ordinance.

- C.** Any mineral extraction not exempted by this Section shall be subject to the requirements of Section 9.28.

Section 3.19. Essential services

Essential services and public utility facilities as defined by this Ordinance shall be permitted as authorized under any franchise or that may be regulated by any law of the State of Michigan or any ordinance of the Township.

Section 3.20. Satellite dish stations

Satellite dish stations greater than three feet in diameter (hereafter referred to as stations) may be located in the Township subject to the following provisions:

- A.** Any station that is three feet in diameter or less shall not be subject to these requirements.
- B.** For the purposes of this Ordinance, stations shall be considered as accessory structures. In any residential or manufactured home park zoning district, no station shall be placed in a required front yard setback or required side yard, but may be placed in other yard areas or roofs subject to the same restrictions as set forth for accessory buildings and structures.
- C.** Stations shall not be linked to receivers that are not located on the same lot as the station.
- D.** Regardless of however turned or otherwise used, all parts of the station will be set back at least 10 feet from the side lot lines and shall be set back from the rear lot line no less than 20 feet.

- E.** The height of the station, should the dish antenna be turned perpendicular to the ground, shall not extend above 15 feet,
- F.** The maximum diameter of any dish antenna shall not exceed 12 feet.
- G.** No installation or erection of a station shall commence before a permit is obtained from the Building Official. Fees for such permits shall be established by resolution of the Township Board.

Section 3.21. Ponds

Ponds created for livestock watering, irrigation, fish or aquatic life or for recreational or aesthetic purposes are a permitted use subject to the approval of the Zoning Administrator upon the finding that the plans meet the following requirements:

A. Site requirements.

- 1. In the event the owner wishes to sell or transport the excavated materials off the site, he/she shall conform to the requirements of the mining and extraction ordinances of the Township. This shall include meeting the requirements for Special Land Use approval.
- 2. Ponds shall only be of an excavation type as defined by the Natural Resources Conservation Service (NRCS) engineering standard and all ponds shall be constructed to the NRCS standards.
- 3. The pond shall be for the use and/or enjoyment of the owner or lessee of the property. No commercial activities, including swimming or public fishing, shall be allowed.

B. Yard and placement requirements.

- 1. The pond shall be a minimum distance of 50 feet from any property line (except as described in Subsection B.8, below).
- 2. Any artesian well or other water overflow from a pond that could affect adjacent property shall be provided with adequate on-site drainage.
- 3. Ponds shall be a minimum of 10 feet deep over 25 percent of the pond's surface area.
- 4. Ponds shall be located a minimum of 100 feet from a septic tank or field.
- 5. Surface water shall be diverted around all ponds.
- 6. Ponds shall be constructed in such a manner that runoff, overflow, spillage or seepage shall not encroach upon adjacent properties owned by another person.
- 7. Ponds shall have warning signs and lifesaving equipment as required by the State of Michigan.
- 8. A pond may be shared between properties provided that the property owners enter into a written agreement to provide for the pond's construction and maintenance to meet the above requirements. A signed copy of this agreement shall be attached to the site plan.

C. Permit requirements

- 1. A site layout shall be submitted to the Zoning Administrator for his/her determination that it meets the requirements of this Section prior to the issuance of a building permit.
- 2. No pond shall be constructed without first obtaining a permit from the Department of Natural Resources and Environment (DNRE) if the pond would be:

- a. Five acres or greater in area, or
- b. Connected to an existing lake or stream, or
- c. Located within 500 feet of the ordinary high water of an existing inland lake or stream. Obtaining such permit from DNRE shall not relieve a person from also complying with the requirements of this Section.

Section 3.22. Outdoor swimming pools

All outdoor swimming pools erected in the Township greater than 24 inches in depth shall comply with the following requirements:

- A. Pool Location.** The pool or its fence may not be built within the required front yard setback. Side and rear yard setbacks shall not be less than ten (10') feet between the pool outside wall or deck and the side or rear property line, or less than 10 feet between pool wall and any building on the lot.
- B. Fence.** For the protection of the general public, all swimming pools shall be completely enclosed by a minimum four foot fence. The fence may be located around the perimeter of a deck surrounding an above ground pool, provided that the total height of the deck and the fence does not exceed 10 feet. Above ground pools may have gates, removable or swing up steps or other means to limit entry in lieu of a fence. Except for hot tubs and spas, a swimming pool cover shall not be allowed in lieu of a fence.
- C. Electrical installations.** All electrical installations or wiring in connection with swimming pools shall conform to the provisions of the National Electrical Code. If service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory

arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of a swimming pool. A no fault ground unit shall be provided to protect against electrical shock.

- D. Permits.** Building and electric permits are required prior to the construction of the pool or the installation of electrical service.

Section 3.23. Temporary uses

Upon application, the Zoning Administrator may issue a permit for the following temporary uses. Each permit for these uses shall specify a location for the building or use.

A. Non-Seasonal Uses.

1. Temporary office building or construction yard incidental and necessary to construction at the site where located. All such structures shall be removed from the site when construction is complete.
2. Temporary sales office or model home incidental and necessary for the sale or rental of real property in a new subdivision or housing project. In any case, the temporary office or model home shall be removed when 50 percent or more of the lots or units have been sold or leased.

B. Seasonal Uses.

1. The Zoning Administrator may issue a permit for temporary sales in commercial districts, or located on a non-residential use (churches, schools, etc.) in a residential district, of merchandise related to a seasonal or annual event, such as a holiday. These uses may include, but are not limited to, the sale of Christmas trees, pumpkins, fireworks, and similar

activities. This Section does not apply to the sale of produce at a farm market.

2. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of the use is seasonal in nature and will not be established as a permanent use, and that adequate off-street parking is available to accommodate the use.
3. A Temporary Use Permit for a seasonal use shall be valid for a period of up to two calendar months. The expiration date shall be clearly stated on the permit.

C. Special Events. The Township Board may issue a permit for an outdoor event in a residential district, such as a civic or church festival, carnival or similar outdoor event, as outlined below:

1. When Required. A permit must be issued by the Township Board for any event as described below:
 - a. Any event utilizing amplified equipment resulting in noise levels discernible beyond the property line that are over 65 dBA.
 - b. Any event where alcoholic beverages will be sold. All required licenses shall be issued prior to Township Board consideration of the event.
 - c. An event where alcohol is not served, or an event that does not utilize amplified equipment as outlined below, is exempt from the permit requirements of this Section.
2. A Temporary Use Permit for a special event shall be valid for a period of not more than seven consecutive days. There may be no more than three permits issued for the same property within a single calendar year, and no permit may be issued for an event date less

than 28 days after the expiration of a prior permit issued for the same property.

3. The permit application shall be accompanied by a site plan, drawn to scale, showing the location of all existing structures, parking areas and any proposed temporary structures related to the event.
4. The required site plan shall show how parking for the event will be accommodated off the streets. Parking shall be permitted only on a durable, dustless surface that will not be rutted or creased by vehicles. The Zoning Administrator or the Township Board, as applicable, may require additional parking area if it is determined that the parking shown on the site plan will not reasonably accommodate the expected traffic.
5. Temporary structures made of flammable materials shall be located at least 10 feet from any permanent structure. Temporary structures shall be removed within three business days after the end of the event.
6. The Zoning Administrator, or the Township Board, as applicable, may set hours during which the event may be held. No activity related to the event other than maintenance or clean-up may take place outside of the designated hours.

Section 3.24. Site condominiums

A. Purpose. The purpose of this section is to regulate projects that divide real property under a contractual arrangement known as a condominium. New and conversion condominium projects shall conform to the requirements of this section, all other applicable township regulations, and the Condominium Act (P.A. 59 of 1978, as amended). Non-residential condominium projects shall be

reviewed in accordance with Article 11 and are not subject to the requirements of this section.

B. Equivalency. Condominium plans shall be regulated by this section shall be considered equivalent to a platted subdivision for the purposes of enforcing the township's zoning requirements. The intent of this section is to ensure that condominium plans are developed in compliance with all applicable standards of the Zoning Ordinance and the design requirements of the Antwerp Township Subdivision Ordinance, except that the review procedures and application requirements of this section shall also apply.

C. Types of Permitted Condominium Units. The following types of condominium units shall be permitted under this section, subject to conformance with the development district standards of the Zoning Ordinance:

1. **Single-Family Detached Units.** Condominium projects in any residential district shall comply with all dimensional and spatial requirements in the same manner as would be applied to platted lots in a subdivision. In the case of a site condominium project, not more than one (1) single-family dwelling unit and permitted accessory structure shall be proposed or constructed on a condominium lot. No dwelling unit in a site condominium may be located on a condominium lot with any other approved principal use. The condominium unit shall be considered comparable to a "lot" under the zoning ordinance.
2. **Attached Residential or Multiple-Family Residential Units.** Condominium buildings and units created by the construction of multiple or attached residential units containing individually owned condominium units shall conform to the Zoning District requirements which apply to the site.

D. Area Computation. The minimum area of the site condominium unit shall be equivalent to the minimum lot area and lot width requirements for the development district where the project is located. Areas within a public or private road right-of-way or equivalent easement or dedication shall not be included in the calculation of minimum condominium lot area or determination of dwelling density for a site.

E. Relocation of Lot Boundaries and Amendments. The relocation of boundaries or any other change in the dimensions of a condominium unit or site condominium lot shall be considered an amendment to the condominium documents and condominium site plan. Relocation of condominium lot boundaries, as permitted in the Condominium Act (P.A. 59 of 1978, as amended), is permissible. Minor amendments include lot line and boundary adjustments and may be approved by the Zoning Administrator. Major amendments shall be reviewed by the Planning Commission and Township Board

F. Review Procedures. Review of condominium plans shall be processed in accordance with the following steps:

1. Condominium Concept Plan and Pre-Application Conference.
2. Preliminary Condominium Plan.
 - a. Plan submission.
 - b. Planning Commission public hearing, review, and recommendation.
 - c. Township Board review and decision.
3. Construction Plans and Outside Permitting.
4. Final Condominium Plan.
 - a. Planning Commission review and recommendation.

- b. Township Board review and decision.

G. Concept Review and Pre-Application Conference. The purpose of a pre-application conference with the Zoning Administrator is to review the concept of the proposed development, discuss the review process, and determine the eligibility of the request. This step is optional.

1. Conference Request. A request for a pre-application conference shall be made to the Zoning Administrator.
2. Requirement Materials. As part of the pre-application conference, the applicant shall submit a copy of a sketch plan that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
3. Guidance. The Zoning Administrator shall advise the applicant of the conformance of the condominium concept with the objectives of the township, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the Antwerp Township Master Plan. Formal action shall not be taken at a pre-application conference and statements made at the pre-application conference shall not be considered binding commitments or an approval of the concept.

H. Preliminary Condominium Plan. Prior to recording of the Master Deed of the condominium project as required by the Condominium Act, (P.A. 59 of 1978, as amended), each condominium project shall be subject to review and approval of a condominium plan by the Planning Commission and the Township Board.

1. Filing. Applications for review shall include 12 copies the following materials at least 30 days prior to the meeting at which the Planning Commission will review the application. The Zoning Administrator may, subject

to the concurrence of the Planning Commission, waive any of the application requirements contained in this section if it is determined that such information is not necessary to determine compliance with the provisions of this article.

- a. Application and Fee. A completed application form, supplied by the Zoning Administrator, and payment of the applicable application fee.
- b. Copies of the preliminary condominium plan, in a number determined necessary by the Zoning Administrator, together with written application, shall be submitted to the Township
- c. Preliminary Condominium Plan. The plan shall be prepared by a licensed architect, licensed professional surveyor, or licensed professional engineer and shall bear the signature and seal of the licensed architect, licensed professional surveyor, or licensed professional engineer. The plan is not required to contain detailed project design plans prepared by the appropriate licensed design professional.
- d. Contents. The condominium plan shall be reproductions of original drawings. A complete plan shall include all of the following:
 - i. A cover sheet. The cover sheet shall list all documents included in the condominium plan.
 - ii. A survey plan. The survey plan shall be signed and sealed by the licensed professional surveyor preparing the boundary survey for the condominium project.
 - iii. A floodplain plan, if the condominium lies within or abuts a floodplain area.

- iv. A site plan.
- v. Utility plan.
- vi. Floor plans.
- vii. The size, location, area, and horizontal boundaries of each condominium unit.
- viii. A number assigned to each condominium unit.
- ix. The vertical boundaries for each unit comprised of enclosed air space.
- x. Building sections showing the existing and proposed structures and improvements including their location on the land. Any proposed structure and improvement shown shall be labeled either "must be built" or "need not be built". To the extent that a developer is contractually obligated to deliver utility conduits, buildings, sidewalks, driveways, landscaping, or an access road, these items shall be shown and designated as "must be built", but the obligation to deliver these items exists whether or not they are so shown and designated.
- xi. The nature, location, and approximate size of the common elements.

2. Planning Commission Review and Public Hearing.

- a. If complete and substantially in conformance with applicable Township requirements, the Zoning Administrator shall cause a notice of a public hearing to be published for a future agenda of a Planning Commission meeting according to Planning Commission guidelines.
- b. The Zoning Administrator shall transmit a copy of preliminary condominium plan to the Township Engineer for their technical review and recommendation, if determined to be necessary.

- c. The Planning Commission shall consider the proposed condominium plan in a public hearing, which shall be noticed in accordance with Sec. 103 of the Michigan Zoning Enabling Act (PA 110 of 2006). The Planning Commission shall review all details of the proposed plan within the framework of the Zoning Ordinance, within the various elements of the master plan, within the standards of the Zoning Ordinance, engineering best practices as recommended by the Township Engineer, and any other adopted and published requirements.
- d. Following the public hearing, the Planning Commission shall recommend approval, approval with conditions, or rejection of the preliminary condominium plan to the Township Board.

3. Township Board Review.

- a. The Township Clerk shall schedule a review of the Planning Commission's recommendation by the Township Board at the next available regular meeting following the Planning Commission's recommendation on the preliminary condominium plan.
- b. Following receipt of a recommendation from the Planning Commission, the Township Board shall review the application and approve, deny, or approve with conditions.
- c. Conditions of approval shall be satisfied by the applicant within the time set by the Township Board or the approval of the preliminary condominium plan shall be determined to be not valid.

I. Construction Plans and Approvals. The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to final condominium plan submittal.

1. Van Buren County Road Commission.
2. Van Buren County Drain Commissioner.
3. Michigan Department of Transportation if any of the proposed development includes or abuts a state trunk line highway or includes streets or roads that connect with or lie within the right-of-way of state trunk line highways.
4. Michigan Department of Environmental Quality if any of the development abuts a lake or stream or abuts an existing or proposed channel or lagoon affording access to a lake or stream where public rights may be affected.
5. Van Buren County Health Department if public water and public sewers are not provided to and are accessible to the land proposed for development.

J. Final Condominium Plan.

1. Contents. In addition to the requirements for the preliminary condominium plan, the final development plan shall include the information required for construction plans.
2. Township Board Review. If the final condominium plan conforms substantially to the approved preliminary condominium plan and satisfies any applicable conditions of approval, the Township Board shall give final approval to the plan.

K. Requirements.

1. Use Standards. Uses within a condominium project shall be regulated by standards of the district where the project is located.
2. Design Requirements. Condominium developments are subject to the same design standards as platted subdivisions and shall be reviewed against the standards listed Sections 5.1 through 5.10 of the Antwerp Township Land Division and Subdivision Ordinance.
3. Setbacks. The setback requirements of the applicable zoning district shall establish the required interior and perimeter setbacks for the condominium development. Such setbacks shall be measured from the perimeter of the condominium lot, road right-of-way line, or road easement to the nearest part of the building envelope.

L. Amendments, Expiration, and Validity.

1. Amended Documents. Amendments to any condominium document that significantly impact the approved condominium site plan, or any conditions of the condominium site plan approval, shall be submitted to the Planning Commission and Township Board for review and approval prior to the issuance of a building permit.
2. Condominium Plan Expiration. Condominium site plans shall expire one (1) year after the date of approval, or the life of the building permit obtained pursuant to the approved site plan, whichever is longer. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one (1) extension of final approval for up to one (1) year, provided that site conditions have not changed in a way that would affect the character, design or use of

the site, and that the approved plan remains in conformance with all applicable provisions of this Ordinance.

3. **Rescinding Approval of a Condominium Plan.** Condominium site plan approval may be rescinded by the Planning Commission and Township Board upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, plans, or conditions of approval.

2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act, are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance.

B. Nothing in this section shall limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

Section 3.25. Land divisions and plats of subdivision

Land divisions and plats of subdivision shall be regulated according to the requirements of the Township Land Division and Subdivision Ordinance. All lots, parcels or condominium units shall conform to the minimum lot area, lot width, setback and all other development requirements of this Ordinance.

Section 3.26. Flood plain

Development on any property that is located wholly or in part within the Special Flood Hazard Area as depicted on the Flood Insurance Rate Map, shall conform to all local, State and Federal requirements for development within a flood plain, as well as the requirements of this Ordinance. It shall be the responsibility of the property owner to show proof that all applicable regulations are met, including the location of the flood plain on the property and any elevation data required, prior to issuance of any required permits.

Section 3.27. Recreational marihuana establishments prohibited

A. Any and all types of a "marihuana establishment," as that term is defined and used in Michigan Initiated Law 1 of

CHAPTER 4 ZONING DISTRICTS AND ZONING MAP

Section 4.1. Zoning districts

Antwerp Township is hereby divided into the following zoning districts:

Table 4-1 Zoning Districts

District Abbreviation	Name	See Chapter:
AG	Agricultural and Open Space Residential District	5
R-1	Rural Estate Residential District	5
R-2	Single Family Residential District	5
R-3	Single Family and Multiple Family Residential District	5
GC	General Commercial District	6
LI	Light Industrial District	6
CO	Commercial Corridor Overlay District	6
MHP	Manufactured Home Park District	7
EB	Environmental Buffer Overlay District	7
RPUD	Residential Planned Unit Development	8
CPUD	Commercial Planned Unit Development	8
MPUD	Mixed Use Planned Unit Development	8

Section 4.2. Zoning map

The locations and boundaries of these descriptions are hereby established on a map entitled "Antwerp Township Zoning Map" which is hereby adopted and declared to be a part of this Ordinance.

- A.** Regardless of the existence of copies of the zoning map which may be made or published, the official Zoning Map shall be located in the office of the Township Clerk and shall be the final authority as to the current zoning status in the Township. A record is to be kept by the Township Clerk of all changes made or required to be made to the Official Zoning Map.
- B.** The Official Zoning Map shall be identified by the signature of the Township Clerk.
- C.** The Official Zoning Map is to be kept up to date, accessible to the general public, and shall be the final authority as to the current Zoning District status of all land and buildings in Antwerp Township that are subject to the provisions of this Ordinance. Once the change to the map becomes effective, it shall be specifically identified on the Official Zoning Map.

D. Interpretation of boundaries

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

1. Where the boundaries are indicated as approximately following streets, alleys, or highways, the centerlines of those streets, alleys, or highways, or those lines extended shall be construed to be the boundaries.

2. Boundaries indicated as approximately following lot lines shall be construed as following those lot lines.
3. Boundaries indicated as approximately following township boundary lines shall be construed as following those township lines.
4. Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.
5. Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at the distances there from as indicated on the Official Zoning Map. If no distance is given, the dimension shall be determined by the use of the scale shown on the Official Zoning Map.
6. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow that shoreline, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow those centerlines.
7. Where the application of the these rules leaves a reasonable doubt as to the boundaries between two districts, or where the boundary line divides a lot or parcel, the regulations of the more restrictive district shall govern the entire parcel in question.

Section 4.3. Zoning of vacated areas

Whenever any street, alley or other public way within the township is vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of lands adjoining the street, alley, or public way, these

lands shall automatically be subjected to the same zoning regulations as are applicable to the adjoining lands.

Section 4.4. Zoning of disconnected, formerly incorporated areas

Whenever any property within the Village of Lawton, the Village of Mattawan or the Village of Paw Paw is disconnected from that Village and becomes a part of Antwerp Township, the land shall be zoned R-1, Rural Estate Residential District, unless sixty percent (60%) or more of the disconnected land consists of farms, in which case the property shall be zoned AG, Agricultural and Open Space Residential District. The property owner or the Township may initiate rezoning of the newly disconnected property to a different zoning district after the disconnection becomes effective.

CHAPTER 5 AGRICULTURAL AND RESIDENTIAL DISTRICTS

Section 5.1. Intent and Purpose

A. AG Agricultural and Open Space Residential District.

This district is composed of those areas of the Township whose principal use is and ought to remain farming, as well as areas whose natural features or resources are worthy of preservation. The regulations of this district are designed to conserve, stabilize, enhance and develop agriculture activities; to provide for non-farm development in an open space design harmonious with preservation of agriculture activities; to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these agriculture activities; and to prohibit uses of parcels, lots, buildings and structures that require public facilities and services of a different type and quantity than normally required by agriculture activities. The district, in preserving areas for agricultural activities, is also designed to prevent proliferation of residential subdivisions and urban sprawl in areas of limited infrastructure and sensitive environmental conditions. It is further the intent of this Chapter to actively support county efforts and programs for purchase of development rights (PDR).

B. R-1 Rural Estate Residential District.

The intent of the R-1 Rural Estate Residential District is to provide open land area for orderly residential growth; to permit continued agricultural use and residential activities of a semi-rural character in areas that are presently without public utilities and are likely to remain without such services for an extended period of time; to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low density family life; and to maintain and preserve the semi-rural character of the township.

C. R-2 Single Family Residential District. The intent of the R-2 District is to encourage the construction and continued use of the land for single-family dwellings; to discourage business, commercial, or industrial use of the land; to prohibit any other use that would substantially interfere with development or continuation of single-family dwellings in the district; to discourage the continuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance; to discourage any land use that would generate excess traffic on local (minor) streets; and to discourage any use that, because of its character or size, would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

D. R-3 Single Family and Multiple Family Residential District. The R-3, Single-Family and Multi-Family Residential District is intended to provide sites for single family and two-family residences on more compact lots, multiple-family dwelling structures, and related uses, which will generally be located in areas where public utilities and services are provided or are planned. This District is further provided to serve the limited needs for multiple family dwellings in an otherwise low density, single family community.

Section 5.2. Table of uses

The following abbreviations apply to the Table of Uses for the AG – Agricultural and Open Space Residential, R-1 – Rural Estate Residential, R-2 – Single-Family Residential, and R-3 – Single Family and Multiple-Family Residential districts.

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: Listed uses may be permitted by obtaining Special Land Use approval, subject to the standards and procedures cited in Chapter 10 and any use restriction in Chapter 9.

NP: Not permitted.

“Other Requirements” references additional requirements in this Ordinance applying to the use.

Table 5-1 Table of Uses, AG, R-1, R-2, and R-3 Residential Districts

	Use	AG	R-1	R-2	R-3	Other Requirements
Accessory Uses	Accessory buildings and uses customarily incidental to permitted or special land uses	P/SLU	P/SLU	P/SLU	P/SLU	Sec. 5.4.A
	Accessory dwelling unit, attached	P	P	P	NP	Sec. 9.43
	Accessory dwelling unit, detached	SLU	SLU	SLU	NP	Sec. 9.43
	Accessory non-commercial building-mounted solar energy system	P	P	P	P	Sec. 9.42
	Accessory non-commercial ground-mounted solar energy system (less than 1,500 square feet of panels)	P	P	P	P	Sec. 9.42
	Accessory non-commercial ground-mounted solar energy system (1,500 square feet or more of panels, in front or side yards, or located off-site)	SLU	SLU	SLU	SLU	Sec. 9.42
	Adult foster care family homes	P	P	P	P	
	Bed and breakfasts	SLU	SLU	SLU	SLU	Sec. 9.6
	Detached accessory structures in excess of the number of structures permitted in Section 5.4.A	SLU	SLU	SLU	SLU	Sec. 9.15
	Family day care homes	P	P	P	P	
	Foster family homes	P	P	P	P	
	Foster family group home	P	P	P	P	
	Home occupations	P	P	P	P	Sec. 5.4.D
	Keeping of animals and bees	P	P	P	P	Sec. 5.4.F; 5.4.G
	Outdoor Donation Collection Facility	P	P	P	P	Sec. 9.35
	Outdoor wood furnaces	P	P	SLU	NP	Sec. 9.33
	Wind energy conversion systems (WECS)	P/SLU	P/SLU	P/SLU	P/SLU	Sec. 9.50
	Agribusiness uses	SLU	NP	NP	NP	Sec. 9.4

Table 5-1 Table of Uses, AG, R-1, R-2, and R-3 Residential Districts

	Use	AG	R-1	R-2	R-3	Other Requirements
Agricultural Uses	Agricultural equipment sales and service	SLU	NP	NP	NP	
	Agricultural storage facilities	SLU	NP	NP	NP	
	Agricultural tourism	P/SLU	P/SLU	NP	NP	Sec. 9.53
	Commercial boarding stables/riding academies	P	SLU	NP	NP	Sec. 9.8
	Farm wineries and microbreweries	SLU	NP	NP	NP	Sec. 9.18
	Farms and farm operations	P	P	P	P	Sec. 5.4.E
	Farm markets	P	SLU	NP	NP	Sec. 9.17
	Farm wineries	SLU	NP	NP	NP	Sec. 9.18
Agricultural Uses (cont.)	Research and testing facilities for agricultural products and techniques	P	NP	NP	NP	
Residential Uses	Adult foster care small group homes	SLU	SLU	SLU	SLU	Sec. 9.3
	Boarding houses	NP	NP	NP	SLU	Sec. 9.7
	Convalescent and nursing homes	NP	NP	SLU	SLU	Sec. 9.13
	Day care centers	NP	NP	NP	SLU	Sec. 9.14
	Group day care homes	SLU	SLU	SLU	SLU	Sec. 9.22
	Housing for the elderly	NP	NP	NP	SLU	
	Multiple-family dwellings	NP	NP	NP	P	
	Single-family detached dwellings	P	P	P	P	Sec. 5.4.G
	Two-family dwellings	NP	NP	SLU	P	Sec. 9.43
Institutional and Nonresidential Uses	Airports/landing fields	SLU	NP	NP	NP	Sec. 9.5
	Campgrounds	SLU	SLU	NP	NP	Sec. 9.9
	Cemeteries	SLU	SLU	NP	NP	Sec. 9.10
	Clinics	NP	SLU	NP	NP	
	Clubs	NP	NP	NP	SLU	
	Commercial solar energy system	SLU	SLU	NP	NP	Sec. 9.52
	Golf courses and country clubs	NP	SLU	SLU	NP	Sec. 9.21
	Home based businesses	SLU	SLU	NP	NP	Sec. 9.23
	Kennels, commercial and pet services (all types)	SLU	SLU	NP	NP	Sec. 9.28
	Mineral extraction	SLU	NP	NP	NP	Sec. 9.31
	Nurseries/greenhouses (commercial)	P	SLU	NP	NP	Sec. 9.32
	Parks and recreation facilities	SLU	SLU	SLU	SLU	
	Places of worship	SLU	SLU	SLU	SLU	Sec. 9.36

Table 5-1 Table of Uses, AG, R-1, R-2, and R-3 Residential Districts

Use		AG	R-1	R-2	R-3	Other Requirements
Similar Uses	Public buildings	SLU	SLU	SLU	SLU	Sec. 9.36
	Public utility facilities	SLU	SLU	SLU	SLU	Sec. 9.37
	Schools, private and parochial, excluding colleges, universities and commercial trade schools	NP	SLU	SLU	SLU	
	Veterinary hospitals and veterinary clinics	SLU	SLU	NP	NP	Sec. 9.48
	Wireless telecommunications facilities	P/SLU	SLU	SLU	SLU	Sec. 9.51
Similar Uses	Any use not listed in this Ordinance determined to be similar to an above use	P/SLU	P/SLU	P/SLU	P/SLU	Sec. 3.2

Section 5.3. Development requirements

A. Table 5-2 outlines application and review requirements for the AG, R-1, R-2 and R-3 districts. An application shall not

be acted on unless it is in compliance with all of the following requirements, unless specifically waived by the Zoning Administrator.

Table 5-2 Application and Review Requirements, AG, R-1, R-2, and R-3 Residential Districts

Requirements	Submission Deadline
Site Plan Review (Chapter 11) Required for Nonresidential and multiple family uses only	Completed application form
	Application fee/escrow fee
	Proof of ownership or interest in property
	Legal description of property
	Narrative addressing Review Standards of Section 11.6
	Complete preliminary or final site plans in accordance with Section 11.3
Special Land Uses (Chapter 10)	Same as Site Plan Review
	Narrative addressing Review Standards of Section 10.5 and applicable Use Restrictions in Chapter 9

B. Lot, yard and building requirements:

Table 5-3 Zoning District Regulations, AG, R-1, R-2, and R-3 Residential Districts

		AG	R-1	R-2	R-3		
					Single Family	Two Family	Multi-Family
Min. Lot Area (sq. ft.)		43,560 ⁽¹⁾	43,560	30,000 ⁽²⁾	20,000	30,000/unit ⁽²⁾	⁽³⁾
Min. Width (ft.)		175	175	100	100	100	150
Maximum Building Height	In stories	2.5	2.5	2.5	2.5	2.5	3
	In feet	30	30	30	30	30	35
Minimum Front Yard Setback (ft.) ⁽⁴⁾		60	50	40	40	40	40
Minimum Rear Yard Setback (ft.)		20	20	15	15	30	⁽⁵⁾
Minimum Side Yard Setback (ft.)		20	20	15	15	12	⁽⁵⁾ ⁽⁶⁾
Maximum Lot Coverage Area (% of total lot area)		35%	35%	30%	30%	30%	50%
Minimum Residential Floor Area (sq. ft.)	1 story	1,000	1,000	1,000	800 sq. ft. at ground floor level	1,000	⁽⁷⁾
	1.5 stories	1,150	1,150	1,150		1,150	
	2 or more stories	1,500	1,500	1,500		1,500	

Footnotes to Table 5-3:

- (1) In the AG district, a parent parcel may be split into no more than three lots of 43,560 square feet each. All additional lot splits shall consist of lots no less than four acres in area, unless developed as an Open Space Development or under Planned Unit Development requirements.
- (2) In the R-2 District, and for two-family development in the R-3 District, minimum lot area and lot width requirements shall be as shown in the above table if no public utilities are present. For developments in the R-2 District and two-family development in the R-3 District in areas where public water, public sewer or both are available, minimum lot area and lot width requirements shall be as follows:

Table 5-3a Minimum Lot Area and Lot Width for Developments Served by Public Utilities

	R-2		R-3 (two-family only)	
	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Min. Lot Area Per Unit (sq. ft.)	Min. Lot Width (ft.)
Public Water Only	12,000	80	12,000	80
Public Sewer Only	10,000	80	10,000	80
Both Public Water and Sewer	8,750	70	8,750	70

- (3) Minimum lot area requirements for multiple family development in the R-3 District shall be 2 acres for the first 4 units; plus 2,500 sq. ft. for each additional unit. Maximum overall density shall not exceed 8 units per acre.
- (4) In the event that there are principle buildings located on the adjacent lots that are different than the front setback minimums stated for the zoning district in which the building is located, then an alternative setback line may be established by averaging the setback of principal structures located on the same side of the street within 330 feet in both directions of the subject property.
- (5) The side or rear setback shall be no less than the height of the structure; however, any side or rear yard adjacent to a residential district shall be no less than one hundred (100) feet.
- (6) The separation distance between any two multiple family buildings shall be equal to the height of the taller building, or twenty-five (25) feet, whichever is greater.
- (7) The minimum floor area for per unit for all multi-family structures shall be as follows:
 - a. Efficiency: 450 square feet.
 - b. One bedroom: 600 square feet
 - c. Two bedroom: 720 square feet
 - d. Three bedroom: 850 square feet
 - e. Four or more bedrooms: 1,000 square feet

Section 5.4. Agricultural and residential districts general requirements

The following requirements apply to all properties within the AG, R-1, R-2 and R-3 districts, except as noted below.

A. Accessory structures

- 1. General.
 - a. No accessory building shall be permitted on a lot without a principal building.
 - b. Except as permitted below, construction of an accessory building that will serve a principal building may commence upon final inspection of an approved foundation for an approved principal building.

- c. Notwithstanding the above, the Township Board may permit an accessory structure serving a residential use to be constructed prior to beginning construction on the dwelling, provided:
 - i. A bond or other legal surety, in an amount equal to 110 percent of the construction value of the accessory structure, according to State of Michigan valuation data, is submitted and kept active for the life of the project. This bond or other surety shall be released upon issuance of the occupancy permit for the principal dwelling.
 - ii. The applicant shall submit a written and notarized statement certifying that the principal dwelling will be complete and an occupancy permit issued within two years after Township Board approval, and grants the Township the

ability to draw upon the bond or other surety and permission to remove the accessory structure. in the event of noncompliance.

- iii. In the event the occupancy permit for the principal dwelling is not issued within the two year time period, the Township Board may draw upon the bond or other surety to cover the cost of removing the accessory structure. Any unused funds shall be released. The Township Board may, at its discretion, allow for a reasonable extension of the time limit, provided that substantial progress is being made and the applicant shows that the dwelling will be completed in a timely manner.
- d. Where the accessory building is structurally attached to a main building it shall be subject to and must conform with all regulations of this Ordinance that apply to main buildings.
- e. Any accessory buildings over 100 square feet in gross floor area shall require zoning compliance, according to Section 14.2.
- f. Upon any property located within a platted subdivision or approved site condominium, all accessory structures shall not occupy more than 25 percent of the required rear yard.
- g. Metal, canvas and similar structures constructed on a rigid frame, whether enclosed or unenclosed, erected for the purpose of cover or storage of vehicles or other goods, or any other accessory structure over 100 square feet that is constructed upon skids or other moveable base, shall be considered accessory structures for the purposes of this Section. Such structures shall be adequately anchored to meet the requirements of the building code.

h. *Height.* An accessory structure utilized for agricultural purposes in the AG District may exceed the height limitations for the AG District. All other detached accessory buildings shall be subject to the height regulations for principal structures in Table 5.3.

- 2. Accessory buildings in the AG District.
 - a. *Agricultural Buildings.* There shall be no limitation on the number of detached accessory buildings used for agricultural purposes in the AG District, except as otherwise required in this Section and provided that all other requirements of this Ordinance are met. Agricultural accessory buildings shall be subject to any applicable Generally Acceptable Agricultural Management Principles (GAAMPs) as issued by the Michigan Department of Agriculture.
 - b. There shall be no more than three accessory buildings not used for agricultural purposes ; however, one additional detached accessory building of no more than 144 square feet shall be permitted.
- 3. High tunnel systems and trellises/arbors. For agricultural uses that utilize a high tunnel system or a trellis or arbor system for cultivating vine crops or other crops, the structure(s) may encroach upon the required front yard setback, provided that the corner clearance requirements of Section 3.12 are met. In addition, the following shall apply to high tunnel systems:
 - a. *Height.* No portion of the high tunnel system located within a required front yard setback may

exceed 14 feet in height above the surrounding grade.

- b. Support poles for high tunnel systems that are located within a required front yard setback shall not be less than six feet apart on center nor greater than six inches in diameter.
- c. No portion of a high tunnel system that is less than 20 feet from a right-of-way line may utilize an opaque front or sidewall. Front and sidewall materials that are at least 80 percent transparent may be used within this area.
- d. Plans for a high tunnel system that encroaches within the required front yard setback shall be reviewed and approved by the Zoning Administrator, in order to determine compliance with this Section, before construction may begin.

4. **Accessory buildings in the R-1, R-2 and R-3 Districts.** Provided that all other requirements of this Ordinance are met, accessory structures shall be allowed as follows:
 - a. In the R-1 District, a maximum of three detached accessory buildings plus one additional accessory building of 144 square feet or less shall be permitted per residential lot.
 - b. In the R-2 District, a maximum of two detached accessory buildings plus one additional accessory building of 144 square feet or less shall be permitted per residential lot.
 - c. In the R-3 District, a maximum of one detached accessory building plus one additional accessory building of 144 square feet or less shall be permitted per residential lot.
- d. For permitted non-residential uses in the R-1, R-2 and R-3 districts, no more than two detached accessory structures shall be permitted.

5. **Location.**
 - a. *Front yard.* Detached accessory buildings shall not be permitted within a required front yard setback. On corner lots and through lots, the accessory building shall not encroach into the required front yard setback on either street; however, where a setback has been established by the principal building, the detached accessory building need not be set back further than the principal building.
 - b. *Side and rear yard.* Detached accessory buildings shall meet the setback requirements for the principal building from any side and rear lot line, as listed in Table 5-3,
 - c. *From principal structure.* No detached accessory structure shall be located closer than 10 feet to any principal structure.
6. **Size of Accessory Structure Attached to a Dwelling.** The floor area of an accessory building attached to a dwelling shall not exceed the footprint of the dwelling or 1,200 square feet, whichever is greater.
7. **Height.** Detached accessory buildings shall be subject to the height regulations for principal structures in Table 5.3.

- B. **Decks.** A deck associated with a residential structure shall be subject to the following restrictions:
 1. A deck shall not contain any solid (greater than 70 percent opaque) vertical sides over five feet above the deck surface.

2. A deck shall not be completely or partially covered by a permanent roof.

C. Fences.

1. Agricultural fences.

- a. No agricultural fence shall exceed eight feet in height. An agricultural fence shall be allowed in the front yard of a lot that is used for agricultural purposes, provided that it is of an open design that is not more than 40 percent opaque.
- b. An agricultural fence that encloses a lot used strictly for agricultural purposes may contain barbed wire or electrified fencing.
- c. That portion of an agricultural property that contains the farm residence shall be subject to the front yard fence requirements for residential districts for the width of the house plus the width of the required side yard setbacks.
- d. No agricultural fence shall exceed eight feet in height. An agricultural fence shall be allowed in the front yard of a lot that is used for agricultural purposes, provided that it is of an open design that is not more than 40 percent opaque.
- e. An agricultural fence that encloses a lot used strictly for agricultural purposes may contain barbed wire or electrified fencing.
- f. That portion of an agricultural property that contains the farm residence shall be subject to the front yard fence requirements for residential districts for the width of the house plus the width of the required side yard setbacks.

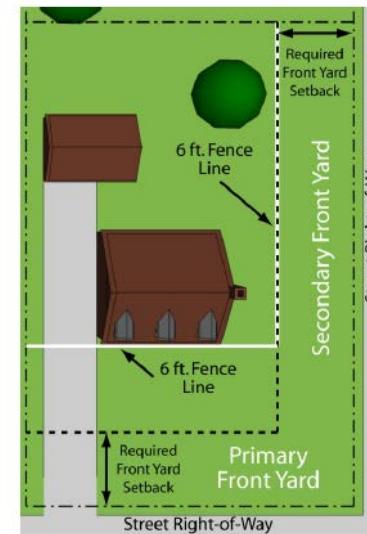


Figure 5-1: Corner Lot Fence Height Requirements

2. Residential fences (excluding agricultural properties). Residential fences are subject to the following:
 - a. Fences on lots of record in residential districts within a side or rear yard shall not exceed six feet in height.
 - b. No fence, wall, or hedge shall rise over four feet in height in the front yard. In addition, no fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone established by Section 3.12, or interfere with visibility from a driveway. On a corner lot in a residential district, a fence up to six (6) feet in height may be allowed upon or behind the required front yard setback within a secondary front yard only. The secondary

front yard shall be a front yard other than the yard upon which the house faces. The Zoning Administrator shall determine which yard is the secondary front yard for the purposes of this section.

Fences shall consist of at least one side that is of "finished" quality. The finished side of the fence shall face away from the property that is being fenced. All fences shall be erected with fence posts and supports on the interior side.

- c. Walls and fences, including gates, shall be constructed of new, durable, weather-resistant, rustproof, and easily maintainable materials customarily used in the construction of walls and fences, provided, however, this provision shall not preclude the use of decorative architectural materials when consistent with the intent of this section, the character of the area in which the fence is to be placed, and as approved by the Township. Material shall be subject to review and approval by the Township during fence permit review.
- d. Fences not used for farm operations shall not contain barbed wire or other sharpened materials or electrified fencing.
- e. All fences shall comply with the requirements of the Building Code.

D. Home occupations. The Zoning Administrator may approve an application to establish a home occupation as an accessory use in a dwelling, provided that all of the following conditions are met:

- 1. A home occupation must be clearly incidental to the use of a dwelling unit for residential purposes.

- 2. No more than 20 percent of the total floor area of the dwelling unit maybe used in connection with a home occupation.
- 3. No portion of the home occupation, other than incidental storage, may be conducted within a detached accessory structure.
- 4. The use shall be conducted within the dwelling by resident occupants. No nonresident employees shall be allowed.
- 5. There shall be no outside evidence of the home occupation, except that one, non-illuminated window sign or wall sign attached to the front of the dwelling with an area of not more than four square feet shall be permitted.
- 6. There shall be no exterior storage of materials to be used in conjunction with a home occupation.
- 7. The sale of products and consumer goods shall be prohibited except for the sale of products or goods produced or fabricated on the premises as a result of the home occupation. A retail showroom, sales area, outlet or similar facility is prohibited.
- 8. The use shall not create additional pedestrian, automobile or truck traffic in excess of the normal amount typical for a residential use. Client or customer visits to the site shall normally be limited to not more than three per day, and 10 per week.
- 9. In no case shall a home occupation be open to the public at times earlier than 7:00 a.m. nor later than 9:00 p.m.
- 10. The home occupation shall not require the regular need for delivery of materials to and from the premises

by commercial vehicles over 12,000 lbs. GVWR (gross vehicle weight rating).

11. No hazardous materials other than those commonly found within a residence shall be used or stored on the site. Such materials and equipment shall be limited to quantities that do not constitute a fire, health or safety hazard

12. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

13. The occupation of a registered caregiver pursuant to the Michigan Medical Marihuana Act (Initiated Law 1 of the Public Acts of 2008) shall be considered a home occupation and shall be subject to the requirements of home occupations and shall also comply with the following:

- a. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the administrative rules of the Department of Community Health, as they may be amended from time to time.
- b. A registered caregiver must be located outside of a 1,000 foot radius from any school or library as defined by the Michigan Public Health Code (1978 PA 368, as amended), to insure compliance with the Federal Drug Free School Zone requirements.
- c. All medical marihuana shall be grown and contained within an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access by the registered primary caregiver or registered qualifying patient. Marihuana plants may not be visible from the exterior of the dwelling.
- d. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- e. If a room with windows is utilized as a growing location, any lighting methods that exceed normal residential usage between the hours of 11:00 pm to 7:00 am shall employ shielding methods, without alteration to the exterior of the building, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- f. That portion of the structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the Fire Department to ensure compliance with applicable provisions of the fire code.
- g. Nothing in this subsection shall be construed to encourage or condone violations of state or federal law.
- h. Marihuana odor noticeable from adjacent properties or public right-of-way is prohibited, per Section 5.4 D.12. Rooms used for growing or storing marihuana shall be equipped with appropriately sized exhaust systems with carbon filters or other comparable air quality and odor control treatment systems. Systems shall treat air quality to prevent detection of odors from adjacent property and public right-of-way. Sizing of treatment systems shall consider the size of the room and the amount of air necessary to evacuate and filter.

E. Farms and farm operation. Farms, farming and farm operations are defined in Chapter 2 and are regulated by the State of Michigan Department of Agriculture. Farms are permitted on lands that are classified as Category 1, 2 or 3 and are not considered "primarily residential" as classified by the latest Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Facilities manual.

Keeping of animals and beekeeping.

1. General requirements.
 - a. All waste, including manure, shall be managed so there are no unsanitary or unsafe conditions.
 - b. Any proposed shelter on the site must be, at minimum, a rigid structure, designed to withstand normal wind and snow loads. Accessory buildings shall meet all applicable building codes.
 - c. Keeping of animals within a plat of subdivision or site condominium will be governed by covenants and restrictions in addition to the Zoning Ordinance. In cases where both apply, the stricter rule shall apply.
 - d. Male chickens (roosters), peafowl, or guinea fowl, in any number, may not be kept in any lot within a platted area, in R3 regardless of lot area, and on lots less than 5 acres in R2.
 - e. The keeping of animals shall be subject to any applicable State and County requirements.
2. Animal count. The number of animals that may be kept on a single parcel or lot or upon contiguous parcels under the same ownership is limited according to the requirements of Table 5-4. In AG and R1, Newly born livestock may be maintained on the parcel for up to 1

year, provided the maintenance of these animals on the premises does not increase the permitted number of animals beyond the limitations of Table 5-4 by more than 50%.

Table 5-4 Keeping of Animals and Bees¹

Type	Livestock					Beekeeping		Birds and Small Animals				Household Domestic Pets							
	Equines	Small equines and miniature cattle	Cattle	Swine	Sheep, goats, llamas, alpacas, other	General (any combo)	Bee Colonies ²		Poultry, water fowl		Rabbits, Mink	Exotic Birds (emu, ostrich, etc.)	Dogs and Cats ³			Oriental Pot-Bellied Pigs (<i>sus scrofa vittaus</i>) ⁴			
District	AG, R1	AG, R1	AG, R1	AG, R1	AG, R1, R2 ⁵	R2	AG, R1	R2, R3	AG, R1	R2, R3	AG, R1	R2, R3	AG, R1	AG	R1	R2, R3	AG	R1	R2, R3
Minimum Acreage	2	1	2	3	2	4	.5	.5	0	0	0	0	2	0	0	0	0	0	0
Animal Limit on Minimum	2	2	2	3	3	2	2	1	10	5	10	5	6	10	8	5	3	3	1
Additional Animals for Each Whole Acre ⁶	1	2	1	2	1	See foot-note ⁷	4	2	10	5	10	5	3	-	-	-	-	-	-

¹ Acreage requirements are cumulative for livestock only.

² If 200 foot setbacks can be maintained, there are no maximum limits on amount of colonies.

³ More than the maximum amount requires a kennel license.

⁴ Counts against the number of dogs and cats.

⁵ In the R2 District, keeping livestock is only allowed for participants in the 4H program. Animals must be removed by October 31st of the same year.

⁶ For poultry, fowl, rabbits and mink, additional each whole acre over one (1).

⁷ For general combination of livestock in R2, one additional animal is allowed for each additional two (2) whole acres over the minimum.

3. Confinement.

- a. Livestock, birds and small animals must be completely enclosed in a fenced pasture or range area, pen, paddock, coop or other holding area that is of suitable height and construction to contain the animals, subject to the limitations in *Section 5.4.C* and subject to the setbacks in Table 5-5. Poultry and fowl in AG, R1, and lots greater than 2 acres in R2, are not subject to confinement.
- b. *Electric fences*. Electrical components shall be mounted on the interior side of the fence.
- c. Pens and holding areas may not be located within the required front yard.
- d. *Setbacks*. Pasture and outdoor confinement setbacks are subject to Table 5-5.

Table 5-5 Pasture and Outdoor Confinement Setbacks				
Adjacent District	AG	R1	R2	R3
Setback (feet) from lot line (setbacks may vary with multiple adjacent zoning districts)	N/A	5	10	15

4. Manure. Management of manure is subject to the following conditions:

- a. Storage areas shall be a minimum of 150 feet from any wellhead, surface water feature, areas subject to flooding, 50 feet from any on-site dwelling, and 50 feet from all property lines and 150 feet from pre-existing off-site dwellings under separate ownership. Manure shall be stockpiled on an

impermeable pad with sides to prevent leachate and runoff.

- b. Application to soils: Application shall be uniform and applied no closer than 25 feet from any property line and 150 feet from any wellhead, surface water feature or areas subject to flooding. However, manure used in vegetable, flower, and planted beds may not be applied closer than five (5) feet from property lines.
- 5. Buildings. Buildings and structures used to shelter livestock, whether fully enclosed or not, shall be subject to the following requirements:
 - a. Not be located less than 50 feet from any property line.
 - b. The facility shall be constructed and maintained such that odor, dust, noise, or drainage shall not be a nuisance or hazard to adjoining premises.
- 6. Beekeeping. Beekeeping is subject to the following conditions:
 - a. Colonies must be set back 15 feet from all property lines. The setback can be eliminated if a flyway barrier of at least six (6) feet in height is installed between the colony and adjacent property. The beekeeper shall establish and maintain said flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is placed along any property line less than 15 feet from the colony.
 - b. An adequate and constant source of water, as temperatures permit, shall be placed within 10 feet of bee colonies and placed prior to the establishment of the hive.

- c. The number of bee colonies that may be kept on a single parcel or lot or upon contiguous parcels under the same ownership is limited according to the requirement of Table 5-4.

F. Household domestic pets.

1. Number. The number of household domestic pets that may be kept on a single parcel or lot or upon contiguous parcels under the same ownership is limited according to the requirement of Table 5-4. These requirements shall not apply to pets less than six months in age.
2. Unattended Pets. Pets shall be restricted from leaving the site unattended.
3. Setbacks. In the event the pets are housed outside the principal structure on the site, the structure housing the pets shall be located no less than 25 feet from any lot line and not within a required front yard setback. In the event a fence is not located around the perimeter of the site, a fence shall be constructed around the structure housing said pets.
4. Fences. The height of the required fence shall be adequate to prevent any pet from getting beyond the boundaries of the fenced enclosure. The fence shall be adequately secured to the ground to prevent tunneling beneath the fence. This requirement shall not preclude the use of "invisible" fencing, provided that it adequately restrains the animal(s).
5. Kennel Permit. Keeping more than the maximum number of household domestic pets may only be allowed where a special land use has been granted for a commercial kennel, according to Section 9.26 and Chapter 10.

6. State and County Laws. The keeping of household domestic pet animals shall be subject to any applicable State and County requirements.

7. Oriental Pot-Bellied Pigs (*sus scrofa vittaus*)

- a. On a property also housing dogs and/or cats, a pot-bellied pig shall be counted as a dog or cat and included in the maximum number of dogs and/or cats allowed in Table 5-4.
- b. The animal shall be no taller than 18 inches at the shoulder and shall weigh no more than 95 pounds.
- c. The tusks must be trimmed and maintained in a manner that no tusk appears outside of the mouth of the pig when the mouth is closed.
- d. All pot-bellied pigs must be neutered or sterilized.

G. Exemption for juveniles participating in a 4-H Animal Husbandry program.

1. Notwithstanding the requirements above for livestock in Subsection E or for household domestic pets in Subsection F, in any in any AG, R-1, R-2 or R-3 (single family only) zoning district a juvenile legally residing in the township shall be permitted to temporarily keep and raise one animal not otherwise permitted, as part of a recognized activity under the sponsorship of a 4-H Program through the Michigan State University Extension Service for Van Buren County.
2. Only one animal may be raised per juvenile at any one time.
3. The property shall be a minimum of one acre in area.

4. All manure storage and confinement areas shall be set back from all property lines at least 25 feet and shall not be permitted within a required front yard. Manure shall be removed no less than once per week.
5. Upon completion of the animal husbandry curriculum, the animal shall be removed from the premises.
6. This exemption shall not apply to any platted lot within a subdivision or a site condominium unit.

H. Motor vehicle storage in residential districts. Storage of motor vehicles in a residential district shall be permitted only when it is accessory to the principal use of the parcel or adjacent parcel and when owned by a member of the family residing thereon.

1. The storage of travel trailers, utility trailers, recreation vehicles and similar items shall not be permitted within the required front yard setback.
2. No storage shall be permitted closer than five feet to any dwelling unit, nor closer than three feet to any side lot line.
3. Semi-trailers, over-the-road commercial haulers, gravel trains and similar vehicles licensed for 20,000 pounds or more gross vehicle weight rating (GVWR) are not permitted to be parked or stored in any residential district except in a completely enclosed building, which shall be subject to size limitations set forth in this Ordinance.
4. Licensed motor homes shall not be stored or parked in the required front yard setback for a period exceeding seven days in any calendar month not more than three non-consecutive months in a calendar year.

I. Regulations applicable to all single family dwellings.

1. This Section is intended to establish minimum standards of appearance and construction for all single-family dwellings, whether constructed on a lot or site condominium unit, or a manufactured home. Construction and/or placement of a single-family dwelling on any lot, parcel or site condominium unit shall be permitted only if the dwelling complies with the following regulations:
2. If the dwelling unit is a manufactured home, the manufactured home must have completed inspection reports that are traceable to the unit number (serial number) of the home meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
3. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire energy and other similar codes which are or may be adopted by the Township, and with applicable federal or state standards or regulations for construction, and shall be connected to a potable water supply and sanitary sewer disposal facilities approved by the appropriate agency.
4. The dwelling shall be no more than three times longer than its width.
5. Wheels and towing mechanisms shall be removed, and no portion of the underlying chassis or undercarriage shall be visible.
6. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the lot area, lot width, residential floor area,

yard, and building height requirements of the district in which it is located.

7. The dwelling unit shall be firmly attached to a permanent continuous four foot crawl space which complies with applicable provisions of the adopted building code.
8. Additions of rooms or other areas shall be constructed with similar materials and shall be similar in appearance and of similar quality of workmanship as the original structure.
9. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of 24 feet at time of manufacture, placement or construction
10. The dwelling unit shall have a minimum roof pitch of 4:12 and a roof overhang of at least 12 inches to direct storm or melt water away from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
11. The dwelling unit shall meet the minimum floor area requirements of the zoning district in which the dwelling is located.
12. A storage area of at least 120 square feet shall be provided. The storage area may consist of a basement, closet area or attached garage in a main building, or as a detached accessory building.
13. The foregoing shall not be construed to prohibit innovative design concepts involving matters such as (but not limited to) solar energy, view, or unique land contour.
14. The foregoing standards shall not apply to a manufactured home located in a manufactured home community licensed by the Michigan Manufactured

Home Commission and approved by the Township according to the provisions contained in Section 7.1 of this Ordinance, except to the extent required by state or federal law.

15. A manufactured home that is in existence at the time of the adoption of this Ordinance that does not meet the dimensional requirements of this Subsection may be replaced with a similar manufactured home, provided that the replacement unit is newer than the existing unit and is not more than 10 years old at the time it is placed on the lot.

J. Temporary dwellings during construction.

1. Permit. A temporary dwelling permit may be issued by the Zoning Administrator for a manufactured home or recreational vehicle other structure to be occupied for a period up to six 12 months while the a single-family dwelling is being constructed, reconstructed, or repaired.
2. Zoning Districts. Temporary dwellings may be permitted in the AG, R-1, R-2, and R-3 Zoning Districts.
3. Extension. The temporary permit may be extended by the Planning Commission Zoning Administrator for a reasonable permit for due cause up to six (6) months if meaningful progress is underway but unexpected circumstances prevent completion of the principal structure. A second extension up to six (6) additional months may be granted by the Planning Commission under the same circumstances. The Zoning Board of Appeals may allow the temporary dwelling permit to be extended beyond two (2) years under extreme and exceptional circumstances.
4. Performance Guarantee. The Zoning Administrator shall require a performance guarantee of not less than

five hundred dollars (\$500) to ensure removal of the temporary dwelling upon expiration of the permit or removal deadline. The performance guarantee shall be in the form of cash or a letter of credit, which and shall be returned released in its entirety once the temporary dwelling has been removed, in accordance with the provisions of the temporary use permit.

5. Removal. The manufactured home or recreational vehicle temporary structure must be removed within 60 days after the expiration of the permit or within 30 days of the issuance of a Certificate of Occupancy for the principal structure, whichever comes first. If not removed within the required timeframe, or the performance guarantee deposit will be used for its removal of the temporary dwelling and an ordinance violation citation shall be issued in accordance with Section 14.11.

K. Vehicle sales on residential property

The sale of private vehicles on residential property shall be limited to one vehicle at any time. The sale of more than five vehicles from the same residentially-zoned property in a one-year period is prohibited. An unlicensed and/or inoperable vehicle shall not be placed for sale in yard or driveway for a period of more than three (3) months.

Section 5.5. Open space development option

A. Purpose. The Zoning Act (Act 110 of 2006) requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential development must adopt provisions in their zoning ordinances known as "open space preservation" provisions. Therefore, in accordance with the requirements of the Zoning Act, the provisions of this Subsection are intended to permit land, satisfying specified criteria, to be

developed, at the option of the landowner, with the same number of dwellings otherwise permitted under existing ordinances, laws and rules on the entire land area; but on a portion of the land, not exceeding 50 percent, while preserving the remaining land, at least 50 percent, as permanent open space.

B. Qualifying Conditions. Land may be developed under the provisions of this Subsection, at the option of the landowner, if all of the following conditions are satisfied:

1. All parcels within the Agricultural and Residential Districts shall be eligible for development in accordance with this section;
2. The development of land under this Section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this Chapter would also depend on such extension; and
3. The open space preservation option provided shall not have previously been exercised with respect to the same land.

C. Permitted uses. Only those land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this Chapter.

D. Application and review procedure.

1. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Chapter shall be those stated in Chapter 11, governing Site Plans, except as otherwise provided in this Section. If the open space preservation option is proposed as a platted subdivision or site condominium development, the applicant must also

submit all information required under the Township Land Division Regulations or Section 3.25 of this Ordinance, as applicable.

2. In addition to the application materials for site plans required by Chapter 11, an application for the development of land under the provisions of this Subsection shall also include the following:

- a. A Parallel Plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning, if the open space preservation option was not exercised. The Parallel Plan may be conceptual in nature but shall include at least the following information:
 - i. Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site plan illustrating the proposed development using the clustering option permitted by this Chapter.
 - ii. Location of streets and driveways.
 - iii. Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - iv. Location of storm water retention or detention basins, community sewage treatment systems and community water supply facilities necessary to serve a development under the Parallel Plan and which would not be located within any public road right-of-way or private road easement, or on buildable lots.
 - v. The Parallel Plan shall illustrate all unbuildable land, which shall include lakes, streams, detention ponds and other wetlands, public utility easements, floodplains, slopes of 20 percent or greater and other similar features which limit or prevent construction of buildings or roads.
- b. A copy of the conservation easement, plat dedication, restrictive covenant, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this Chapter in an undeveloped state. Such legal instrument shall be reviewed by the township attorney prior to recording, and shall be subject to the approval of the attorney, consistent with the terms of this Chapter. The legal instrument shall:
 - i. Indicate the proposed permitted use(s) of the undeveloped open space.
 - ii. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that are approved by the Planning Commission.
 - iii. Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
 - iv. Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.
- c. A site plan for a proposed development using the open space preservation option shall include the

following information, in addition to that required by Section 11.3 for site plans:

- i. Date, north arrow and scale which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the Parallel Plan.
- ii. The site plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
- iii. The site plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.
- iv. The site plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the Parallel Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 5.5.H.11.

E. Determination of number of lots by planning commission.

If the Planning Commission determines the number of dwellings illustrated on the Parallel Plan exceeds the number that could feasibly be developed on the land under the existing zoning classification without the open space preservation option, the applicant shall submit a revised site plan for the open space preservation option

reflecting the permitted number of dwellings, as determined by the Planning Commission.

F. Standards for approval. If a site plan satisfies all requirements of Chapter 11, all requirements of this Subsection, and all conditions of approval imposed by the Planning Commission, the Planning Commission shall approve the site plan. If the open space preservation option is proposed as a platted subdivision or site condominium development, the applicant shall also demonstrate compliance with all requirements of the Township Land Division Ordinance or this Ordinance, as applicable, before the Planning Commission may approve the development.

G. Open space development requirements.

1. **Minimum open space.** At least 50 percent, but no more than 60 percent of the land proposed for development under the provisions of this Subsection shall remain in a perpetually undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township Planning Commission. The following areas shall not constitute open space:
 - a. The area within all public street rights-of-way.
 - b. The area within all private street easements.
 - c. Any easement for overhead utility lines, unless adjacent to open space.
 - d. The area within a platted lot, site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
 - e. Off-street parking and/or loading areas.

- f. Golf courses, swimming pools, and clubhouses.
- g. Detention and retention ponds.
- h. Community drain fields.
- i. Fifty percent of the area of lakes, streams, detention ponds, wetlands, public utility easements, floodplains, slopes of 20 percent or greater, and other similar features which limit or prevent construction of buildings or roads.

2. **Standards for open space.** The following standards shall apply to the open space required pursuant to this Chapter:

- a. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses, such as hiking or picnicking, and may include: a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which the Planning Commission determines is substantially similar to these uses.
- b. The open space shall be available for all residents of the development, subject to reasonable rules and regulations, and shall be located to provide reasonable access to all residents. Safe and convenient pedestrian access points from the interior of the development shall be provided. The open space may, but is not required to be, dedicated for public use.
- c. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space about the body of water. Access to and the use of any body of water shall be subject to Section 3.13 of this Ordinance.
- d. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these type of land features are not present on the land, then the open space shall be centrally located, along the road frontage.
- e. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 100 feet, not including public right-of-way, and shall be left in its natural condition or be landscaped to help reduce the view of homes from the adjacent roadway and to preserve the rural character.
- f. To the extent feasible, open space shall be linked with adjacent open spaces, public parks, bicycle paths and pedestrian paths.
- g. If any portion of the land proposed for development under the open space preservation option is designated in the Township Master Plan or any other adopted parks and recreation plan or pathways plan to contain a segment of a non-motorized trail, a sufficient area of the open space shall be located to accommodate the trail.

3. **Structures within open space.** Designated open space areas shall not contain structures, except as may be specifically authorized by the Planning Commission upon determining the structure is accessory to the function of the open space. Examples of structures that may be authorized include: park or playground equipment, gazebos, or agricultural structures.

4. **Compliance with zoning district.** Development under the open space preservation option shall comply with all requirements of this Ordinance and the zoning

district in which the land is located, except setback and area requirements which may be modified to achieve the purpose of preserving open space.

5. **Uniform lot size.** All residential lots in the developed portion of the site shall be as uniform in area as reasonably practicable, unless otherwise approved by the Planning Commission.
6. **Building envelopes.** The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located, maximize the available open space, preserve existing natural features, and retain the rural character of the Township to the extent possible.
7. **Required frontage.** Each lot shall have a minimum of 30 feet of frontage measured at the road right-of-way or easement line.
8. **Lot width.** Each lot shall have a minimum width equal to at least one-half the width required for the zoning district in which the land is located, unless otherwise approved by the Planning Commission.
9. **Maximum number of lots.** The development shall contain no more than the number of lots, established by the Parallel Plan and approved by the Planning Commission. This number shall be further reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subparagraph k below.
10. **Non-dwelling unit structures.** Lots containing non-dwelling structures, such as a clubhouse and accessory building or related amenities, shall be subject to all requirements of this Subsection applicable to lots containing dwellings and all other requirements of this Ordinance and other Township ordinances. However, the Planning Commission may, in its discretion, permit the enlargement of a lot containing a non-dwelling structure to reasonably accommodate it.
11. **Reduction in lots for non-dwelling structures.** If structures other than dwellings, as described in subparagraph 10 above, are constructed on a lot and not located within a designated open space area, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
 - a. The area of a lot or lots occupied by non-dwelling structures shall be calculated and then divided by the average area of the residential lots proposed within the development. If this number is a fraction, it shall be rounded up to the nearest whole number.
 - b. The number calculated under subparagraph i shall be subtracted from the number of residential lots that could otherwise be permitted in the development based on the approved Parallel Plan. The resulting number shall establish the maximum number of residential lots permitted within the open space preservation development.
12. **Perimeter lots.** Notwithstanding any other provision of this Subsection, the Planning Commission may require that lots around the perimeter of the open space preservation development be designed to be compatible in size and setbacks with lots on adjacent properties.
13. **Sidewalks.** The Planning Commission may require sidewalks in accordance with the Township's site condominium regulations and Land Division Ordinance.
14. **Grading.** Grading within the development shall comply with the following requirements:

- a. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
- b. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
- c. Grading shall be planned and carried out to avoid erosion, pollution, flooding or other adverse effects upon the land and nearby waterways; and to minimize the overall environmental impact on the property due to loss of vegetation, slopes, natural features, wildlife habitat, and views.

15. **Private road.** Private roads within the development shall conform to the private road requirements of Section 3.17.

16. **Other laws.** The development of land under this Subsection is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

H. Amendments to an approved plan. Changes to an approved site plan for an open space preservation

development shall be processed in accordance with the provisions of Section 11.5.

- I. Performance guarantees.** The Planning Commission, in accordance with Section 14.6, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law.
- J. Time limits.** Actual construction of the approved development shall have commenced and proceeded meaningfully toward completion within one year of the date of site plan approval by the Planning Commission.
 - 1. If meaningful construction has not commenced during that period, the owner/applicant may request no more than one extension, for a period of up to one year. The Planning Commission shall consider the circumstances that have prevented the project from being diligently carried out and may grant an extension when delays are not the fault of the owner/applicant.
 - 2. If meaningful construction does not commence or continue within the one year time period or a one year extension (if granted), the site plan shall lapse. Any further development of the property shall require the site plan to be reviewed and approved according to the same process as required for the original approval.

Section 5.6. Large flag lot preservation option

- A. Intent.** This section allows for the permanent preservation of larger residential properties by preventing future land divisions, platting, site condominium development, and road construction. This development option creates the potential to preserve several hundred acres of land by restricting larger qualifying flag lots to a single home site.
- B. Purpose.** This section allows for deeper and larger parcels in the AG and R-1 Zoning Districts to be divided when

there are insufficient measurements of road frontage and lot width to allow for two (2) resulting parcels that comply with the frontage and width requirements of the district.

C. Approval Authority. Flag lots are reviewed and approved by the Zoning Administrator in accordance with this section and chapter.

D. Conditions.

1. The resulting flag lot must be a least 10 acres in size after the land division. Frontage and width of the flag lot shall be a minimum of 50 feet, and the parcel must have a sufficient building envelope to construct a dwelling without the need for variance requests.
2. The resulting non-flag lot must meet all dimensional and area requirements for the applicable zoning district and must have a sufficient building envelope to construct a dwelling without the need for variance requests.
3. Only one (1) flag lot land division is permitted per parent parcel.

E. Deed Restriction. A deed restriction shall be provided by the applicant for review and approval by the Township. The deed restriction shall permanently restrict the benefitting large flag lot to a single home site with no future land divisions, platted lots, or site condominium units, as well as no private or public street construction. The deed restriction shall be recorded as a condition of approval.

CHAPTER 6 COMMERCIAL AND INDUSTRIAL DISTRICTS

Section 6.1. Purpose and intent

A. GC General Commercial District. The GC Commercial District is designed to cater to the needs of a larger consumer population and to cater to the needs of "passer-by" traffic and comparison shopping. Many of the business types are generally located within an integrated or planned cluster of establishments served by a common parking area. These areas are intended to be located near existing urban centers.

B. LI Light Industrial District. The I Industrial District is composed of those areas of the Township whose principal use is or ought to be light manufacturing and other limited industrial uses. These uses generate a minimum of noise, glare, odor, dust, vibration, air and water pollutants, fire, explosive and radioactive hazards, and other harmful or obnoxious matter. This district has been located within the Township to permit the development of these industrial uses, to protect adjacent agricultural, residential, and commercial areas against the encroachment of incompatible uses, and to lessen congestion on public streets and highways. To these ends, certain uses which would function more effectively in other districts and would interfere with the operation of these industrial activities and the purpose of this district, have been regulated as Special Land Uses or excluded.

C. CO Commercial Corridor Overlay District.

- Purpose.** The purpose of the CO Commercial Corridor Overlay District is to establish regulations to provide orderly commercial development along the regional arterial surface highways in the township; to encourage the most appropriate use of adjacent lands; to maintain the scenic natural beauty of the area; and to promote

the safe and efficient movement of traffic along the corridors. These corridors commonly establish an image of the quality of life in the Township for visitors and residents alike. Preservation of this character is necessary to enhance trade, capital investment, tourism and the general welfare. The regulations set forth in this Chapter are an integral part of the Township's overall efforts to maintain and enhance the character and appearance of the Township. These regulations also promote the safe and efficient movement of traffic and encourage development that reduces or eliminates visual clutter and poor site layout

- Location.** The regulations of the CO Commercial Corridor Overlay District shall apply to all portions of any property that has frontage on Red Arrow Highway or Michigan State Trunk Highway M-40, **except** those properties zoned GC, General Commercial.

Section 6.2. Table of uses

The following abbreviations apply to the Table of Uses for the GC-General Commercial, LI-Light Industrial and CO-Commercial Corridor Overlay districts.

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: Listed uses may be permitted by obtaining Special Land Use approval, subject to the standards and procedures cited in Chapter 10 and any use restriction in Chapter 9.

NP: Not permitted.

"Other Requirements" references additional requirements applying to the use.

Table 6-1 Table of Uses, Commercial, Industrial and Commercial Corridor Overlay Districts

	Use	GC	LI	CO⁽¹⁾	Other Requirements
Accessory Uses	Accessory buildings and uses customarily incidental to permitted or special land uses	P/SLU	P/SLU	P/SLU	Sec. 6.5.A
	Accessory non-commercial building-mounted solar energy system	P	P	P	Sec. 9.42
	Accessory non-commercial ground-mounted solar energy system (less than 1,500 square feet of panels)	P	P	P	Sec. 9.42
	Accessory non-commercial ground-mounted solar energy system (1,500 square feet or more of panels, in front or side yards, or located off-site)	SLU	SLU	SLU	Sec. 9.42
	Drive through facilities serving a use other than a restaurant	SLU	SLU	SLU	Sec. 9.16
	Outdoor display or sales	SLU	SLU	SLU	Sec. 9.34
	Outdoor donation collection facility	P	P	P	Sec. 9.35
	Outdoor storage	SLU	SLU	NP	Sec. 9.55
	Solar energy collection systems, building mounted	P	P	P	Section 9.42
	Solar energy collection systems, ground mounted	NP	SLU	NP	Section 9.42
Office and Service Uses	Wind energy conversion systems (WECS)	P/SLU	P/SLU	P/SLU	Sec. 9.50
	Agribusiness	SLU	P	NP	Sec. 9.4
	Appliance and small equipment sales and repair	P	P	NP	
	Contractor's facilities	SLU	P	NP	Sec. 9.12
	Day care centers	P	SLU	SLU	Sec. 9.14
	Farm markets	NP	NP	SLU	Sec. 9.17
	Financial institutions, not including drive through facilities	P	NP	SLU	
	Graphic art and design studios	P	P	NP	
	Hospitals and clinics	P	NP	SLU	Sec. 9.24
	Mini-warehouses/self-storage facilities	SLU	SLU	NP	Sec. 9.30
	Laundromats and dry cleaning shops	P	P	SLU	
	Personal service establishments	P	NP	SLU	
Retail Uses	Professional offices	P	NP	SLU	
	Professional service establishments	P	P	SLU	
Retail Uses	Veterinary hospitals and clinics	P	SLU	SLU	Sec. 9.48
	Aggregate building materials sales yard, not including concrete mixing	NP	SLU	NP	

Table 6-1 Table of Uses, Commercial, Industrial and Commercial Corridor Overlay Districts

	Use	GC	LI	CO⁽¹⁾	Other Requirements
Restaurants, Entertainment and Hospitality	Agricultural equipment sales and service	SLU	NP	NP	
	Home and garden center	SLU	NP	NP	
	Lumber yards	SLU	P	NP	
	Retail stores	P	NP	NP	
	Retail stores, not more than 10,000 sq. ft. GFA	P	NP	SLU	
	Video rental and sales establishments	P	NP	NP	
Automotive Related Uses	Bed and breakfasts	P	NP	SLU	Sec. 9.6
	Clubs, private noncommercial	P	NP	SLU	
	General amusement attraction	SLU	NP	NP	Sec. 9.20
	Hotels and motels	P	NP	NP	
	Recreation facilities and health clubs, indoor (commercial)	P	NP	NP	Sec. 9.38
	Recreation facilities, outdoor (commercial)	SLU	NP	NP	Sec. 9.39
	Restaurants without drive through facilities	P	NP	SLU	Sec. 9.40
	Restaurants with drive through facilities	SLU	NP	NP	Sec. 9.40
	Stadium, athletic arena and similar large sports facilities	NP	P	NP	
	Taverns	SLU	NP	NP	
Industrial Uses	Vehicle sales	P	SLU	SLU	Sec. 9.45
	Vehicle repair, major	SLU	P	NP	Sec. 9.44
	Vehicle repair, minor	P	P	NP	
	Vehicle service stations, with or without accessory retail use ⁽²⁾	P	P	NP	Sec. 9.46
	Vehicle wash establishments	SLU	SLU	NP	Sec. 9.47
	Wireless communications facilities	P	P	NP	Sec. 9.51
	Composting facilities	NP	SLU	NP	Sec. 9.11
	Contractor's facilities,	SLU	P	NP	Sec. 9.12
	Dry cleaning and laundry plants	NP	P	NP	
	Laboratories and research facilities	NP	P	NP	
	Light manufacturing, assembly and packaging	NP	P	NP	
	Machining and wrought iron shop	NP	P	NP	
	Printing, lithographing, blue printing and similar	NP	P	NP	
	Recycling and transfer stations	SLU	SLU	NP	
	Warehousing, storage, distribution, and truck terminals	SLU	P	NP	Sec. 9.49
	Wholesale establishments	NP	P	NP	

Table 6-1 Table of Uses, Commercial, Industrial and Commercial Corridor Overlay Districts

Use		GC	LI	CO⁽¹⁾	Other Requirements
Medical Marihuana Facilities	Grower	NP	SLU	NP	Sec. 9.29
	Processor	NP	SLU	NP	Sec. 9.29
	Provisioning center	NP	SLU	NP	Sec. 9.29
	Safety compliance facility	NP	SLU	NP	Sec. 9.29
	Secure transporter	NP	SLU	NP	Sec. 9.29
Other Uses	Adult entertainment uses	NP	SLU	NP	Sec. 9.2
	Airports and landing fields	NP	SLU	NP	Sec. 9.5
	Business centers containing two or more permitted or special land principal uses (not including mixed uses)	P	P	NP	
	Cemeteries	SLU	NP	SLU	Sec. 9.10
	Change of a non-residential building to a single-family dwelling if the building was originally designed for residential occupancy or accommodations	SLU	NP	NP	Sec. 5.4 J
	Commercial kitchen or bakery	SLU	NP	NP	
	Commercial solar energy system	NP	SLU	NP	Sec. 9.52
	Funeral homes and mortuaries	P	NP	NP	Sec. 9.19
	Junkyards and salvage centers (licensed)	NP	SLU	NP	Sec. 9.26
	Kennel, commercial and pet services (without outdoor exercise and play areas and outdoor runs)	P	NP	NP	Sec. 9.28
	Kennel, commercial and pet services (with outdoor exercise and play areas and outdoor runs)	SLU	NP	NP	Sec. 9.28
	Mixed uses; Residential or agricultural uses permitted in the underlying zoning district along with an allowed special land use	NP	NP	SLU	
	Pet cemeteries	SLU	NP	NP	
	Places of worship	P	P	SLU	Sec. 9.36
	Public buildings	P	P	NP	Sec. 9.36
	Public utility facilities	P	P	NP	Sec. 9.37
	Radio and television broadcasting stations, not including transmission towers	P	NP	SLU	
	Schools: trade/commercial	P	NP	SLU	Sec. 9.41

Table 6-1 Table of Uses, Commercial, Industrial and Commercial Corridor Overlay Districts

Use		GC	LI	CO⁽¹⁾	Other Requirements
Similar Uses	Any use not listed in this Ordinance determined to be similar to an above use	P/SLU	P/SLU	SLU	Sec. 3.2

Notes to Table 6-1:

(1) The listed uses in the CO District shall be in addition to any permitted or special land uses allowed in the underlying zoning district.
 (2) If an accessory retail use includes a restaurant with drive through service, a special land use is required (in districts where the vehicle service station is a permitted use).

Section 6.3. Development requirements

A. The following chart outlines application and review requirements for the commercial and industrial districts. An application shall not be acted on unless it is in compliance

with all of the following requirements, unless specifically waived by the Zoning Administrator.

Table 6-2 Application and Review Requirements, GC, LI and CO Districts

Requirements		Submission Deadline
Site Plan Review (Chapter 11) Required for all uses	Completed application form	45 days prior to the scheduled planning commission meeting
	Application fee/escrow fee	
	Proof of ownership or interest in property	
	Legal description of property	
Site Plan Review (Chapter 11) Required for all uses	Narrative addressing Review Standards of Section 11.6	45 days prior to the scheduled planning commission meeting
	Complete preliminary or final site plans in accordance with Section 11.5	
Special Land Uses (Chapter 10)	Same as Site Plan Review	45 days prior to the scheduled planning commission meeting
	Narrative addressing Review Standards of Section 10.5 and applicable Use Restrictions in Chapter 9	

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B. Lot, yard and building requirements

Table 6-3 Zoning District Regulations, GC, LI and CO Districts

		GC	LI	CO ⁽¹⁾
Min. Area (sq. ft.)		20,000	43,560	10,000
Min. Width (ft.)		100	150	75
Maximum Building Height	In stories	2.5	4	2.5
	In feet	30	45	30
Minimum Front Yard Setback (ft.) ⁽²⁾		50	50	50
Minimum Rear Yard Setback (ft.)	Adjacent to non-residential districts	15	50	15
	Adjacent to residential districts	50	100	25
Minimum Side Yard Setback (ft.)	Adjacent to non-residential districts	15	50	15
	Adjacent to residential districts	50	50	25
Maximum Lot Coverage Area (% of total lot area)		50%	50%	30%

Notes to Table 6-3:

- (1) The lot, yard and building requirements listed for the CO Overlay District shall apply to any special land use as allowed in Table 6.2, in addition to any specific use requirements in Chapter 9. Where the requirements of this Section conflict with any other requirements, the more restrictive shall apply.
- (2) In the event that there are principal or accessory buildings located on the adjacent lots which are different than the front setback minimums stated for the zoning district in which the building is located, then an alternative setback line may be established by averaging the setback of principal or accessory structures located within 330 feet in both directions of the subject property.

Section 6.4. Specific district requirements

A. CO Commercial Corridor Overlay District.

1. All uses and requirements of the underlying zoning district shall apply to property in the CO District, in addition to the requirements of this Chapter. Where the

regulations of the underlying district and the CO Overlay District conflict, the more restrictive shall apply.

2. When considering any special land use in the CO Overlay District, in addition to any applicable general or specific standards related to a use, the Planning Commission shall consider the following in making a special land use decision:

- a. Wherever possible, access to the public road shall be shared with adjacent non-residential uses. Accesses shall be located so as to provide the safest and most efficient ingress and egress to the site.
- b. To the greatest degree possible, uses shall be designed to be compatible with the character of the corridor and shall use materials and colors that are residential in character. The Planning Commission may relax this standard where the subject property is adjacent to lots in the GC or LI districts.
- c. The Planning Commission may impose additional conditions, restrictions and safeguards to protect and buffer the special land use from any adjacent residentially used or zoned parcel.

B. LI Industrial District.

1. Performance Standards.

No use otherwise allowed shall be permitted, the I Industrial district, that does not conform to the following standards of use, occupancy and operation, which are hereby established as the minimum requirements. Generally accepted methods of collection and standard methods of analysis shall be used in the application of these requirements.

- a. *Smoke and/or Air Pollution Control.* The emission of gases, smoke, dust, dirt, and fly ash should in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable Federal, State and County health laws pertaining to air pollution and smoke abatement.

- b. *Open Storage.* The open storage of junk, scrap or salvage or other waste products where the operations are for the conversion to saleable materials shall be screened from public view, from a public street and from adjoining properties not of a similar nature, by an enclosure consisting of a solid wall or fence not less than six feet in height.
- c. *Glare and Radioactive Materials.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to emit quantities exceeding those established as safe by the U.S. Bureau of Standards and/or the Atomic Energy Commission when measured at the property line.
- d. *Fire and Explosive Hazards.* In the Industrial District the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning as determined by the Michigan Fire Marshall, is permitted subject to compliance with all the other performance standards above mentioned. The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Marshall, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:
 - i. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.

- ii. Said materials or products shall be stored, utilized or produced in completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of Building Codes.
- iii. All such buildings or structures shall be set back at least 40 feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Board of Fire Underwriters.
- iv. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941, as amended.
- v. All handling of flammable or hazardous substances shall be in accordance with State and Federal laws and all required State and Federal permits shall be obtained and the establishment shall remain in conformance therewith.
- e. *Noise.* Noise shall not be emitted which exceeds seventy (70) decibels as measured at the property boundary line, except that where normal street traffic noises exceed seventy (70) decibels during such periods, the measurable noise emanating from subject premises may be equal to, but shall not exceed, such traffic noises.
- f. *Vibration.* Vibration as measured at the property lines shall not cause a displacement of greater than three thousandths of one inch.

- g. *Lighting.* All lighting or other forms of illumination utilized on private property shall be arranged and so located that it will not shine, reflect, or glare into public streets or surrounding properties.

Section 6.5. Commercial and industrial districts general requirements

The following requirements apply to all properties within the GC, LI, and CO districts, except as noted below.

A. Accessory structures.

- 1. No accessory building shall be permitted on a lot without a principal building. Construction of an accessory building that will serve a principle building may commence upon final inspection of an approved foundation for an approved principal building.
- 2. Where the accessory building is structurally attached to a main building it shall be subject to and must conform with all regulations of this Ordinance that apply to main buildings.
- 3. Accessory buildings with a total gross floor area greater than 200 square feet shall require a building permit as provided in the Michigan State Construction Code. All accessory buildings shall require zoning compliance.
- 4. Metal, canvas and similar structures constructed on a rigid frame, whether enclosed or unenclosed, erected for the purpose of cover or storage of vehicles or other goods, or any other accessory structure that is constructed upon skids or other moveable base, shall be considered accessory structures for the purposes of this Section. Such structures shall be adequately anchored to meet wind load requirements of the building code.

5. Accessory structures shall meet the same setbacks as the principal structure(s). No accessory structure shall be less than 20 feet from a principal structure.

B. Storage Trailers

1. Up to three licensed and operable semi-trailers or similar licensable vehicles may be used for storage purposes on a lot in a GC or LI district. Trailers used for the purpose of storage, even if only on a temporary basis, shall not be permitted in the CO Overlay District.
2. Unlicensed and/or inoperable trailers or similar licensable vehicles may not be used for storage purposes.
3. This subsection shall not apply to trailers used for storage of building materials or otherwise related to an active construction project which has received all required permits, provided the trailers are removed upon completion of the construction project.

C. Fences

1. Fences shall not exceed eight feet in height, measured from the surface of the ground.
2. Fences, which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not obstruct vision to an extent greater than 25 percent of the total area.
3. No fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone established in Section 3.12, or interfere with visibility from a driveway. The Zoning Administrator is hereby empowered to cause all such obstructions to be removed in the interest of public safety.

4. Fences located within 25 feet of an intersection shall not exceed 30 inches in height.
5. Fences shall not contain barbed wire, electric current, or charge of electricity. In the case where the security of industrial and commercial property is concern, the Planning Commission may approve a fence eight feet in height with barbed wire attached to the top of such fence as part of the site plan review process.

D. Design standards

1. Intent. The exterior appearance of any building located within a residential, commercial, or industrial zoning district of the Township has an effect upon the desirability of the immediate area and of neighboring areas for business and other purposes. Maintenance of an attractive, compatible, and pleasing exterior appearance of such buildings will prevent impairment of the stability of the value of other real property in the area, permit the most appropriate development of such area, and prevent attendant deterioration of conditions affecting the general welfare of the citizens of Antwerp Township.
2. Design Criteria. In the process of reviewing the submitted materials, the Planning Commission shall consider:
 - a. *Relationship of Buildings to the Site.* The site shall be planned to accomplish a desirable transition, between the building(s) with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.
 - b. Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged, where feasible, to provide an interesting relationship between buildings.

- c. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways. Parking lots shall provide access to adjoining non-residential parking areas and to adjacent areas of future non-residential development.
- d. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
- e. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

E. Landscaping and greenbelts

All uses shall provide landscaping and greenbelts, as required by Section 12.1.

Section 6.6. General Commercial and Commercial Corridor Overlay Building Form and Design Requirements

A. Applicability.

- 1. These requirements apply to all new buildings in the GC Zoning District and Commercial Corridor Overlay District and are recommended for building renovations.
- 2. The Planning Commission may recommend an exemption for accessory buildings if they are not oriented toward the public right-of-way, are screened, or are not visible from the public right-of-way.
- 3. The Planning Commission may recommend an exemption for attached warehouse components of buildings if a compliant front office or retail area of the

building comprises of most of the front building elevation and the attached warehouse is at least 20 feet behind the front building line of the office or retail area of the building.

- 4. The Township Board shall have the final authority on accessory building and attached warehouse exemptions.

B. General Requirements.

- 1. Entrances. Primary entrances shall face the public right-of-way.
- 2. Connectivity. Sites shall be designed to preserve the possibility of future connectivity and cross access movements of vehicles and pedestrians between adjacent parcels.
- 3. Loading Areas. Loading docks, overhead doors, and other service entries shall be located to the side and rear of buildings. Subject to Planning Commission review and Township Board approval, a drive through facility may be placed to the front of a building so long as it does not detract from the aesthetic quality and character of the building, and it shall comply with all other zoning requirements.

C. General Commercial Requirements.

- 1. Fenestration. Fenestration is regulated as a percentage of the façade between floor levels and is measured as the square footage of glass area, doors, and open area.
 - a. Min./Max. Ground Floor Façade Fenestration- 33 to 80%.
 - b. Min./Max. Upper Story Fenestration- 20 to 70%.

2. **Articulation.** All facades over 30 feet shall have horizontal and vertical architectural articulation that provides a visual break to the expanse of masonry. Articulation may include shed roof overhangs, porches, vertical elements, and other approved projections.
3. **Exterior Walls.** For the purpose of this section, masonry is defined as brick, stone, or any other comparable hard-surface product approved by the Zoning Administrator.
 - a. After subtracting the square footage of windows and doors, the remaining area of street-facing building elevations shall be constructed with a minimum of 80 percent of masonry, wood, or cementitious siding.
 - b. The bottom four (4) feet of all building front and side elevations shall be 100% masonry.
4. **Roofs.** Rooftop mechanical equipment shall be setback at least 10 feet from the edge of street-fronting facades.

D. Commercial Corridor Overlay Requirements.

1. **General Design Intent.** The intent of this overlay is to allow a variety of complementary residential and non-residential uses along major corridors within Antwerp Township that are designed in a consistent manner. Design of non-residential buildings shall incorporate residential architectural elements and development shall be scaled appropriately to ensure consistency.
 - a. **Parking Parallel to Road.** Parking is limited to two (2) rows, parallel to the front lot line, forward of the principal buildings. Parking is encouraged to be placed to the side and rear of the principal building.

- b. **Parking Perpendicular to the Road.** Parking rows perpendicular to the road and in front of principal buildings shall be limited to six (6) spaces per row.
2. **Roofs.**
 - a. Roofs shall be hip, gambrel, or gable. Shed roofs are permitted for additions or porches. Mansard and flat roofs are prohibited.
 - b. **Overhangs.** Roof overhangs shall be a minimum of one (1) foot overhang at the eave and rake.
 - c. **Eaves.** Eaves with exposed rafter tails are encouraged.
3. **Exterior Walls.**
 - a. **Materials.** After subtracting the square footage of windows and doors, 80 percent of exterior walls shall be clad in wood or cementitious siding. The remaining may be brick or stone, or other comparable materials acceptable to the Zoning Administrator.
 - b. **Style.** Siding may be horizontal lap, ship-lap or vertical board and batten.
4. **Windows.**
 - a. **Proportion.** Window openings shall have vertical proportions or shall be square.
 - b. **Sills.** All windows fronting streets shall have sills.
 - c. **Shutters.** When used, shutters shall be sized equal to half the width of the window and be the same height of the window.

E. Deviations. Deviations from the General Commercial and Commercial Corridor Overlay building form and design requirements of Section 6.6 may be authorized after a

recommendation of the Planning Commission and approval by the Township Board through the special land use process.

1. In determining if a deviation is warranted, the Planning Commission and Board shall consider the following:
 - a. The proposed architectural design and/or building material is equal or superior to these requirements as it relates to achieving the character desired by this section.
 - b. The proposed architectural design and/or building material better fits the character of the area than when it strictly conforms to the requirements of this section.
 - c. The deviation has no significant visual impact or distinction from the public right-of-way or adjacent properties.
 - d. The applicant shall demonstrate that conformance with the requirements is impractical due to complexity, but these factors shall not by themselves be the reasons for granting a deviation.
2. Township may grant a lesser deviation than requested.
3. The Township may attach conditions necessary to uphold the intent of this section.

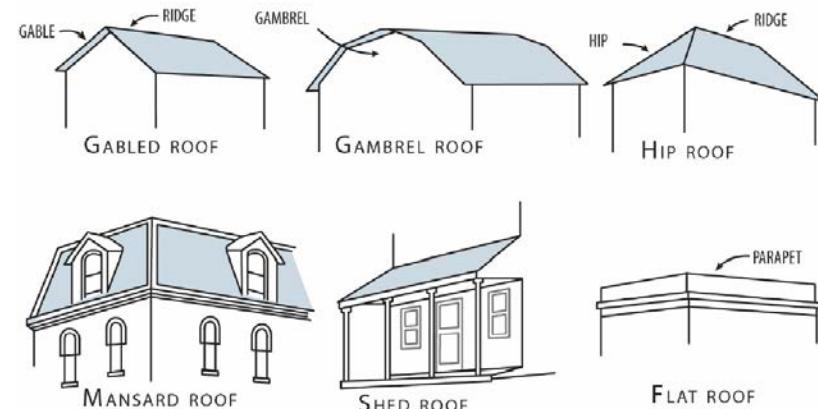


Figure 6-1: Roof types.

CHAPTER 7 OTHER DISTRICTS

Section 7.1. MHP Manufactured Home Park District

A. Description and purpose.

This district is intended for manufactured home parks in those areas suited for residential development and which are capable of being served by public sewers or a community sewer system. Licensed manufactured home parks may be permitted in the Manufactured Home Park (MHP) District where access to the proposed park is on a paved county or state roadway. A manufactured home park shall be approved only after the Planning Commission has reviewed the site plan in relation to land use studies, the Antwerp Township Master Plan and present or potential service areas, to ascertain that the proposed arrangement will not produce hazards or undue congestion and will provide the greatest amount of convenience for residents.

B. General requirements.

1. A manufactured home shall be properly electrically grounded and sufficiently anchored to a reinforced concrete slab of not less than six inches in thickness at any weight-bearing portion. The slab shall be the same square footage of the manufactured home; or two runners of 24 inches by 12 inches the full length of the mobile home; under the frame.
2. The wheels, axles, and pulling device (tongue) shall be removed.
3. The base of the manufactured home shall be enclosed with concrete blocks, bricks, or treated timber. Manufactured homes using runners or pilings shall put in footings for the foundation of the blocks, bricks, or siding used for the skirting.

4. A frost wall shall be placed around the weight-bearing perimeter in compliance with the Township Building Code.
5. A storage area of ten percent (10%) of the gross floor area of the manufactured home shall be erected or a basement provided. Any manufactured home being placed or relocated in Antwerp Township shall also meet the following standards:
 - a. A manufactured home must first meet or exceed the terms and provisions of the Manufactured Housing Commission Rules promulgated by the Michigan Department of Energy, Labor and Economic Growth or any successor agency, pursuant to the Mobile Home Commission Act (Act 96 of 1987), including any and all amendments thereto.
 - b. A manufactured home must first meet or exceed the terms and provisions of the Manufactured Housing Commission Rules aforementioned, including any and all amendments thereto, as they relate to installation procedures and requirements, and as they relate to the proper installation of utilities.
 - c. A manufactured home must first meet or exceed the terms and provisions of the National Manufactured Housing Construction and Safety Standards Act, and the Manufactured Home Construction and Safety Standards promulgated there under.

C. Table of uses. The following abbreviations apply to Table 7-1:

P: Permitted use by right

Table 7-1 Table of Uses, MHP District

Manufactured housing parks	P
Lot sales (not including manufactured home sales and display) and maintenance office for a manufactured home park ⁽¹⁾	P
Park, playground or community center serving a manufactured housing park	P
Home occupations conducted within dwelling units in a manufactured housing park	P
Accessory structures and uses in conjunction with a manufactured housing park and the dwellings within the community	P
Solar energy collectors, building mounted	P
On-site service wind energy conversion systems (WECS), serving only community centers, sales offices or other permitted non-residential uses within a manufactured housing park, subject to Section 9.47	P

Notes to Table 7-1:

(1) Sales of individual manufactured homes that have been established upon a dwelling site within a manufactured home park shall be permitted.

D. Lot, yard and building requirements

Table 7-2 Manufactured Home Park Lot, Yard, and Building Requirements		
	Regulation	Requirement
Manufactured Home Site	Area per Dwelling Unit	4,400 sq. ft.
	Site Width	40 ft.
Yard Requirements	Front Yard	50 ft. for the community 5 ft. for individual sites 40 ft. for non-residential uses
	Side Yard	50 ft. for the community 10 ft. for individual sites 20 feet for non-residential uses
Yard Requirements (cont.)	Rear Yard	50 ft. for the community 15 ft. for individual sites 40 feet for non-residential uses
Building Requirements	Maximum Building Height (Stories/ft.)	2 stories, 35 ft. for community buildings 1 story, 15 ft. for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

E. Development requirements.

All of the following design requirements shall be met:

1. There shall be a 50 foot front yard and a 50 foot unoccupied landscaped area around the entire park, which shall be regularly maintained.
2. At least ten percent of the total park area shall be devoted to a landscaped park for the use of residents of the park.
3. Public sewer and water facilities, where available, or sewer and water services approved by the Van Buren County and State Health Departments, shall be provided to each mobile home site.

4. No drive or accessory structure on a site may be closer than five feet to the side lot line of a site. There shall be provided at least two off-street parking spaces for each mobile home site.
5. Required off-street parking may be located in bays off the internal streets and shall have a durable, dustless surface.
6. The manufactured home park shall conform to all state regulations. Where the provisions of this Ordinance represent increases of the minimum standards of State Act 96, P.A. of 1987, as amended; the provisions of this Ordinance shall be met. A Certificate of Zoning Compliance shall not be issued until the site plan

showing all sites and improvements have been approved by the Planning Commission.

7. Manufactured Home Parks may be licensed and permitted in the MHP District under conditions specified below. The Township Board shall not grant a license for such proposed use prior to the Planning Commission's report on a site plan and the following:

- a. Manufactured home park densities shall not exceed nine dwelling units per acre.
- b. All areas within 50 feet of a public right-of way, with the exception of entry and exit drives, shall be landscaped and maintained with grass and shrubs and/or trees as approved by the Planning Commission.
- c. All parking areas and refuse disposal containers shall be screened from view by appropriate evergreen landscaping and/or fencing as approved by the Planning Commission.
- d. Approved sewer and water shall be provided. Private sewer and water systems may be used if approved by the township and all necessary county and state authorities.
- e. All interior driveways shall have at least 22 feet of pavement width and shall meet the standards described in Section 3.17. Private Streets.
- f. Compliance with the standards and requirements of this Ordinance.

F. Manufactured home plats and condominiums.

Manufactured home plats and condominiums may be permitted in the MHP District provided that such designation appears in the name or entitlement of the plat, the area of the

plat is not less than ten (10) acres, and the plat complies in all other respects with the MHP District and this Ordinance. No manufactured home may be situated closer than 100 feet from the plat boundary. A Certificate of Zoning Compliance shall not be issued until the site plan showing all sites and improvements has been reviewed and approved according the requirements of this Ordinance.

Section 7.2. Environmental Buffer Overlay District

A. Intent.

1. The intent of this district is to provide a level of protection to environmentally sensitive areas beyond that which is required in the underlying zoning district. The Township has identified these sensitive areas through the use of an overlay classification. With this method, underlying land use classifications aid in determining uses and densities, but the overlay indicates that the area is in need of special site plan and development considerations. Among these considerations during site plan review include items such as shoreline buffers, deeper setback limits, best management practices and additional site specific studies during site plan review.
2. Future development should be planned with consideration for the natural and aesthetic environment. Minimizing impervious surface area, establishing shoreline buffers and setback areas, instituting regular septic system inspections, and limiting the application of landscape chemicals are suggested mechanisms for conserving the quality of Antwerp Township's inland waters.
3. All proposed land uses in the Environmental Buffer Overlay except agricultural uses and single family residences, and associated accessory structures, shall

be subject to site plan review by the Planning Commission and approval by the Township Board, in accordance with Chapter 11. Single family residences and associated accessory structures are subject to Zoning Compliance review, in accordance with Section 14.2.

B. Setback from surface water features.

1. Subject to any Michigan Department of Natural Resources and Environment or Van Buren County Health Department regulations, as well as any flood plain restrictions, any building constructed on a lot abutting a surface water feature is set subject to setbacks.
2. Width and Location.
 - a. *Measurement of width.*
 - i. Water bodies. Measured horizontally from the water's edge or the ordinary high water mark, whichever is greater.
 - ii. Wetlands. Measured horizontally from the boundary or edge, as delineated on a professionally prepared survey completed by a certified professional submitted to the Township and reviewed by Township staff, Michigan DEQ, and/or other professionals, as required by the Township Planning Commission or Zoning Administrator.
 - b. 100 feet from the water's edge of the East Branch of the Paw Paw River and its tributaries,
 - c. 75 feet from the water's edge of any other surface water feature

3. In the event of a controversy concerning the location of the water's edge for the purposes herein set forth, the determination of the Zoning Board of Appeals shall be conclusive on such questions.
4. Exemptions to the setback requirement include:
 - a. Those buildings in existence at the time of passage of this Ordinance.
 - b. One-story boat houses used exclusively for boating and bathing facilities on Ackley Lake, subject to the following requirements.
 - i. 5 foot minimum setback from the ordinary high water mark line, unless approved by the state to be constructed at the water's edge or over the water.
 - ii. Only seasonal docks and seasonal boat shelters may be constructed out into the water body, unless approved by the state.
 - iii. Boathouses shall be subject to the policies and regulations of the MDEQ and other State and County agencies as well as the other requirements of this Ordinance.
 - c. Dock, seawall, or pilings approved by the (appropriate state agency).
5. A copy of the appropriate State or County permit, if necessary, must be on file in the Township office, prior to any construction that changes the shape of the shoreline such as a dock, seawall, or pilings.
6. Specific use setbacks.
 - a. 150 feet for storage of hazardous substances.

- b. 150 feet for above or below ground petroleum tanks.

C. Riparian buffer. A natural buffer vegetated with herbaceous and woody native plants or left in a natural state shall be maintained and preserved on all properties within the Environmental Buffer Overlay District with frontage on surface water features.

1. Widths and Locations.
 - a. *Point of measurement.*
 - i. Water bodies. Measured horizontally from the water's edge or the ordinary high water mark, whichever is greater.
 - ii. Wetlands. Measured horizontally from the boundary or edge, as delineated on a professionally prepared survey completed by a certified professional submitted to the Township and reviewed by Township staff, Michigan DEQ, and/or other professionals, as required.
 - b. 75 feet for each side of the East Branch of the Paw Paw River and its tributaries.
 - c. 50 feet for each side of all other designated surface water features.
 - d. For properties with frontage on a surface water feature greenbelt buffer zones of at least 25 feet shall be required between a residential structure and adjacent undeveloped or conserved property to the side and rear of the property. This does not replace the requirements of Subsection a, above, along the water-side of the property. The buffer areas shall be preserved in their natural state if vegetation is already established or appropriately planted with native grasses, forbs, shrubs and/or trees.
2. Prohibited Uses.
 - a. Clear cutting of trees and/or other vegetation.
 - b. Drainage by ditching, underdrains, or other systems.
 - c. Deposit of materials.
 - d. Removal of soils and minerals.
 - e. Housing, grazing, or other maintenance of livestock.
 - f. Roads or driveways.
 - g. Parking lots.
 - h. Expansion of existing structures.
 - i. Buildings and other impervious structures.
3. Exemptions.
 - a. Approved boathouse development on Ackley Lake, subject to the requirements of this section.
 - b. Limited clearing of the vegetation is permitted when required for construction, provided the land cleared is returned to a vegetative state that is the same quality and extent as that which existed prior to clearing.
4. Landscaping and Vegetation.
 - a. Riparian buffers shall be left in a natural vegetative state, except for the clearing of dead or invasive plants and trees.

- b. Planting of native species in the required riparian buffer is encouraged, especially where exposed soils and steep slopes exist.
- c. Maintenance of native plants and trees is permitted, subject to best practices published by an authority acceptable to the Zoning Administrator.
- d. A maximum of 15% but no greater than 25 feet of the length of the buffer adjacent to the surface water feature may be selectively pruned to allow for the placement of walkways, viewing areas, decks or patios, with approval by the Zoning Administrator or Planning Commission. Walkways, decks or patios must be porous and allow for natural infiltration of water. The angle of walkways shall be perpendicular to the surface water feature to minimize necessary clearing.

5. General Requirements.

- a. Within any land to be subdivided, the greenbelt buffer zone may be included in the area to be subdivided or within any designated open space. However, the buffer zone shall not be included in calculations for determining the required percentage of open space.
- b. The entire extent of wetland and floodplain areas shall not be altered, dredged, filled, piped, diverted, or built upon except where all applicable local, state, and/or federal permits have been obtained.
- c. Developments which are proposed within 100 feet of an identified wetland, according to the Master Plan or as identified on the National Wetlands Inventory map, may be required to have additional studies completed at the applicant's cost. The

applicant shall choose the consultant from a list of qualified firms.

D. Site plan design requirements.

- 1. Within the Environmental Buffer Overlay District, it is the intent of Antwerp Township to allow development that may aid in permanently preserving the open space, agricultural lands, woodlands, wetlands, critical views and other natural features of rural Antwerp Township.
- 2. In general, the organization of land and structures within the Environmental Buffer Overlay District shall seek to maximize conservation values. The use of land and structures also must conform to the following design standards:
 - a. Maximum building coverage, including primary and accessory structures shall be 10 percent of total lot area.
 - b. Maximum total impervious coverage, including structures and other impervious surfaces shall be 15 percent of total lot areas.
 - c. The site shall be designed to preserve natural features whenever feasible.
- 3. Site plans shall include all environmental checklists, as required.
- 4. Buffer maintenance agreements must be included, as required.

E. More restrictive standards govern.

- 1. Regulations imposed in areas identified as erosion control districts or flood hazard districts in this Zoning Ordinance shall govern if such restrictions or regulations impose a higher standard or requirement.

2. If a greater setback or prohibition is required by the Natural Resources and Environmental Protection Act, another Act or standard of the State or County, or another part of this Ordinance, the greater setback or prohibition shall apply.

Section 7.3. Wellhead Protection Overlay District

A. Intent and Purpose. The Antwerp Township Board of Trustees, in considering this ordinance, determined the following:

1. The intent/purpose of the Groundwater Protection Within Wellhead Protection Areas and Selected Performance Standards Ordinance is to protect the groundwater supplies within Antwerp Township that serve as drinking water associated with the Mattawan Public Water Supply System and the Lawton Public Water Supply System. These Wellhead Protection Areas (WHAs) that extend into Antwerp Township are recognized and approved by the Michigan Department of Energy, Great Lakes, and Environment (EGLE). Because these WHAs extend beyond the Villages of Mattawan and Lawton and into Antwerp Township (Township), the Township recognizes the importance to use its juridical authority to protect these drinking water sources. It is not the intent of this Ordinance to replace any existing authority to manage portions of the WHAs that reside within the Village of Mattawan or the Village of Lawton but rather to assist them in their recognized efforts.
2. Overlay districts are created to reflect the imposition of special needs, considerations, restrictions and regulations upon land areas to reflect or create special protections or uses in the public interest. These areas

- are depicted on the Antwerp Township Official Zoning Map maintained at the Township Hall.
3. Certain groundwater is the sole source of potable water for the Township.
4. Groundwater is integrally connected with surface waters.
5. Releases of toxic or hazardous substances into surface waters or upon lands can adversely affect the quality of groundwater resulting in risk to public health and safety.
6. Preserve, protect, and maintain the groundwater within the Overlay District.
7. Prevent and minimize the impact of existing and future uses of land on the groundwater.
8. Maintain and preserve natural resources, including surface and groundwater.
9. Assure the proper implementation of federal, state, and local drinking water, groundwater, and surface water requirements and provide written verification to the Township.

B. Establishment of Wellhead Protection Overlay Zoning District Classification. There is hereby created the Wellhead Protection Overlay Zone which is an overlay district extending across the Township's other zoning districts and consists of the property depicted in the drawing attached as Attachment "A" which is incorporated into this subsection by reference, amendments to the Zoning Map, as incorporated into the Zoning Ordinance. Within this overlay zone, the provisions of this section shall apply in addition to those provisions governing the zoning district in which the property is also located (the underlying Zoning District). Where the provisions of this section

conflict with the provisions of another section, the more restrictive provisions shall apply.

C. General Provisions.

1. Management Strategy. The primary strategy to protect groundwater within the WHPAs is to define noncompatible (highest-risk) land uses and to prevent their creation or establishment within these areas. For those land uses that are allowed but still pose a potential high-risk, certain Best Management Practices (BMPs) and Performance Standards are required to minimize the risk to groundwater.
2. Definitions.
 - a. Best Management Practices (BMPs) mean the best available methods, activities, maintenance procedures, technologies, operating methods or management practices designed to prevent, reduce, or mitigate adverse impacts to the quality and/or quantity of groundwater caused by particular land use activities.
 - b. Capture Zone means that area through which water travels below the surface and reaches a municipal well or wellfield within a specified period of time (under specified conditions set by EGLE). This ordinance addresses the ten-year time-of-travel capture zone, as required by EGLE. For the purposes of this ordinance, WHPA is synonymous with the ten-year time-of-travel capture zone.
 - c. Lawton means the Village of Lawton, Van Buren County, Michigan.
 - d. Mattawan means the Village of Mattawan, Van Buren County, Michigan.

- e. Township means Antwerp Township, Van Buren County, Michigan.
- f. Groundwater means the water below the land surface in a zone of saturation, excluding those waters in underground piping for water, wastewater, or stormwater distribution/collection systems.
- g. Michigan Department of Energy, Great Lakes, and Environment (EGLE) shall include its predecessors and successors.
- h. Performance Standards shall mean those BMPs and engineering controls contained within the Township's recognized industry standards, and/or those specifically identified within the Performance Standards portion of this document.
- i. RCRA means the Resource Conservation and Recovery Act of 1976 (pub.L.94-580;42 U.S.C. 6901 et seq., as amended).
- j. Regulated Substances shall include:
 - i. Substances for which there is a Safety Data Sheet (SDS), formally known as Material Safety Data Sheet (MSDS), as established by the United States Occupational Safety and Health Administration (OSHA), and the SDS cites possible health hazards for said substance;
 - ii. Hazardous Waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA);
 - iii. Hazardous Substance, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when

the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. Environmental Protection Agency (EPA) regulations;

- iv. Radiological materials; and
- v. Biohazards.

k. Regulated Substances shall not, however, include:

- i. Substances in an amount equal or less than 2200 pounds that are in an area capable of fully containing a total release of said substance or an area that would drain the substance to a wastewater treatment system, excluding septic tanks systems, capable of treating the released substance(s);
- ii. Substances in a parked or stopped vehicle in transit, provided the vehicle is stopped or parked for less than 72 hours;
- iii. Substances, such as gasoline or oil, in operable motor vehicles or boats so long as used solely for the operation of the vehicle, but not the tanker portion of a tank truck;
- iv. Pressurized gases such as chlorine, propane, hydrogen, and nitrogen when used in a chemical storage tank;
- v. Refrigerants contained within equipment and used for on-site air cooling or in household appliances;
- vi. Substances contained within electrical utility transformers/switches; or,
- vii. Substances used in construction for which all necessary permits have been obtained, and in accordance with the "Performance Standards."

I. Release means the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more regulated substances upon or into any land or water within a WHPA. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" when used and applied herein does not include:

- i. Disposal in accordance with all applicable legal requirements, including those in RCRA and CERCLA, of hazardous wastes in a Facility for that purpose;
- ii. Disposal of any substance in compliance with applicable legal requirements, including without limitation, the terms and provisions of a valid municipal, state, or federal permit;
- iii. Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
- iv. Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by the State of Michigan or Van Buren County Environmental Health;
- v. A release for which there is no obligation to report under Federal, State, or other local

regulations that occurs on an impervious ground surface (e.g. building floor or concrete driveway) that is effectively cleaned up before reaching permeable ground (e.g. unpaved), a dry well, a storm sewer, or surface water body; or

vi. The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices," and consistent with label directions approved by the Michigan Department of Agriculture.

m. Spill Contingency Plan (SCP) means written site-specific plan conforming to the specifications contained in the "Performance Standards," including the documentation of general site operations; Regulated Substance storage areas; potential for releases of Regulated Substances and an analysis of the potential destination of such releases; and procedures to be followed in the event of a release.

n. Township means the Township of Antwerp, Van Buren County, Michigan.

o. Township Wellhead Protection Administrator (TWPA) means the Zoning Administrator (ZA) or Designee.

p. Wellhead is any individual well used for supplying water.

q. Wellhead Protection Area (WHPA) is defined by the federal Safe Drinking Water Act (SDWA) as "The surface and subsurface area surrounding a water well or wellfield, supplying a public water supply system, through which contaminants are

reasonably likely to move toward and reach such water well or wellfield."

3. Responsibility of Administration. The Township Board shall, by Resolution, designate a person or persons who shall administer, implement and enforce the provisions of this ordinance. That person shall be known as the Wellhead Protection Administrator.
4. Prohibitions within the Wellhead Protection Area. Within a Wellhead Protection Area (WHPA), no person shall, nor cause or allow another over whom he or she has control to:
 - a. Release or allow the release of a Regulated Substance, alone or in combination with other materials (such as fill) in such a manner that the substance gains access to the ground, to a storm sewer or surface water or in any way such that the substance might enter the groundwater if doing so creates a reasonable likelihood of an adverse impact upon the groundwater;
 - b. Possess a Regulated Substance, including fuels (e.g. gasoline, diesel, kerosene, etc.) exceeding fifty-five (55) gallons aggregate for liquid materials, or four-hundred forty (440) pounds aggregate for dry weights, unless prepackaged and intended for retail sale or for commercial or household use (such as salt used in water softeners, fertilizers, pesticides, herbicides, etc.), or unless engineering controls are designed and implemented consistent with the "Performance Standards," BMPs, the Fire Code, and applicable State of Michigan laws and regulations. The following, however, shall not be considered prohibited activities:

- i. The use of underground oil and water separators and stormwater treatment structures which meet the conditions of the "Performance Standards";
- ii. The use of current hazardous waste storage areas at RCRA permitted facilities;
- iii. Laboratory activities, consistent with all federal, state, and local regulations.
- c. Operate a scrap and recycling yard;
- d. Operate a sanitary/solid waste landfill;
- e. Use oil, waste oil or similar liquid petroleum-type products for dust suppression;
- f. Use any private well if said use is known or likely to cause an adverse impact to the public water supply;
- g. Excavate, extract, or mine gravel, bedrock or any other type of earth if a permit or site plan review is required unless the property owner has established, to the Township's satisfaction, that the activity will not cause an adverse impact to a public water supply;
- h. Allow the presence of an abandoned well, which is defined as any well which has either been discontinued for more than one year, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or is a health or safety hazard. A well shall not be considered abandoned if it has been properly plugged pursuant to The Groundwater Quality Control Act, Part 127, 1978 PA 368; or
- i. Drill for natural gas or petroleum, whether for exploration, production or otherwise.

5. Underground Storage Tank Systems.
 - a. Underground storage tanks shall be registered with the applicable governmental agencies as required under applicable laws, rules, and regulations.
 - b. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable laws, rules, and regulations including, without limitation, those concerning leak detection, secondary containment, corrosion protection, spill prevention, and overfill protection.
 - c. Underground storage tanks shall comply with the Township's Performance Standards Ordinance.
6. Determinations of Wellhead Protection Boundaries. In determining whether a property is within a Wellhead Protection Area, including the upgradient one-quarter of a Wellhead Protection Area, the following shall apply:
 - a. Where a Wellhead Protection Area line that delineates the boundary of one or more zones passes through a property, the entire parcel shall be subject to the restrictions that apply to the more restrictive zone.
 - b. The Township Wellhead Protection Administrator or his or her designee shall have the authority to interpret the Wellhead Protection Area and determine where the boundaries of the different zones fall, if in dispute.
7. Inactive Operations. This section applies to any business or other operation ("operation") that is

inactive, is within a capture zone, and at which there are regulated substances. For purposes of this section, "inactive" is defined to include those businesses or operations that are unoccupied and have no activity for at least thirty (30) days. Those who own or control such an inactive operation shall do the following:

- a. Within 7 days of the operation becoming inactive, take such steps as necessary to secure the site such that vandals and all other persons cannot gain access to the regulated substances;
- b. Within 30 days of the operation becoming inactive, provide to the Township Wellhead Protection Administrator a document that identifies the site, the date of inactivity, the regulated substances that exist on site, and the name, address and telephone number of both the owner and the person in control of the site; and
- c. Within 6 months of the operation becoming inactive, remove all regulated substances from the site. This does not include those substances used for heating, cooling, or electrical lighting.

8. Performance Standards. All Wellhead Protection Areas subject to the provisions of this ordinance shall comply with the Township's Performance Standard Ordinance.

D. Enforcement of Ordinance.

1. Enforcement.
 - a. Whenever the Township determines that a person has violated a provision of this Ordinance, the Township may order compliance by issuing a written Notice of Violation to the responsible person/facility.
- b. If the Township requires abatement of a violation and/or restoration of an affected property, the notice shall set forth a deadline by which such action must be completed. Said notice may further advise that, should the violator fail to remediate or restore the property within the established deadline, the work will be performed by the Township, with the resulting expense thereof charged to the violator.
- c. Nothing within this section shall limit the Township's authority to seek injunctive relief and/or a search warrant allowing entry onto the premises and abatement of the violation to protect the public health, safety and welfare.

2. Variance / Appeal Rights.
 - a. If an owner of property within a capture zone believes the requirements of this ordinance impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Township Wellhead Protection Administrator (or his or her designee). Such a request must be in writing with enough detail to allow the Township Wellhead Protection Administrator to understand the situation and proposed variance. If the Township Wellhead Protection Administrator determines that additional information is needed, the request for additional information shall be made within 30 days of the owner's request. Within 30 days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request, the Township Wellhead Protection Administrator shall issue a written response to the owner. The response shall grant, deny, or grant partial or different relief than was requested. A grant, partial or complete, may relieve the property owner from

strict compliance of this ordinance. Reasonable conditions may be imposed as part of such a grant. The Township Wellhead Protection Administrator shall be guided by the primary goal of protecting the municipal wellfields without creating undue hardship upon the property owners affected.

- b. Any person receiving a Notice of Violation or whose variance request has been denied in whole or in part may appeal the determination set forth within the Notice or the variance decision to the Township Wellhead Protection Board of Appeals by submitting a written notice of appeal to the Township. The notice of appeal must be received by the Township Wellhead Protection Administrator within 30 days from the date of the Notice of Violation, with enough detail to allow the Township Zoning Board of Appeals to understand the situation. Within 30 days of the receipt of such an appeal, the Wellhead Protection Board of Appeals shall set the matter for hearing. Notice of the hearing shall be given in writing to the applicant and to the Township Supervisor. The applicant shall be given the opportunity to present evidence at the hearing in person or in writing or by representative. The Board of Appeals shall issue a written decision on the appeal. The Township Wellhead Protection Board of Appeals' response shall affirm, reverse, or modify the Notice of Violation being appealed.
- c. If the person who has made an appeal does not agree with the Township Wellhead Protection Board of Appeals' decision, said person may appeal the matter by filing an appeal in the Van Buren County Circuit Court, which may affirm, reverse or modify the decision being appealed.

Such an appeal must be filed within 30 days of the Township Wellhead Protection Board of Appeals' decision.

3. Abatement / Remedial Activities by the Township.
 - a. Any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense. The Township is authorized to take any legal action necessary to abate, enjoin, or otherwise compel the cessation of such nuisance.
 - b. The Township may seek authority to enter the premises to take or may contract with others to take reasonable and necessary abatement or remedial activities whenever the Township determines a violation of this Ordinance has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the Township for all reasonable expenses thus incurred by the Township.
 - c. The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Township to seek cumulative remedies.
4. Violation & Penalty. Any violation of this Ordinance or any order made in accordance with this Ordinance constitutes a municipal civil infraction, punishable by a fine of not more than \$500.00, together with repayment of costs incurred by the Township in prosecuting the action; in abating the violation or seeking injunctive

relief. Each day a violation exists shall be deemed to be a separate violation. Any violation of this ordinance shall constitute a basis for injunctive relief or other appropriate remedy to compel compliance with this Ordinance. A citation under this Ordinance may be issued by a sheriff's deputy, the Township's Ordinance Enforcement Officer or the Township's Wellhead Protection Administrator.

CHAPTER 8 PUD PLANNED UNIT DEVELOPMENT DISTRICT

Section 8.1. Purpose

It is recognized that traditional zoning, with its segregation of uses and rigid minimum dimensional requirements, may not be suitable in all situations to best achieve the objectives of the Township relative to desired land use and preservation of the community's resources and rural character. The Planned Unit Development (PUD) District is created to provide opportunities for various forms of residential, commercial, mixed use, and other development within the Township. The provisions of this Chapter are not intended to circumvent the land use planning objectives inherent in the Township's Master Plan. A PUD that is otherwise qualified under this Chapter shall be approved only if the resulting land use, density, and other characteristics thereof are consistent with the Master Plan's provisions or land use designations for the lands involved. The underlying goal of the Planning Commission and Township Board, in recommending and approving a PUD, is that creative and imaginative land development might be enhanced, for the benefit of the community as a whole, but not in a manner or with such lack of care as would tend to thwart or undermine the land use goals and objectives of the community. Among the general objectives of the PUD zoning district are the following:

- A. To encourage innovation and creativity in land use planning and development.
- B. To promote and enhance housing and recreational opportunities for the public.
- C. To encourage the use of lands in ways that are most in accord with their character and adaptability.
- D. To promote and encourage the conservation and preservation of natural resources and natural features.

- E. To encourage the efficient use of land by facilitating economic and suitable arrangements for buildings, streets, utilities, and other land use features.
- F. To encourage the availability of open space, as a part of the development of residential lands, and to promote the development of passive and recreational land uses.
- G. To provide for and promote coordinated, flexible and comprehensive planning and development of lands within the Township, for the benefit of property owners and to serve the public interest.
- H. To enhance the compatibility of adjacent uses of land.
- I. To create better living, working, and shopping environments.

Section 8.2. Types of PUDs

- A. There shall be three types of PUDs:
 - 1. Residential PUD (RPUD), which shall meet the qualifying conditions of Section 8.4.B.
 - 2. Commercial PUD (CPUD), which shall meet the qualifying conditions of Section 8.5.B.
 - 3. Mixed Use PUD (MPUD), which shall allow a mix of residential and commercial/light industrial uses, and which shall meet the qualifying conditions of Section 8.6.B
- B. All PUDs shall be subject to the general provisions of Section 8.3 and the design standards of Section 8.7.

Section 8.3. General PUD provisions

A. Unified Control. The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.

B. Modification of minimum requirements. The district regulations applicable to a land use in a PUD, based upon the zoning of the property at the time of PUD application, may be modified, including but not limited to, modifications of the requirements for lot area and width, building setbacks, lot coverage and parking. The applicant for a PUD shall identify, in writing, all modifications being proposed. Modifications may be approved during the preliminary development plan review by the Township Board, after Planning Commission recommendation. Modifications may be permitted only if they will result in a higher quality of development or in better integration of the proposed use with surrounding uses. The modification shall also satisfy one or more of the following criteria:

1. preserves the best natural features of the site;
2. creates, maintains or improves habitat for wildlife;
3. creates, improves or maintains open space for the residents;
4. enhances the views into the site as well as the view from dwellings to be built on site;
5. results in a better development, consistent with the purposes of PUD expressed in Section 8.1 and the recommendations of the Township Master Plan; and

6. on-site well and septic systems will satisfy the requirements for approval of the Van Buren County Health Department.

C. Conditions. The Township Board or Planning Commission may impose reasonable conditions upon the PUD approval. Conditions may include those necessary to ensure public services and facilities will be capable of accommodating increased loads; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to otherwise ensure compliance with the final PUD plan and the provisions of this Ordinance.

1. The conditions imposed shall be recorded in the minutes of the approval action, and shall remain unchanged except upon the mutual consent of the Township Board and the property owner via an amendment to the PUD.
2. Conditions imposed shall meet all of the following requirements:
 - a. They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project, and the community as a whole.
 - b. They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.
 - c. They shall be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the ordinance for the proposed PUD under consideration, and be

necessary to insure compliance with those standards.

D. Phased projects. If the PUD is to be developed in phases, the Final PUD plan may be submitted for one or more phases of the overall PUD. A tentative schedule for the completion of each phase and the commencement of the next phase shall also be submitted for approval by the Planning Commission.

E. PUD Agreement; recording. The approved PUD agreement shall be recorded with the Van Buren County Register of Deeds. All development and use of the property in question shall be in conformance with the PUD agreement. The PUD agreement shall not be changed unless the PUD is amended according to the requirements of this Section.

F. Performance guarantees. The Planning Commission or Township Board may require reasonable performance guarantees, in accordance with Section 14.6 of this Ordinance, to ensure completion of specified improvements within the PUD.

G. Time limits. Each PUD shall be under construction within one year after the date of approval of the final PUD plan. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension for up to one year, provided that prior to the expiration of the time period the applicant submits reasonable evidence in writing to the effect that unforeseen difficulties or special circumstances have been encountered, causing the delay. If the PUD has not been commenced within the above-stated period or within any authorized extension, any building permits issued for the PUD or any part thereof shall be of no further effect and the PUD shall lapse and be declared null and void; thereafter the Planning Commission and/or Township Board may, in their discretion, initiate

proceedings for the rezoning of the property to some other zoning district.

H. Amendments to an approved PUD. Amendments to an approved final PUD plan shall be reviewed according to the requirements for site plan amendments, as found in Section 11.5. A minor amendment may be approved by the Zoning Administrator; however, the Zoning Administrator shall have the option to submit any minor amendment to the Planning Commission for their review and approval. The Zoning Administrator may also refer the determination as to if an amendment shall be considered to be minor to the Planning Commission. An amendment that is not determined to be minor shall be reviewed in the same manner as the original approval.

I. Effect of denial or lapse. If the final PUD plan is denied by the Township Board, or if the PUD lapses according to the requirements of this Chapter, the Planning Commission or Township Board may initiate a rezoning of the property to another zoning district

Section 8.4. Residential PUD – RPUD

A. Objectives. The Residential PUD (RPUD) is intended to permit and control the development of areas as planned unit developments for residential land uses. It is the objective of this district to promote a higher quality of residential development than possible through conventional zoning districts, improved livability, and greater consistency with the Township Master Plan. Some degree of flexibility may be permitted in the use, height, bulk and placement requirements for Residential PUDs; provided the PUD affords reasonable protection to uses near and adjacent to the PUD District.

B. Qualifying conditions.

1. A Residential PUD shall only be approved for land in an AG, R-1, R-2 or R-3 zoning district, or on land designated as Agricultural, Rural Residential, Low Density Residential, Medium Density Residential or High Density Residential on the future land use map of the Township Master Plan.
2. The minimum size of a parcel or combination of parcels shall be 15 acres; however, the Planning Commission may determine that the minimum area requirement should be waived because a planned unit development is in the public interest and that one or more of the following conditions exists:
 - a. The parcel of land, or the neighborhood in which it is located, has unusual physical features that will be conserved by employing the provisions of this Chapter;
 - b. The parcel of land has a historical character of importance to the Township that will be protected by employing the provisions of this Chapter; or
 - c. The parcel of land is adjacent to, or across the road from, a parcel which has been developed as a planned unit development and will contribute to the maintenance of the amenities and values of the neighboring development.

C. Permitted uses. In the RPUD district, land, buildings, and structures may be used for the following purposes only:

1. Single family dwellings.
2. Two-family dwellings, but only if the land requested for rezoning to RPUD is currently zoned in the R-2 or the R-3 District or is designated Medium Density

Residential or High Density Residential on the future land use map of the Township Master Plan.

3. Multiple family dwellings, but only if the land requested for rezoning to RPUD is currently zoned in the R-3 District or is designated High Density Residential on the future land use map of the Township Master Plan.
4. Family day care homes.
5. Adult foster care family homes.
6. Golf courses, community buildings, and similar recreational facilities including on-site day care facilities, provided such uses are designed to be used primarily by residents of the PUD.
7. Recreational facilities such as pathways, passive recreational areas and parks.
8. Buildings, structures and uses that are accessory to the above principal uses are also permitted.

D. Development requirements.

1. Dimensional. Unless modified in accordance with Section 8.3.B, the lot area and width, building setbacks, building height, lot coverage, minimum building floor area, parking, landscaping, lighting and other standards for the underlying district (the district in effect immediately prior to the rezoning to the PUD District) shall be applicable for all uses proposed as part of a RPUD. If regulations for different uses are inconsistent with each other, the regulations applicable to the most restrictive use shall apply. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission may permit specific departures from the requirements of this Ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding by the

Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.

2. **Open space.** A minimum of 20 percent of the gross site area shall be preserved and maintained as common open space for use by all residents and property owners of the RPUD.
3. **Density.** The total number of dwelling units permitted in an RPUD shall be determined in the following manner:
 - a. The applicant for an RPUD shall prepare and submit a parallel plan, illustrating the number of dwellings that could be placed on the PUD site under the existing zoning classification. The parallel plan shall show the following, at a scale of 1"= 100':
 - i. property boundaries dimensioned;
 - ii. individual lots or condominium units, dimensioned and meeting the minimum area and width requirements of the existing zoning district;
 - iii. sufficient area for septic drainfield and reserve areas on individual lots;
 - iv. building envelope, defined by the minimum required yards/setback lines, for each individual lot or condominium unit;
 - v. road rights-of-way or easements to serve the proposed lots or condominium units, in sufficient width to meet Van Buren County Road Commission requirements or the requirements for private streets in Section 3.17;
 - vi. existing road right-of-way adjacent to the property;
 - b. All lots, parcels, or condominium units shown on the parallel plan shall be buildable and shall meet all requirements of the existing zoning district. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Natural Resources and Environment and this Zoning Ordinance.
 - c. Building envelopes shall not contain any easements or natural features that are intended or required to be preserved.
 - d. The Planning Commission shall review the parallel plan and determine the allowed density based on the conformance of the proposed layout and building sites with the requirements of the existing zoning district and all other applicable provisions of this Ordinance.
4. **Density bonus.** The Township Board, in its discretion and upon recommendation from the Planning Commission, may consider a residential density bonus for single family uses based upon the following considerations and a demonstration by the applicant that the proposed PUD project will result in a material benefit to the township, adjacent land uses, and/or the residents of the PUD, where that benefit would otherwise not be achieved without the application of the PUD regulations.
 - a. Density bonuses shall be applied to single family development only.

b. Density bonuses shall be considered for the additional open space and amenities listed in Table 8-1. The Township Board, after recommendation by the Planning Commission, may approve a density bonus up to the percentage listed. The bonus percentage allowed shall be based upon the quantity or quality of the amenity provided.

Table 8-1 Residential Density Bonus		
Amenity Provided	Density Bonus	
Provision of additional open space beyond the 20% minimum (additional open space shall meet the requirements of Sec. 8.7)	30%	Up to 10%
	40%	Up to 20%
	50% or above	Up to 30%
Providing equestrian trails/walking trails/pathways through the entire PUD and/or links to adjacent facilities of a similar nature	Up to 20%	
Providing active recreation areas (ball field, tennis court, tot lot, swimming pool, etc.) at a ratio of at least one facility per 25 dwelling units.	Up to 20%	
Providing innovative design features, such as traditional neighborhood development, traffic calming measures, innovative stormwater management, and other similar features throughout the development.	Up to 30%	

c. Bonuses may be provided for more than one amenity as listed above; however, in no case shall the aggregate residential density bonus exceed 50 percent.

5. **Design standards.** In addition to the development standards of this Section, the RPUD shall be designed

in accordance with the general design standards in Section 8.7.

Section 8.5. Commercial PUD – CPUD

A. Objectives. The Commercial Planned Unit Development (CPUD) District is intended to achieve the following objectives: creation of cohesive and unified business districts; creativity in design due to the flexibility of the PUD standards; preservation and enhancement of the PUD site features; efficient and safe layout of buildings, roads, driveways, parking areas and utilities; pedestrian access and walkability; functional and aesthetic storm water management; coordination of architectural styles; adequate provision for public safety; compatibility with the character of nearby land uses, and compatibility with the Antwerp Township Master Plan.

B. Qualifying conditions. To be eligible for consideration for a CPUD, the applicant must present information that demonstrates compliance with each of the following criteria:

1. **Minimum area.** The parcel shall be a minimum of 10 contiguous acres. Proposed developments consisting of less than 10 acres may only be considered for rezoning to CPUD if development of the lands as a CPUD will advance the purposes of the CPUD district, and the lands comply with the applicable standards of this Chapter.
2. **Major street.** The proposed site shall abut and have direct access to a state highway or county primary road.
3. **Zoning map or Master Plan designation.** The proposed site shall be zoned GC General Commercial or be located within the C-O Commercial Corridor Overlay

District, or designated “Commercial” or “Red Arrow Highway Corridor” on the future land use map of the Township Master Plan.

C. Uses. A maximum of sixty percent (60%) of the site, exclusive of public rights of way, may contain retail commercial uses such as shopping centers or freestanding retail/department stores including areas required for setbacks, storm water, and parking associated with such uses. The remainder of the site shall include open space, office, research, and development, lodging, restaurants, recreation, or entertainment related uses. The list of permitted uses shall be established by the Planning Commission in the PUD agreement.

D. Development standards

1. **Dimensional requirements.** Unless modified in accordance with Section 8.3.B, the lot area and width, building setbacks, building height, lot coverage, minimum building floor area, parking, landscaping, lighting and other requirements of the GC District shall be applicable for all uses proposed as part of a CPUD. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission may permit specific departures from the requirements of this Ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.
2. **Open space.** A minimum of 25 percent of the site shall be open space. The required open space shall be dispersed throughout the site and linked through pedestrian corridors. The open space shall constitute one or more of the following: undisturbed areas of key

natural features, landscaped open space or pedestrian plaza areas that include outdoor seating and gathering areas. Parking lot landscaping and greenbelts required by Section 12.1 shall not count towards meeting the 25 percent open space requirement.

3. **Design standards.** In addition to the development standards of this Section, the CPUD shall be designed in accordance with the general design standards in Section 8.7.

Section 8.6. Mixed Use PUD – MPUD

A. Objectives. The Mixed Use Planned Unit Development (MPUD) District is intended to achieve the following objectives: allowing a mix of uses, to integrate neighborhood businesses into residential areas; to encourage pedestrian and bicycle access to businesses and services; creativity in design due to the flexibility of the PUD standards; preservation and enhancement of the PUD site features; efficient and safe layout of buildings, roads, driveways, parking areas and utilities; pedestrian access and walkability; functional and aesthetic storm water management; coordination of architectural styles; adequate provision for public safety; compatibility with the character of nearby land uses, and compatibility with the Antwerp Township Master Plan.

B. Qualifying conditions. To be eligible for consideration for a MPUD, the applicant must present information that demonstrates compliance with each of the following criteria:

1. **Minimum area.** The parcel shall be a minimum of 10 contiguous acres. Proposed developments consisting of less than 10 acres may only be considered for rezoning to MPUD if development of the lands as a MPUD will advance the purposes of the MPUD district,

and the lands comply with the applicable standards of this Chapter.

2. **Major street.** The proposed site shall abut and have direct access to a state highway or county primary road.
3. **Zoning map or Master Plan designation.** The proposed site shall be zoned R-2, R-3 or GC, or be located within the C-O Commercial Corridor Overlay District, or be designated "MDR," "HDR," "Commercial" or "Red Arrow Highway Corridor" on the future land use map of the Township Master Plan.

C. Uses. A mixed use PUD shall include a mixture of uses that are considered by the Planning Commission to be consistent with the Master Plan.

1. Any use permitted by right or special land use in the AG, R-1, R-2, R-3 and GC districts may be considered for an MPUD. The list of permitted uses to be allowed within the MPUD shall be established in the PUD agreement.
2. A concept plan shall be prepared for the MPUD that divides the MPUD into components for various uses. Each use component of the MPUD shall be designated with a specific corresponding zoning district (e.g. R-1, GC, etc.), which shall provide the basis for determining the uses permitted, dimensional standards, and density.
3. The Planning Commission shall determine the appropriate mixture of uses and how much of the PUD land area shall be occupied by residential uses, nonresidential uses, recreational area, or open space. The Planning Commission shall make this determination based upon the concept plan's ability to provide an integrated mixture of uses, maintain

compatibility with surrounding uses, meet the intent of Sections 8.1, 8.6.A and the qualifying conditions of Section 8.6.B.

D. Development standards

1. **Residential density.** The residential density shall be based upon the zoning district designation on the PUD concept plan. A density bonus of up to ten percent (10%) may be granted by the Planning Commission for sites served by both public sewer and water.
2. **Dimensional requirements.** All area and bulk dimensional standards shall comply with that of the respective zoning district in effect at the time of application for the MPUD. To encourage flexibility and creativity consistent with the intent of the MPUD, the Planning Commission may permit specific departures from the requirements of this Ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.
3. **Open space.** A minimum of 25 percent of the site shall be common open space. Such open space shall be dispersed throughout the site and linked through greenway or pedestrian corridors or located along road frontages. Parking lot landscaping and greenbelts required by Section 12.1 shall not count towards meeting the 25 percent open space requirement.
4. **Parking.** To encourage a true integration of mixed uses and improved efficiency in land use, the Planning Commission may permit the overlap in parking requirements between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips. Approval for the

parking reduction shall be based upon documentation submitted by the applicant indicating the types of uses, intensity and characteristics of the parking demands for such uses.

5. **Design standards.** In addition to the development standards of this Section, the MPUD shall be designed in accordance with the general design standards in Section 8.7.

Section 8.7. General design standards

In addition to the standards for specific types of PUDs above, all PUDs shall meet the following standards:

A. Open space requirements

1. **Common open space.** All land within a development that is not devoted to a residential unit or road right-of-way shall be set aside as common land for neighborhood use, recreation, conservation, or agriculture.
2. **Areas not considered open space.** The following land areas are not included as dedicated open space for the purposes of meeting minimum open space requirements:
 - a. Area proposed as single family residential or site condominium lots.
 - b. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
 - c. Any area proposed for a office, commercial, or industrial land use.
 - d. The area of any road right-of-way or private road easement.

- e. Any submerged land area of a pond, lake or stream. Protected wetlands and stormwater ponds designed to appear and function similar to a natural wetland may be counted for up to fifty percent (50%) of the minimum required open space.
- f. Golf courses.
- g. Parking and loading areas, including landscaped islands, except those exclusively associated with a recreation facility or common open space area.
- h. Any other undeveloped areas not specifically addressed in this Chapter, but determined by the Planning Commission to inadequately meet the intent and standards for open space.

3. **Open space location.** Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent farmland, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
 - a. Open space shall be situated to maximize the preservation of any existing natural features.
 - b. The required setbacks from streams, lakes, wetlands and other bodies of water within the Environmental Buffer Overlay District may be included as open space.
 - c. Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to

- allow future interconnection between neighborhoods.
- d. Where a site is located within the Environmental Buffer Overlay District, the natural features protection areas shall be included in the PUD's open space.
- 4. **Open space protection.** The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement that is found acceptable to the Township. The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement shall provide the following:
 - a. Allowable use(s) of the dedicated open space shall be indicated. The Township may require the inclusion of open space restrictions that prohibit the following:
 - i. Dumping or storing of any material or refuse.
 - ii. Activity that may cause risk of soil erosion or threaten any living plant material.
 - iii. Cutting or removal of live plant material except for removal of dying or diseased vegetation.
 - iv. Use of motorized off road vehicles.
 - v. Cutting, filling, or removal of vegetation from wetland areas.
 - vi. Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands.
 - b. The Township may require that the dedicated open space shall be maintained by parties who have an ownership interest in the open space.
 - c. Requirements for scheduled maintenance of the open space shall be provided. The maintenance requirements shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
 - d. The dedicated open space shall forever remain open space, subject only to uses approved by the Planning Commission on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this Chapter.
 - e. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

B. Natural features

- 1. **Limits of tree clearing.** The development shall be designed to preserve natural resources. The limits of tree clearing and grading shall be clearly shown on the preliminary site plan or plat.

2. **Animal or plant habitats.** If animal or plant habitats that are characteristic of pre-settlement habitat exist on the site, as determined through an environmental impact assessment, the Planning Commission, as a condition of approval, may require that the site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
- C. Landscaping.** The following landscaping requirements shall be met in addition to other landscaping requirements contained in Section 12.1; however, the Planning Commission and Township Board may vary or increase these requirements to ensure that adequate shade, screening and buffering, and variety to the landscape is provided.
 1. **Stormwater detention ponds.** All ponds and stormwater management facilities shall be designed to fit into the natural landscape and provide a natural appearance. Landscaping shall be provided around the perimeter of the pond to create the appearance of a natural pond or wetland. Landscaping shall include a combination of canopy and evergreen trees, shrubs, and grasses that are adapted to saturated soil conditions. Canopy and evergreen trees may be dispersed around the perimeter, but should provide greater clusters in locations that will provide shade and minimize the heating effect of the sun on the stormwater detention pond. Stormwater detention ponds shall be designed with shallow side slopes that do not require security fencing. For ponds not dedicated to the county drain commission, the PUD agreement shall provide for long term maintenance of the stormwater detention pond by a property owners association.
 2. **Greenbelts.**

- a. Greenbelts as required by Section 12.1 shall be provided along the perimeter of the PUD and between land uses within the PUD; however, the Township Board, upon recommendation by the Planning Commission, may vary these requirements where the intent of this Chapter is met.
- b. The PUD landscape plan shall designate greenbelt areas and state how minimum requirements are met, or shall state any deviation from the minimum, along with a justification (on the plan or within the required narrative) for greenbelts that are in any respect less than the minimum requirements.
- c. Required open space may be used to meet the greenbelt requirements, provided that the existing landscaping meets the requirements of Section 12.1. Greenbelts may be counted toward meeting the open space requirements.

- D. Parking lots.** Site design and landscaping shall diminish the prominence of parking lots as viewed from public roads.
 1. **Driveway access and circulation.** Any non-residential use in a PUD must meet the following standards:
 - a. Access shall be limited to one major entrance along any arterial road, excluding an entrance designed solely for truck traffic. Additional access points shall only be considered if a traffic impact study demonstrates overall traffic operations and safety will be improved.
 - b. The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without

conflict to inbound or internal circulation. Internal service drives shall provide circulation between all uses.

- c. Additional right-of-way shall be provided to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.

E. Other design standards

1. **Site elements.** Signs, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development and natural features of the area. The Planning Commission may require a consistent type of pedestrian scale ornamental lighting along all roads and sidewalks and within off-street parking lots. Residential entrance signs and commercial signs shall be approved as part of the final plan.
2. **Mixed Use PUD and Commercial PUD.** Pedestrian gathering and seating plazas, greenways, and tree lined drives shall be provided to break-up parking lots and other paved areas of the site to provide an inviting pedestrian environment, protect the pedestrian from vehicular circulation, and improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.

Section 8.8. Approval procedure

The process outlined in this Section shall apply to all PUD requests, unless otherwise indicated.

- A. Pre-application conference.** Before submitting an application for a PUD, applicants shall meet with Township representatives for the purpose of describing the project concept, exchanging information, obtaining guidance, and assessing the overall eligibility of the desired project concept as a PUD. No formal action will be taken, nor will statements made at the pre-application conference be considered binding commitments. A fee shall be charged by the Township to offset the cost of consultants at this meeting, if necessary.
- B. Preliminary PUD and rezoning.** After filing a complete application, the Planning Commission shall consider the preliminary PUD site development plan at a public hearing and make a recommendation to the Township Board on rezoning to the appropriate PUD type. The Township Board shall hold a public hearing and consider the PUD plan and rezoning in the manner prescribed in the Zoning Act.
- C. Final PUD and PUD Agreement.** Within 12 months of preliminary PUD approval, the applicant shall submit a final PUD development plan that conforms to the approved preliminary PUD. The Planning Commission shall review the final PUD and, upon a finding that the final PUD is in conformance with the approved preliminary PUD, shall recommend approval of the final PUD to the Township Board. The Township Board shall approve the final PUD upon approval of a PUD Agreement that meets the requirements of this Chapter.

Section 8.9. Preliminary PUD and rezoning

A. Application. An application for rezoning to PUD shall be submitted to the Zoning Administrator on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the Township Board. In addition, the application shall include the following:

1. A preliminary development plan, containing the following information:
 - a. Overall map at a minimum scale of one inch equals 200 feet showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.
 - b. Generalized graphic depiction at a scale of one inch equals 200 feet showing the following:
 - i. Major access roads serving the site, including right-of-way widths, and existing and proposed road surfacing.
 - ii. Existing utility lines including sanitary sewer, storm sewer, water main, and gas and electric service.
 - iii. Existing adjacent land uses, zoning and structures within 200 feet of the proposed planned unit development boundary.
 - iv. Proposed internal pedestrian and vehicular circulation system.
 - v. Areas to be developed for residential, commercial, recreational, and common open space uses and structure locations.
 - vi. Areas to be preserved in a natural state.

c. Other data or graphics that will serve to further describe the proposed planned unit development.

d. *Existing Site Features*

- i. Physical development plan prepared at a minimum scale of one (1") inch equals one hundred (100') feet.
- ii. Boundaries of proposed planned unit development, section or corporation lines within or adjacent to the tract, and overall property dimensions.
- iii. Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the proposed planned unit development site, including those of areas across abutting roads.
- iv. Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the proposed planned unit development site, including those located across abutting roads.
- v. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the proposed planned unit development site.
- vi. Topography drawn at a two (2') foot contour interval. Topography must be based on USGS datum and be extended a minimum distance of two hundred (200') feet outside the proposed planned unit development boundaries.

e. *Proposed Development Features*

- i. Layout of internal roads indicating proposed road names, right-of-way widths, and connections to

adjoining platted roads, and also the widths and location of alleys, easements, and pedestrian ways.

- ii. Layout, numbers, dimensions and area of lots, including building setback lines.
- iii. Layout of proposed buildings, including setbacks, drives, parking spaces, pedestrian ways, and landscaping.
- iv. Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included within open spaces.
- v. Depiction of major wooded areas and description of means to be employed to preserve them. Trees over 24 inches in diameter shall be identified and marked as to be preserved or to be removed. The method of preserving trees shall be indicated.
- vi. An indication of the proposed sewage, water supply, and storm drainage system. If county drains are involved, the proposed drainage shall be acceptable to the Van Buren County Drain Commissioner.
- vii. Conceptual site grading and conceptual landscaping plans
- viii. Depiction of proposed development phases.
- ix. Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

f. *Tabulations*

- i. Total site acreage and percent of total project in various uses, including developed and undeveloped open space.
- ii. Total site density of single-family and multiple-family dwellings and percent of ground area covered by structures other than detached single-family dwelling units.
- iii. Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.

2. Narrative. A narrative describing all relevant aspects of the proposed PUD and any proposed modifications or deviations from the minimum requirements of this Ordinance.

3. Site analysis. A site analysis drawing that illustrates only the natural features of the land and the relationship of these features to surrounding parcels. Proposed improvements or lots should not be shown. The site analysis drawing shall, at a minimum, illustrate the following:

- a. Existing topographical elevations at two-foot intervals.
- b. Areas with slopes between 12-20 percent.
- c. Areas with slopes of more than 20 percent.
- d. Drainage swales.
- e. Ridges.
- f. Wetlands, ponds, streams or other bodies of water.

- g. Wooded areas with a general description of the size and type of trees. Any tree that is 24 inches in diameter or greater shall be specified on the site plan and identified as to species and diameter.
- h. High point.
- i. If applicable, the boundaries of the Environmental Buffer Overlay District on the property in question.

4. For an RPUD, a parallel plan as required by Section 8.4.D.3

5. When the Zoning Administrator determines the application to be complete, the PUD application shall be forwarded to the Planning Commission.

B. Additional submittals

If required by the Planning Commission, the applicant shall submit additional information and/or studies to support the request (though in its discretion, the Planning Commission may require any or all of the following items to be included only as a part of the final PUD plan):

- 1. An impact assessment describing the effect and impact, whether adverse or otherwise, that the proposed PUD will or may have upon or with respect to:
 - a. adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation;
 - b. the effect, if any, on surrounding property values;
 - c. population increase in the Township and enrollment in the local school system;

- d. additional costs and revenues to governmental units and affected school districts for police and fire protection, storm water drainage, water supply and sewage disposal, administrative services, and education;
- e. noise, vibration, dust and dirt, litter, smoke, odor, light, and glare;
- f. historic structures and places, and archeological sites and artifacts.
- g. Such other matters as the Planning Commission may request to be included. If requested by the Planning Commission, the community impact assessment shall include statements or comments from the following public agencies or officials concerning those aspects of the proposed land use within their respective responsibilities and jurisdictions: county health department; county road commission; county drain commissioner; department of natural resources and environment; intermediate school district; local board of education; county sheriff's department; local fire department and other appropriate agencies.

- 2. A traffic impact study detailing the impact of the proposed PUD on surrounding roads.
- 3. An economic feasibility study for the principal uses of the proposed PUD, indicating the market to be served, need for the proposed use(s), and expected absorption.
- 4. An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities, and water supply and distribution systems. This may include

hydrogeologic studies to determine impact on groundwater aquifers.

C. Preliminary PUD Approval Process

1. Planning Commission review. Upon receipt of the PUD application and preliminary plan, the Planning Commission shall conduct a work session with the applicant to review the development concept and determine the need for additional information, prior to conducting a public hearing.
2. Planning Commission recommendation. Upon completion of its initial review and following receipt of any additional materials, the Planning Commission shall schedule a public hearing, notice of which shall be in accordance with the requirements of the Zoning Act for rezoning amendments. Following the public hearing, the Planning Commission shall review the PUD request and the preliminary plan, based on conformance with the standards of review in Section 8.10 and any additional review standards cited for the PUD type being proposed, and shall make a recommendation to the Township Board to approve, deny, or approve with conditions the PUD rezoning and the preliminary PUD plan.
3. Township Board action. Upon receipt of the Planning Commission recommendation, the Township Board shall hold a public hearing, notice of which shall conform to the Zoning Act for PUDs, and review the preliminary development plan, the record of the Planning Commission proceedings, and the recommendations submitted by the Planning Commission and shall approve, deny, or approve with conditions the preliminary development plan and rezoning request. In making its decision, the Township

Board shall determine whether the PUD zoning and the preliminary development plan:

- a. comply with the standards, conditions, and requirements of this Ordinance;
- b. promote the intent and purpose of this Ordinance;
- c. insure that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and
- d. ensure that the proposed project will be consistent with the public health, safety, and welfare needs of the Township.

4. Upon Township Board approval, the property in question shall be considered to be rezoned to the PUD type applied for, and shall be so designated on the Official Zoning Map.

Section 8.10. Standards of review

In considering the PUD request, the Planning Commission and Township Board must find that the proposed development meets all applicable standards and qualifying conditions for the specific PUD type being requested, as well as the following general standards:

- A.** Granting the PUD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts.
- B.** The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are

adequately provided for or mitigated by features of the PUD as approved.

C. The PUD will be consistent with the Master Plan of the Township and consistent with the intent and purposes of this chapter. Where applicable, the following planning principles shall be adhered to:

1. Preservation of the existing views along Township roads which consist of natural vegetation, open fields and meadows, woods and houses which do not predominate the roadside view.
2. Protection and preservation of the Township's natural features and resources including wetlands, woodlands, lakes, steep terrain and the streams and creeks.
3. Creating greenway corridors of preserved open space, buffers adjacent to wetlands, and no disturb zones along streams and creeks.

D. The PUD will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.

E. The PUD shall be designed and laid out so as to adhere to recognized Best Management Practices for preserving and maintaining natural features, wherever reasonably possible. A PUD shall not have the effect of impairing or destroying natural features unless it is in the public interest to do so.

F. The PUD will preserve or enhance the rural character and views along the perimeter roads abutting the site.

Section 8.11. Final PUD plan

A. Application

1. Within 12 months of the Township Board's approval of the preliminary PUD plan rezoning, the applicant shall submit a final PUD Plan to the Township, for at least the initial phase of the PUD. If determined to be complete by the Zoning Administrator, copies of the application and plan shall be forwarded to the Planning Commission.
2. The Planning Commission may grant one extension of this time period, up to an additional 12 months, if a request is submitted, in writing, by the applicant prior to the expiration of the original 12 month approval period. If an application for final PUD plan approval has not been submitted prior to the expiration of the original 12 months or an extension, the Preliminary Development Plan shall have lapsed and be null and void.
3. A final PUD application and plan shall be submitted for each phase of the PUD.

B. The final PUD plan shall conform to the approved preliminary plan; however, the Planning Commission may accept a final PUD plan that contains minor variations from the approved preliminary plan, provided that no such change results in an increase of density or intensity of use, no structure is increased in height, no structure is moved more than 10 feet in any direction and no structure is increased in area or size by more than five percent.

C. Land divisions, plats of subdivision and site condominiums

1. If the development or any portion thereof takes the form of a land division, the division shall be reviewed and approved according to the procedure in Section

3.25, the Land Division Act, and/or the Township Land Division Regulations, as applicable. No building permits shall be authorized unless the land division is approved and recorded in accordance with Section 3.25, the Township Land Division Regulations and the Land Division Act (PA 288 of 1967, as amended).

2. If the development or any portion thereof takes the form of a plat of subdivision, the final PUD plan must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the Township Land Division Regulations, as well as the conditions established in the preliminary planned unit development submittal and planned unit development agreement. Approval of the preliminary plat may be concurrent with PUD approval. No building permits shall be authorized unless the final plat is approved and recorded in accordance with the Township Land Division Regulations and the Land Division Act (PA 288 of 1967, as amended).

3. If the development or any portion thereof takes the form of a site condominium, the final PUD plan shall conform to the requirements of Section 3.24, except as may be modified to meet the requirements and intent of this Chapter.

D. The final PUD plan shall include all of the elements required for the preliminary PUD, as well as the following:

1. Detailed grading plan.
2. Detailed landscaping plan.
3. Detailed utilities layout.
4. Tabulations showing:

- a. Total phase acreage and percent of total planned unit development.
- b. Acreage and percent of portion of phase and total planned unit development occupied by single-family, multiple-family, commercial and developed and undeveloped open space.
- c. Total phase density and percent of total planned unit development.
- d. Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom, etc.).
- e. Percent of ground area covered by structures other than residential dwelling units (except for residential dwelling units in mixed use buildings).

5. Supporting materials:

- a. Legal description of the total phase, each use area, and dedicated open space.
- b. Copies of covenants, easements, and other restrictions to be imposed
- c. Proposed dates of construction start and completion of phase.

E. PUD agreement.

1. The final PUD plan shall be accompanied by a PUD agreement, in recordable form, setting forth the applicant's obligations with respect to the PUD.
2. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final PUD plan with all required revisions, easements and covenants, any other documents that comprise the approved PUD, and all conditions attached to the approval by the Township.

3. A phasing plan shall also be submitted, if applicable, describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
4. 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.

F. Planning Commission review. The Planning Commission shall review the final development plan and PUD agreement in relation to its conformance with the preliminary development plan and any conditions attached to the preliminary PUD by the Township Board.

1. If it is determined that the final plan is not in substantial conformance with the preliminary PUD plan, the final PUD plan shall be denied and the plan must be reconsidered as a preliminary PUD plan, subject to the process in Section 8.9.
2. If the final PUD plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for final site plan review (Section 11.6) and the PUD standards of Section 8.10. The Planning Commission shall prepare a record of its findings and shall recommend approval, denial, or approval with conditions.

G. Township Board action. The Township Board shall review the findings of the Planning Commission and shall approve, deny or approve with conditions the final PUD plan and PUD agreement.

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CHAPTER 9 USE REQUIREMENTS

Section 9.1. Specific use requirements

- A. Specific requirements apply to all of the uses listed in this Chapter. These requirements apply in addition to all of the regulations of the zoning district in which the use is located, as well as all other requirements in this ordinance as applicable.
- B. A use identified in this ordinance as a special land use shall be established only according to the procedures and standards of Chapter 10. All standards listed in this Chapter, in addition to the general standards for special land uses listed in Section 10.5, shall be met.

Section 9.2. Adult entertainment uses

- A. Some uses, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of property values of the surrounding neighborhood.
- B. It is the intent and purpose of Antwerp Township to adopt reasonable regulations for adult entertainment uses in the Township, so as to minimize the adverse effects caused by this activity on the public health, safety, and welfare of persons and property within the Township. Further, the purpose of the locational requirements is to prevent crime, protect and preserve the quality of life in the Township's retail trade, maintain property values, protect and preserve the quality of life in the Township, preserve areas frequented by children from increased criminal activity and increased blight or other neighborhood deterioration, and

prevent the blighting, downgrading, and deterioration of residential neighborhoods in commercial districts.

- C. The operation or expansion of any and all adult entertainment uses, whether conducted as a separate business activity or in conjunction with another use, may be permitted as a Special Land Use in the GC General Commercial District and only in conformance with the following restrictions:
 - D. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use nor within 500 feet of any of the following uses:
 1. All Class "C" establishments licensed by the Michigan Liquor Control Commission.
 2. Pool or billiard halls.
 3. Coin-operated amusement centers or video arcades.
 4. Teenage dance or entertainment halls.
 5. Ice or roller skating rinks.
 6. Pawn shops.
 7. Indoor or outdoor movie theaters.
 8. Any public park, public playground, public library, or public building.
 9. Any church, place of worship, or other religious facility.
 10. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through 12.
 11. Any restaurant that does not serve alcohol.

12. Any preschool or day nursery.
13. Any indoor or outdoor public, private, or commercial recreational facility.
14. A single-family dwelling used or designed for residential purposes.
15. Uses like or similar to the above.

E. Such distance shall be measured along the centerline of the street between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed use nearest to the contemplated location of the structure containing the adult entertainment use and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

F. No adult entertainment use shall be located within 500 feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.

G. All adult entertainment uses shall be contained in a free-standing building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.

H. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relation to specified sexual activities, specified acts of violence or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to

any display, decoration, sign, show window, or other opening.

Section 9.3. Adult foster care small group homes

- A.** All ingress and egress to the site shall be directly from a hard surfaced street.
- B.** One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
- C.** A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
- D.** A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
- E.** A landscaped buffer shall be provided along all property lines that abut a less intense use and around the visible perimeters of all parking and loading/unloading areas.
- F.** All exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.

Section 9.4. Agribusiness uses

- A.** There shall be no more than two pole or ground signs, neither sign to exceed 16 square feet of sign area. All signs shall be on property owned or leased by the agribusiness operator.
- B.** All ingress and egress to the site shall be located at least 60 feet from the intersection of any two streets measured from the proposed right-of-way.
- C.** A minimum of five off-street parking spaces shall be provided and shall be laid out in such a way that they can

be safely and conveniently used by the customers. The Planning Commission shall determine the number of additional parking spaces necessary based on each individual use and the anticipated traffic that will be generated.

Section 9.5. Airports and landing fields

- A.** Minimum area required for the airport shall not be less than 100 acres.
- B.** The area shall have its principal means of access directly from a hard surfaced street.
- C.** There shall be a clear and unobstructed fifty-to-one (50:1) glide slope approach to all landing strips and no obstruction shall fall within the required approach zones.
- D.** Airports, airfields, runways, hangars, beacons and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aeronautics Administration, who shall approve the preliminary plans submitted to the Township.
- E.** Land beneath all aircraft approach lanes, as established by appropriate aeronautical authorities, which is not part of the airport, shall be so developed as to not endanger safe flight conditions to and from an established airport. Permitted height of buildings, structures, telephone and electrical lines and appurtenances thereto shall be established after consultation with the appropriate aeronautical agencies.

- F.** Yard and Placement Requirements. Buildings to be used for servicing or maintenance shall not be located closer than 60 feet of adjoining residentially zoned property.
- G.** Prohibited Uses. Junked or wrecked motor vehicles or aircraft may be stored in the open for not more than 60 days from the date of the accident or abandonment.

Section 9.6. Bed and breakfasts

- A.** Proof of application for state and county licenses shall be submitted. Required licenses shall be obtained prior to commencement of the use.
- B.** The establishment shall be located on property with direct access to a public road which shall not include private roads or shared easements.
- C.** These uses shall only be established in detached single family dwellings which shall be the principal residence of the operator.
- D.** The lot on which the establishment is located shall meet the minimum lot size requirements of the applicable zone district.
- E.** The total number of guest rooms in the establishment shall not exceed six, and shall have at least one full bathroom facility for each two guest rooms.
- F.** Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
- G.** One sign, not exceeding 16 square feet in area or four feet in height, shall be allowed. Signs shall be indirectly illuminated. Internally lit signs are prohibited. The sign shall conform to the regulations set forth in Chapter 31 of this Ordinance.

H. Meals may be served only to the operator's family, employees, and overnight guests.

Section 9.7. Boarding houses

- A. Proof of application for state and county licenses shall be submitted. Required licenses shall be obtained prior to commencement of the use.
- B. Bedroom Limit. There shall be no more than four (4) bedrooms for rental purpose.
- C. Occupancy per Bedroom. Occupancy by tenants shall not exceed one (1) adult, or one (1) adult and one (1) child per bedroom.
- D. Independent Cooking Facilities Prohibited. Individual rooms shall not contain independent cooking facilities.
- E. Owner Occupied. Boarding houses shall be owner occupied and serve as the primary residence of the owner.
- F. Parking. One (1) off-street parking space shall be provided for each rentable room. All off-street spaces shall conform to the requirements of Section 12.3.
- G. Appearance. When constructed new, boarding houses shall be constructed so that the appearance of the building remains similar to a single-family residence. When the use of a dwelling is changed to a boarding house, the residential appearance shall be preserved.
- H. Fire and Building Codes. Establishment and occupancy of boarding houses shall be subject to a satisfactory Fire Department and Building Code inspection.
- I. Compliance. The owner shall be subject to an annual compliance inspection to ensure these standards are met in addition to any additional conditions applied by the Township Board.

Section 9.8. Commercial boarding stables/riding academies

A. Site requirements:

- 1. Commercial boarding stables shall have a minimum lot size of 10 acres for the first seven horses and an additional one-half acre for each horse thereafter.
- 2. Commercial boarding stables shall provide off-street parking at a minimum of one parking space per two animals, based on the number of horse stalls or maximum number of horses that can be accommodated in the stable.
- 3. Stables may not be located in platted subdivisions.

B. Performance standards:

- 1. Animals shall be confined in a suitably fenced area or paddock to prevent their approaching closer than 50 feet to any dwelling on adjacent premises.
- 2. A vegetative strip at least 50 feet wide shall be maintained between any animal holding area, manure pile, or manure application area and any surface water or well head. In areas with slopes of over five percent, the Planning Commission may increase setbacks in order to minimize runoff, prevent erosion, and promote quick nutrient absorption.
- 3. The facility shall be constructed and maintained so that dust and drainage from the stable will not create a nuisance or hazard to adjoining property or uses.
- 4. Manure piles shall be stored, removed, and/or applied in accordance with Michigan Department of Agriculture and Van Buren County Health Department regulations.

5. A shelter shall be provided for all horses, including a separate stall for each horse which is at least 10 feet by 10 feet.
6. Manure storage areas shall be a minimum of 75 feet from any wellhead or other surface water feature and from any dwelling, and 25 feet from all property lines.
7. Enclosed riding arenas associated with commercial boarding stables shall not exceed 10,000 square feet in gross floor area on a minimum of a 10 acre site. An additional 1,500 square feet of floor area may be permitted for each additional full acre in a lot area, provided that no riding arena shall exceed 15,000 square feet in gross floor area.
8. Special events for which a fee is paid, such as shows, exhibitions, and contests shall only be permitted after a temporary permit has been secured from the Township Board.

Section 9.9. Campgrounds

- A. All campgrounds shall be used solely for the temporary placement of tents, travel trailers, and recreational vehicles and shall be developed in accordance with Act 368 of 1978 (Public Health Code), as may be amended, and Administrative Rules and Regulations promulgated subsequent to the Act, as may be amended.
- B. No more than one permanent dwelling unit shall be allowed in a campground which shall only be occupied by the owner, manager or an employee. Cabins erected for camping purposes shall not be considered a permanent dwelling unit.
- C. The minimum area shall be 20 acres.

- D. A common use area shall be provided at a rate of 500 square feet per campsite.
- E. Each campsite shall designate locations for fire pits, where fires may be safely allowed.
- F. All campsites shall be located within 300 feet of a potable water supply.
- G. Toilet and bathing facilities for each gender, approved by the state and county health departments, shall be provided at a ratio of one facility per 20 and shall contain hot and cold running water. Each camp site shall be located within 300 feet of a toilet and bathing facility.
- H. Access to all campsites shall be by means of a roadway suitably surfaced to prevent rutting and erosion for a minimum width of 20 feet. Parking shall be prohibited on such roadways, except when an additional 10 feet of roadway is provided as a parking lane.
- I. Each campsite shall be not less than 1,200 square feet in area.
- J. No building, structure, accessory use, or campsite shall be located closer than 150 feet to any interior property line.
- K. Fences and/or greenbelts may be required when recommended by the Planning Commission.
- L. No businesses of any kind shall be conducted on the premises, except for those customarily incidental to camping.

Section 9.10. Cemetery

- A. The minimum lot or parcel size shall be three (3) acres.
- B. No more than five percent of the site area may be occupied by buildings.

- C. All ingress and egress shall be directly from a hard-surfaced street.
- D. All burial plots and all structures, including but not limited to a mausoleum, shall be set back no less than 25 feet from any lot line or road right-of-way.
- E. Parking lots shall be set back 25 feet from road right-of-ways and lot lines.
- F. Interior driveways shall be set back at least 10 feet from side and rear lot lines.
- G. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Van Buren County Health Department and the State of Michigan.

Section 9.11. Composting facilities

A. Nature of Composting Material.

- 1. The operation shall not involve the processing, storage or on-site handling of general household refuse material and shall be limited to the processing of source separated yard waste and agricultural by-products, including but not limited to the following: leaves, grass clippings, brush, garden waste, tree trimmings, plant prunings, and similar woody waste or other vegetative by-products.
- 2. The on-site processing of mixed refuse consisting of paper, textiles, and other organic material classified as mixed municipal solid waste shall be permitted only if the site in question has been identified and included in the Van Buren County Solid Waste Management Plan. Prior to the commencement of operations involving mixed municipal solid waste, the facility shall be

approved and licensed by the State of Michigan as a Solid Waste Processing Facility as defined by Public Act 641 of 1978, as amended.

B. Site Development Requirements.

- 1. To ensure maximum flexibility for operating areas, material isolation, and buffering, the site shall consist of a minimum 20 acres.
- 2. The site shall have direct access to a paved county primary road or state highway and all access shall be limited to that road.
- 3. All windrows, material screening areas and material staging areas used to temporarily stockpile material prior to placement in windrows shall be located a minimum of 150 feet from property lines and a minimum of 1,000 feet from any residential dwelling or any residential lot within a platted subdivision or site condominium.
- 4. Material handling, staging and processing areas shall be located in consideration of prevailing winds and situated to provide maximum isolation and screening from adjacent properties.
- 5. Appropriate site grading and drainage shall be provided. Material stockpiling and processing areas shall be a minimum of 200 feet from wetlands, floodplains, or established surface waters. Grading plans shall illustrate measures proposed to prevent ponding of surface water and leachate runoff.
- 6. No operations shall be established on property where the prevailing water table is less than 10 feet below the natural grade. Soil borings shall be taken from throughout the property to determine the depth to water table.

7. All primary access drives shall be paved. Internal service drives shall be graveled to reduce dust conditions.

C. Additional Considerations. In addition to the required site plan, a proposed Operation and Management Plan shall be submitted containing the following information:

1. Type of organic material to be composted and otherwise processed on the site.
2. Hours of operation and access by the public, if any.
3. Types of equipment to be utilized on site.
4. Size of windrows and rates of turning.
5. Source of water and method of irrigation.
6. Security measures such as gates and fences.
7. Operation and management techniques to be used to minimize odors.
8. Landscaping and buffering plans.
9. Measures to be taken in handling sorted material such as plastic bags and other non-compostable material.
10. On-site associated accessory activities.
11. Prior to final approval, the applicant shall demonstrate that all appropriate county and state agency permits have been obtained.

Section 9.12. Contractor's facilities

A. All ingress and egress to the site shall be directly from a hard surfaced street.

- B.** Outdoor storage of motorized vehicles, generators, or other equipment used in connection with the business shall be contained within a screened area of the lot.
- C.** Materials used in connection with the business shall be confined to a screened area or within an enclosed building.
- D.** No outside work in connection with the business shall be permitted except for emergency conditions.

Section 9.13. Convalescent and nursing homes

- A.** Minimum lot area shall be three acres.
- B.** Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25 percent of the total site, not including any street right-of-way.
- C.** All ingress and egress to the site shall be directly from a hard surfaced street.
- D.** No building shall be closer than 40 feet to any lot line.
- E.** Minimum dwelling unit size shall be 400 square feet of living area per unit.
- F.** All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable State and Federal laws.

Section 9.14. Day care centers

- A.** A day care center shall provide a minimum of 50 square feet of indoor play area for each child cared for. There shall be 100 square feet of outdoor play area for each child that would be using the play area at any one given time, provided the minimum outdoor play area shall be no less than 1,000 square feet. The required play area shall be fenced.

B. There shall be a designated area where children may be dropped off or picked up with a designated pedestrian route to the entry to the facility. At least four such spaces shall be provided for each 20 children of licensed capacity. These spaces may be counted toward the required minimum parking space requirement.

Section 9.15. Detached accessory structures in excess of the number permitted in Section 5.4.A

A property in the AG, R-1, R-2 and R-3 districts may apply for a special land use to permit one or two additional detached accessory structures than are allowed under Section 5.4.A ,if all of the following conditions are met:

A. To permit one additional structure, the minimum area of the lot to contain the additional structure shall be as follows:

1. AG District: 12 acres
2. R-1 District: 10 acres
3. R-2 District: 8 acres

B. To permit a second additional structure, the property must exceed the above minimums by at least two additional acres. In no case may more than two additional accessory structures be permitted.

C. The number of buildings on the lot that exceed 2,400 square feet in gross floor area may not be more than the maximum allowed under Section 5.4.A.

D. On any property adjacent to property in a less restrictive residential district, no additional accessory structure allowed under this Section may be located less than 50 feet from a lot line abutting property in the less restrictive district.

E. All other requirements for accessory structures shall be met.

Section 9.16. Drive through facilities serving a use other than a restaurant

A. The site shall have at least one lot line on a major thoroughfare.

B. There shall be at least three stacking spaces for each drive through lane. The Planning Commission may require additional stacking spaces based on the use and the anticipated traffic volume.

C. There shall be adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.

D. The minimum distance between driveways on the site shall be 75 feet ,measured from the two closest driveways' curbs, measured along the right-of-way.

E. The minimum distance a driveway into the site shall be from a street intersection shall be 60 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.

F. Motor-vehicle oriented businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.

G. Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.

H. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said

sound or music from being audible beyond the boundaries of the site.

- I. In the CO District, the following uses are further restricted to exclude drive through facilities: financial institutions and retail stores.

Section 9.17. Farm markets.

- A. Meat packing or selling of meat or processed foods primarily intended for consumption off the site shall not be allowed unless the facility is duly licensed by the state.
- B. All buildings or sales/activity areas shall have a front setback of at least 25 feet from the road right-of-way.
- C. All ingress and egress to the site shall be located at least 60 feet from the intersection of any two roads measured from the right-of-way lines.
- D. A minimum of five off-street parking spaces shall be provided and shall be located so that they can be safely and conveniently used by the customers. Maneuvering into or out of parking spaces shall not require maneuvering in the street right-of-way.
- E. At least 50 percent or more of the retail floor space during the marketing season must be devoted to products produced on and by the farm. If measurement of floor space during the marketing season is not feasible, then the determination will be based on 50 percent of the gross sales of products at the farm market. Sales of other items shall be limited to agriculturally related products, as defined in this Ordinance.
- F. The farm market shall conform to the Generally Accepted Agricultural Management Principles as adopted by the Michigan Department of Agriculture.

Section 9.18. Farm wineries and micro breweries

- A. Prior to establishment, the farm micro brewery shall have received a Brewer or Micro Brewers license issued by the Michigan Liquor Control Commission to manufacture and sell to licensed wholesalers, beer produced at the licensed micro brewery facility. The farm winery shall be licensed by the US Treasury, Bureau of Alcohol Tobacco & Firearms; and the Michigan Liquor Control Commission, and shall be in compliance with the regulations of the Michigan Liquor Control Commission, the Michigan Department of Agriculture, and the Michigan Department of Natural Resources and Environment.
- B. Farm wineries and micro breweries and associated uses are subject to all applicable state requirements and permitting processes.
- C. Minimum lot area shall be 10 acres.
- D. Farm wineries and micro breweries shall be located on a farm property that has a minimum of two planted acres of crops for production of beer and two planted acres of fruit for the production of wine which are maintained on the premises pursuant to generally accepted agricultural management practices.
- E. The above ground portion of any individual farm winery or farm micro brewery building shall not be greater than 20,000 square feet.
- F. The total land area covered by buildings and structures used for wine or beer processing, storage, tasting and sales shall not exceed two percent of the contiguous lot area.
- G. All farm winery and micro brewery buildings shall be setback at least 50 feet from any lot line. If the building is open to the public, it shall be set back at least 100 feet

from any lot line. To encourage the use of existing buildings, these setback requirements may be reduced to the setback requirement of the zoning district, subject to site plan review.

- H. Retail sales and hospitality room tasting areas are permitted, but shall be clearly accessory to the production of wine or beer. Indoor retail sales and tasting areas shall occupy no more than a total of 3,500 square feet.
- I. Retail sales shall be limited to wine and beer, wine and beer related products, merchandise related to the farm, items produced on the farm, and agriculturally related products, as defined in this Ordinance. Retail sale of food items is limited to prepared and prepackaged goods. No food production is allowed on the site, except for sales of agriculturally related products made from produce grown on the farm.
- J. Customer brew-on-premises stores and customer wine making is allowed.
- K. On-site consumption of beer and wine bought on-site and sales to consumers by the glass, as defined by the State of Michigan, is prohibited.
- L. Production of beer is limited to no more than 30,000 barrels per year and the production of wine is limited to 50,000 gallons.
- M. Hours open to the public are limited to 9:00 am to 9:00 pm, Monday through Saturday, and 12:00 pm to 9:00 pm on Sundays.
- N. Shipping and receiving hours are limited to 7:00 am to 9:00 pm.
- O. The farm winery and micro brewery must be at least 500' from a church or school, measured from the nearest side of the micro brewery building to the nearest property line of

the church or school. The Planning Commission may waive the church/school minimum separation if the church or school does not object to the proposal prior to or at the required public hearing and if a similar waiver is first granted by the Michigan Liquor Control Commission.

Section 9.19. Funeral homes and mortuaries

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Adequate assembly area shall be provided off-street for vehicles to be used in the funeral procession.
- C. Such assembly area will be in addition to required off-street parking.
- D. A caretakers residence may be provided within the main building of the mortuary establishment.
- E. All parking shall be located in the side or rear yard.

Section 9.20. General amusement attraction

- A. Lot Size. The minimum lot size shall be 8 acres.
- B. Minimum Setbacks.
 - 1. Buildings not used for attractions open to the public: GC setbacks apply.
 - 2. Buildings used for attractions open to the public: 100 feet from lot lines shared with Agricultural and Residential zoned parcels and GC setbacks from lot lines shared with Commercial and Industrial zoned parcels.
 - 3. Parking lots: 50 feet from lot lines shared with Agricultural and Residential zoned parcels. When

adjacent to Commercial and Industrial Districts, the parking location requirements of Section 12.3 shall apply.

4. Boundaries of outdoor facilities: 150 feet from lot lines shared with Agricultural and Residential zoned parcels and 50 feet from lot lines shared with Commercial and Industrial zoned parcels.

5. Front: GC setback.

C. Hours of Operation. Hours may be further restricted during special land use and site plan review to further protect neighboring property from potential disturbance and also based on the nature of the proposal.

D. Sound and Noise. Amplified sound and other non-amplified noise generated from the attraction shall not present a nuisance.

E. Lighting. General site lighting shall comply with Section 12.2. Lighting for special effects, such as strobe lighting or other types, shall not be visible from the public right-of-way or adjacent property.

F. Building and Fire Codes. All applicable building and fire codes shall apply to temporary and permanent structures and buildings. Building plans shall be reviewed by the Building Official and Fire Chief prior to special land use and site plan approval.

G. Buffering and Screening.

1. Buffer Type A (Table 12-6) is required along lot lines shared with Agricultural and Residential zoned parcels. Buffers may be required to be wider or more heavily planted when adjacent to uses determined to be more sensitive to audible and visual impacts of the use and also based on the nature of the proposal.

2. Parking areas adjacent to Agricultural and Residential zoned parcels shall be screened with a six-foot privacy-style fence.

H. Security Fencing. Outdoor attractions shall be enclosed by fencing to discourage unauthorized access. Fencing is not required to enclose buildings and parking areas.

I. Access.

1. Site access must be from a paved public roadway and all driveways are subject to Van Buren County Road Commission or Michigan Department of Transportation permitting requirements.
2. Access driveways shall provide at least 200 feet of stacking space prior to gate access and/or parking area entry. Multiple side-by-side lanes may be required to accommodate higher traffic volumes. Increased stacking area may be required during special land use and site plan review based on attendance projections and other traffic-related considerations.
3. Fire apparatus roads for emergency access shall be maintained and clear at all times and shall be subject to review and approval by the Fire Chief.

J. Parking.

1. Parking areas shall be located and designed to ensure safe and efficient circulation for both pedestrians and vehicles, including designated maneuvering lanes, ingress, and egress.
2. The Township may require supervision by attendants during major events.
3. Parking lots shall meet the requirements of Section 12.3. One (1) parking space is required for every four (4) persons that can be admitted to the site. The

minimum parking count shall be determined by the Township during special land use and site plan review based on maximum attendance projections and/or capacity.

4. Overflow parking areas may be required by the Township or may be proposed by the applicant. Overflow parking is subject to the following requirements:

- a. Aisles and parking rows shall meet the minimum widths required by Section 12.3.
- b. Maneuvering lanes and parking rows shall be designated by temporary markings, such as paint, cones, flags or ribbons.
- c. Grassed lots shall be maintained, mowed and seeded to ensure a passable and stable surface.

K. Accessory Uses and Activities. Accessory commercial activities shall be limited to those necessary to serve only the customers of the facility and shall be restricted to those uses permitted in the GC Zoning District.

L. Sanitary Facilities. All sanitary facilities shall be designed and constructed in strict conformance with Van Buren County Health Department regulations.

M. Waste Management. Adequate trash receptacles shall be provided as needed throughout the site.

N. Operations Plan. An operations plan shall be provided by the applicant. At minimum, the plan shall address:

1. Project narrative and description of the proposed use, overview of activities, and responses to requirements of this section.
2. Hours of operation for public entry and primary show seasons.

3. Description of ticket sales, accessory retail sales, food sales.
4. Provision of security.
5. Fire safety and emergency plans.
6. Lighting plans.
7. Description of special events.
8. Traffic control plan to for backups, stacking, and overflow.
9. Parking and attendance projections.
10. Sanitary facilities.
11. Waste management.
12. Property maintenance plan.
13. Insurance coverage.

Outside agency permitting requirements.

Section 9.21. Golf courses and country clubs

A. Site requirements:

1. Minimum site shall be 80 acres for a nine-hole course.
2. Minimum site shall be 160 acres for an 18-hole course.
3. A minimum of four additional acres will be required for sites including tennis, racket sport, or swimming facilities.

B. Buffering requirements:

1. A landscaped buffer zone shall be provided between the parking and principal building area and any adjacent residential development.

2. A 50 foot minimum undisturbed buffer zone between turf areas and natural water bodies, watercourses or wetlands must be maintained. The buffer zone must contain native vegetation and shall not be chemically treated.

C. Performance standards:

1. Accessory uses may include: clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, tennis, racket sport, and swimming facilities.
2. Major accessory uses shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
3. All principal or accessory buildings and parking areas shall be not less than 200 feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may reduce this requirement.
4. Access shall be so designed as to provide all ingress and egress to the site directly from a hard surfaced street.
5. The total lot area covered with principal and accessory buildings shall not exceed five percent.
6. All artificial lights shall be directed away from adjoining properties.
7. No outdoor loudspeaker or call system shall be routinely audible on adjoining property.
8. Outside storage shall be properly screened.
9. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker. Those living quarters, if any, shall be constructed as part of the principal building.
10. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a 75 foot front yard and 100-foot side and rear yard setbacks. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
11. Toilet facilities for use by patrons shall be located conveniently. Satellite restrooms are to be located away from lot lines and painted or finished in an earth tone color. Such facilities shall be approved by the Van Buren County Health Department.
12. Golf courses shall retain and preserve native vegetation over at least 30 percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.
13. Water quality protective measures are required as follows:
 - a. Maintenance of erosion control barriers during construction and until all ground cover is established.
 - b. To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
 - c. Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff away from such areas.

- d. A fuel or chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.
- e. An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. This listing must also be filed with the Township and any other appropriate regulatory authority.

14. Chemicals and their applications shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.

15. In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the Township may require posting of a performance guarantee or other acceptable security.

16. Swimming pools shall conform to the requirements of Section 3.22

Section 9.22. Group day care homes

A. Locational requirements: Group day care homes shall not be located closer than 1,500 feet to another licensed group day care home, adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, PA 218 of 1979, MCL 400.701 et seq., a facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under article 6 of the Michigan Public Health Code, PA 368 of 1978, MCL 333.6101 et seq., or a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

B. Site requirements:

- 1. All outdoor play areas shall be enclosed with fencing, a minimum of four feet high.
- 2. An off-street drop-off area is to be provided with the capability to accommodate at least two vehicles in addition to the parking normally required for the residence. A driveway may be used for this purpose.
- 3. One on-site parking space shall be provided for any assistant provider or caregiver not a resident on the premises.
- 4. Playground equipment shall not be located in front or side yards.
- 5. One sign is permitted providing:
 - a. It is for identification purposes only.
 - b. It is not internally illuminated and does not exceed four square feet.

C. Buffering requirements: Adequate provision shall be made to reduce noise impacts on surrounding residential properties.

D. Performance standards: Operation and maintenance of all group day care facilities shall conform to existing applicable County and State regulations.

Section 9.23. Home based businesses

A. General Requirements.

- 1. The following shall not be permitted as a home based business:
 - a. independent trucking
 - b. waste hauling and sanitary services

- c. paint and/or body shops
- d. automotive, truck or heavy equipment repair
- e. junk yards or scrapping operations
- f. retail sales, except for sales of goods produced by the home based business.

2. The home-based business shall not be used as an attempt to establish a commercial or industrial use in a residential area.
3. The parcel containing the home based business shall contain a single family dwelling as the principal use and the business shall be owned and operated by a full-time resident of the dwelling located on the property.

B. Minimum Lot Area:

1. For the following home based businesses, the minimum lot area shall be not less than five acres:
 - a. Any business that requires 1,000 square feet of gross floor area or greater, within an accessory structure or combined within the dwelling and an accessory structure;
 - b. Any business that utilizes heavy equipment, trailers or trucks with a gross vehicle weight rating of five tons or greater;
2. For all other home based businesses, the minimum lot area shall not be less than two acres.

C. Structure Requirements.

1. The home based business may be conducted within the dwelling or within an accessory structure meeting the requirements for accessory structures in this Ordinance, or both. If an accessory structure is

constructed or expanded to accommodate a home based business, the structure shall be constructed in a manner and style that is typical for accessory structures on single family lots.

2. No more than twenty percent (20%) of the gross floor area of the dwelling may be utilized by the home based business.
3. Buildings that must meet special building code requirements, such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of fuel, motor oil, lubricants, and anti-freeze), and other similar requirements shall not be permitted.

D. Access:

1. Any home based business that involves the use of heavy equipment or trailers of any weight, or trucks over five tons gross vehicle weight, shall be located on and have direct access from a paved road.
2. Any proposed home based business that takes access from a private street shall show proof that access to the street by heavy equipment or trucks has been approved by the private street association or other entity or owners who are responsible for ownership and maintenance of the private street.

E. Performance Standards.

1. No equipment or process shall be used on the premises that creates excessive noise, vibration, glare, fumes or odors, or electrical interference.
2. Any traffic generated by the home-based business shall not be so great or occur at a time that would cause adverse effects within or upon the surrounding

neighborhood, as determined by the Zoning Administrator.

3. Outdoor storage of goods, parts, supplies or machinery related to the home based business shall not be permitted.
4. Storage of motorized vehicles and equipment associated with the business shall be wholly contained within a structure. However, vehicles that do not exceed eight feet in height may be stored in the rear of a structure where they are not visible from the street, provided that they are screened with a solid fence or wall that is six feet in height, or landscaping that forms an opaque screen with a height at planting that is at least six feet high.
5. No more than one person who is not a resident of the dwelling may be employed. This does not preclude the use of additional employees who may be employed by the home-based business but who work in other locations off the premises.
6. The home based business shall provide one off-street parking space for the employee not residing on the premises in addition to the parking requirement for the dwelling. If the business requires or allows patron access to the business, there shall be two parking spaces provided for each 300 square feet of usable floor area dedicated to the home based business
7. The Township Board, after recommendation of the Planning Commission, may approve additional conditions limiting the hours of operation, outdoor storage locations, screening, and other requirements that minimize impacts on adjacent properties, are consistent with the intent of this Ordinance and protect the public health, safety and welfare.

Section 9.24. Hospitals and clinics

A. Locational requirements: All ingress and egress to the site shall be directly from a hard surfaced street.

B. Site requirements:

1. Minimum lot or parcel size.
 - a. Hospitals: 10 acres.
 - b. Clinics: two acres
2. No more than 25 percent of the site area shall be covered by buildings.
3. For a hospital, the minimum distance of any building from lot or right-of-way line shall be at least 100 feet for front, rear, and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least 20 feet. A hospital less than two stories shall be no closer than 40 feet from any lot line or right-of-way. A clinic shall conform to the setback requirements of the zoning district.
4. Access to and from any delivery or ambulance areas shall be directly from a major hard surfaced street.
5. For a hospital, a minimum of two ingress/egress locations shall be required.
6. Noise producing activities, such as ambulance and delivery areas, laundry, or power plant, shall not be located closer than 300 feet from any residential dwelling.

C. Greenbelt requirements:

1. For hospitals, ambulance and delivery areas shall be obscured from all residential view with a wall at least six (6') feet in height. Said wall shall further be in

accordance with the landscaping requirements in Section 12.1 of this Ordinance.

2. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Section 12.1.

Section 9.25. Hotels and motels

- A. All ingress and egress to the site shall be directly from a hard surfaced street..
- B. There shall be at least 800 square feet of lot area for each guest room.
- C. The maximum lot coverage of all buildings, including accessory buildings, shall not exceed 25 percent of the area within the lot lines of land developed at any one time.
- D. The front 25 feet of the lot shall be landscaped buffer zone, unpaved, and shall not be used for off-street parking.
- E. Trash dumpsters shall be screened from adjacent properties by vegetation, landscaping, or fences, pursuant to the requirements of this ordinance.
- F. The minimum floor area of each guest unit shall be 250 square feet.
- G. No guest shall establish permanent residence at the motel. No individual period of occupancy shall exceed eight weeks.

Section 9.26. Junkyards and salvage centers

- A. **Locational requirements:** All ingress and egress to the site shall be directly from a hard surfaced street. The Township may approve access to an unpaved or county local road if the Planning Commission and Township Board

find that such access point will further minimize impacts on other properties.

- B. Site requirements:** The minimum lot or parcel size for junkyards or salvage centers shall be five acres.

- C. Setbacks:**

1. All enclosed areas shall be set back at least 100 feet from any front lot line.
2. Junkyards shall not be located closer than 200 feet from the border of property in any other district other than the Light Industrial District.
3. Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
4. Whenever the facility abuts a residential district, a transition strip at least 200 feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and structural screens of a type approved by the Planning Commission.

- D. Buffering requirements:**

1. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 12.1.
2. A solid fence, wall or earthen berm at least eight feet in height shall be provided around the periphery of the site to screen the site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction.

E. Performance standards:

1. All activities shall be confined within the enclosed area. There shall be no stacking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
2. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
3. All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, oiled, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
4. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the Van Buren County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
5. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources and Environment.

Section 9.27. Reserved**Section 9.28. Kennels, commercial****A. General Requirements:**

1. Outdoor activity areas shall be screened from view by appropriate privacy fencing or landscaping as determined by the Planning Commission. An outdoor activity area is a location for walking leashed and unleashed dogs, pet relief, leashed and unleashed dog training, dog exercise and play areas, and outdoor dog runs.
2. All kennels shall be operated in conformance with any applicable County and State regulations.
3. Buildings used as commercial kennels or pet services shall be insulated in such a manner that excessive noise from barking is minimized.
4. Habitual barking, which results in a nuisance to neighboring landowners or residents, is prohibited.

B. Minimum Acreage: The following minimum acreages are required:

1. Agricultural and Open Space Residential (AG) and Rural Estate Residential (R-1): Any type of commercial kennel and pet service must be on a lot or parcel at least five (5) acres in size.
2. General Commercial (GC):
 - a. There is no minimum lot or parcel size for commercial kennels and pet services with outdoor areas for leashed walking, leashed training, pet relief, and facilities without outdoor exercise and play areas or outdoor runs, as outlined in subsections C and D.

- b. Commercial kennel and pet service facilities with outdoor exercise areas or outdoor runs must be on a lot or parcel at least five (5) acres in size.

C. Outdoor Exercise and Play Area Requirements:

- 1. Outdoor exercise and play areas are locations outside of enclosed structures that are intended and used for unleashed dog exercise, training, and play.
- 2. The outer limits of outdoor exercise and play areas shall not be located closer than 100 feet from any adjacent residential zoned property.
- 3. Outdoor exercise and play areas shall not be used between 10:00 p.m. and 7:00 a.m. Hours may be further limited through special land use approval.
- 4. Outdoor exercise and play areas shall be fenced.

D. Outdoor Run Requirements for Boarding and Day Care:

- 1. Outdoor runs are individually fenced areas connected to buildings that accommodate outdoor access for associated indoor pens or suites.
- 2. Outdoor runs shall not be located closer than 100 feet from any adjacent residential zoned property.
- 3. Dogs shall not be permitted in outdoor runs between 10:00 p.m. and 7:00 a.m. Hours may be further limited through special land use approval.
- 4. Outdoor runs shall be located in the rear or side yards.
- 5. Outdoor runs shall be equipped with impervious surfaces suitable for cleaning by high-pressure water. Outdoor runs shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease, offensive odor, or dust generation.

Section 9.29. Medical marihuana facilities

- A. The intent of this section is to regulate medical marihuana facilities in Antwerp Township and to consider each application on a case-by-case basis to ensure that public health, safety, and welfare are protected. The requirements of this section and the special land use process intend to reduce potential impacts related to odor, noise, light, security, environmental features, public infrastructure, public services, privacy, and property values.
- B. Sites shall have direct access and frontage on Derhammer Parkway or Lagrave Street.
- C. Medical marihuana facilities shall be reviewed in accordance with the special land use standards, site plan standards and requirements, and all other zoning requirements for development in Antwerp Township.
- D. Special land use approval shall be contingent upon approval of a Township Medical Marihuana Facility Permit issued by the Antwerp Township Board. Special land use approvals shall only be valid for the permit term of the Township Medical Marihuana Facility Permit. In the case of a lapse of the validity of a Township Medical Marihuana Facility Permit for more than one (1) year, a new special land use permit shall be necessary and processed in accordance with procedures outlined in Chapter 10.
- E. Commencement of medical marihuana facility business operations shall be contingent upon receipt of a state license.
- F. All medical marihuana facilities shall remain in compliance with the Zoning Ordinance and the Antwerp Township Medical Marihuana Facility Permitting Ordinance.
- G. Outdoor medical marihuana grower facilities.

1. The perimeter of outdoor medical marihuana growing areas is subject to the following requirements:
 - a. Non-Residential Property Setbacks: Light Industrial District setbacks in Table 6-3 apply when abutting non-residential zoned property (GC, LI, and CO).
 - b. Residential Property Setbacks: 200 feet minimum from lot lines abutting residentially zoned property (AG, R-1, R-2, and R-3).
 - c. Residential Separation: 1,000 feet minimum from any existing residential dwelling.
2. The Township Board may consider residential property setback and separation reductions if any of the following conditions are met. However, the Township Board is not obligated to grant reductions if the outdoor growing operation is anticipated to negatively impact public health, safety, and welfare if minimum separations or setbacks, or both, are reduced.
 - a. The owners of all abutting residential properties on the side(s) of the parcel subject to the reduction request provide written confirmation that they do not oppose the setback reduction.
 - b. The owners of all residential dwellings within 1,000 feet provide written confirmation that they do not oppose the separation reduction.
 - c. The applicant demonstrates that the outdoor growing of marihuana will not significantly impact neighboring residential property owners and occupants based on existing conditions, such as existing lot configuration, buildings, vegetation, topography, and other applicable factors.
 - d. The applicant demonstrates that the outdoor growing of marihuana will not significantly impact

neighboring residential property owners and occupants based on proposed conditions, such as the proposed location of the facility on the lot, vegetation, landscaping, screening, and management practices.

- H. The applicant shall provide an operations plan, including but not limited to the following information:
 1. General narrative concerning business plans, objectives, and operations.
 2. Business structure and beneficial ownership.
 3. Organization and management.
 4. Explanation of strategy and methods to comply with this ordinance, zoning requirements, building codes, fire safety rules, and other applicable codes.

Section 9.30. Mini-warehouses/self-storage facilities

- A. Building separation between self-storage buildings on the same site shall be a minimum of 24 feet.
- B. The total lot coverage of all structures shall be limited to 35 percent of the total lot area.
- C. Internal driveway aisles shall be a minimum of 24 feet in width.
- D. All ingress and egress to the site shall be directly from a hard-surfaced street.
- E. Storage building height shall not exceed one story and no greater than 25 feet. A caretaker or resident manager's unit may be allowed a building height of two stories and no greater than 25 feet.
- F. No single storage building shall exceed 9,000 square feet.

G. All storage on the property shall be kept within an enclosed building. However, the outdoor storage of recreational vehicles, boats, motor homes, trailers, and travel trailers may be permitted, subject to the following:

1. Storage areas shall be completely screened from view from all adjacent residential areas.
2. Storage area surface shall be hard-paved. Subject to approval by the Planning Commission, the storage area surface may be a pervious surface of equal durability. Gravel, crushed rock, and other alternative surfaces may also be permitted if it:
 - a. Is demonstrated to be properly drained;
 - b. Can be maintained in a durable state that minimizes dust generation;
 - c. Will maintain the character and quality of nearby development;
 - d. Will be maintained and free of weeds, grass, and overgrown vegetation at all times; and
 - e. Will not impact groundwater and surface water features.
3. Approval of alternative materials does not provide a permanent right that carries with the parcel. Surfaces may be required to be upgraded during future improvements, change of use, and/or further development.

H. The use of the premises shall be limited to storage only, and shall not be used for any auction (except those authorized by Van Buren County of abandoned or garnished assets), sales, or transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance or similar item; or for the operation of power

tools, compressors, kilns or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.

- I. Mini-warehouse/self-storage buildings are exempt from the fenestration requirements of Section 6.6 C.1 a & b, and are exempt from the exterior wall requirements of Section 6.6 C.3 for secondary street frontages on corner lots.

Section 9.31. Mineral extraction

A. Application Requirements. In addition to the materials required by Chapter 10, the application for special land use approval shall include the following:

1. A written legal description of all of the lands proposed for the use.
2. A plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following, at a minimum:
 - a. shading indicating the extent of land area on which mineral removal operations and activities will take place;
 - b. the location, width, and grade of all easements or rights-of-way on or abutting the lands;
 - c. the location and nature of all structures on the lands;
 - d. the location and direction of all water courses and flood control channels which may be affected by the mineral removal operations;

- e. existing elevations of the lands at intervals of not more than five feet;
- f. typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
- g. mineral processing and storage areas;
- h. proposed fencing, gates, parking areas, and signs;
- i. streets for ingress to and egress from the lands, including on-site streets, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;
- j. a map showing access routes between the subject lands and the nearest County Primary street; and
- k. areas to be used for ponding.

3. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated by type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.
4. A site rehabilitation plan including the following:
 - a. A written description of planned site rehabilitation and end-use(s), including potential methods of accomplishment and phasing;
 - b. a plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and
 - c. a description of the proposed methods or features which will ensure that the end-use(s) are feasible and can comply with all applicable requirements of this Ordinance.
5. The Planning Commission may require an environmental impact statement, engineering data, or other additional information concerning the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.

B. Standards of review.

1. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
 - a. Topsoil shall be replaced on the site to a depth of not less than six inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or

activities are commenced in another area of the site.

- b. Final slopes shall have a ratio of not more than one foot of elevation to 3 feet of horizontal distance.
- c. Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.

2. No machinery shall be erected or maintained within 100 feet of any exterior property line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line in order to ensure sub-lateral support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located within 200 feet of any Residential District.
3. The Planning Commission shall recommend routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public street.
4. Proper measures, as determined by the Zoning Administrator shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
5. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one foot of elevation for each two feet of horizontal distance, after the cessation of daily operations, provided, however, that the Planning Commission may require some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material, of at least four (4) feet in height, so located that any slopes steeper than one foot of elevation for each two feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.

C. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this Subsection. Such conditions may include, though need not be limited to, time limits, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.

D. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming Antwerp Township as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amount as is recommended by the Planning Commission as reasonably necessary to ensure

compliance with all of the terms and conditions of this Subsection and the permit.

1. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator and until the Planning Commission has determined that the applicant, or its successor, has fully complied with all of the terms, conditions, site rehabilitation and restoration requirements, and all other matters required of the applicant under the terms of the permit.
2. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the same is revoked or it expires or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.

Section 9.32. Nurseries/greenhouses (commercial)

- A. The minimum area shall be two acres.
- B. All ingress and egress to the site shall be directly from a hard surfaced street.
- C. The storage or display of any materials shall conform to all building setback requirements of a structure.
- D. All parking and loading shall be provided off-street.
- E. The parking area shall be designed so as not to disrupt abutting residences with noise or headlights.

Section 9.33. Outdoor wood furnaces

The Zoning Administrator may approve a plan and permit for installation of an outdoor wood furnace (also known as outdoor wood stoves, outdoor wood boilers and hydronic heaters) if located outside of a structure and servicing a residential building, under the following conditions:

- A. An outdoor wood furnace shall not be permitted in any platted area.
- B. The stove/furnace unit shall be only for the purpose of heating and/or hot water for a dwelling and/or accessory structure(s) on the same lot.
- C. The applicant for a permit for an outdoor wood furnace shall submit a site plan showing that the installation of the unit meets the following requirements:
 1. The lot shall be a minimum of two acres in area; however, in the R-2 District, the minimum lot area shall be four acres.
 2. The stove/furnace unit shall be a minimum of 25 feet from any other structure; however, a structure built and used strictly for sheltering wood or other approved fuel for the unit may be located no less than eight feet from the unit.
 3. The stove/furnace unit shall be located a minimum of 100 feet from any property line.
 4. The unit shall not be located in the front yard.
 5. Other than woodpiles and other approved combustibles used for fuel, an area at least 30 feet in diameter around the unit shall be free of ignitable vegetation and debris.

6. The chimney shall be a minimum of 10 feet high, to a maximum of 35 feet. Chimney guy wires, if necessary, shall be clearly visible at all heights below nine feet.

D. Emissions standards

1. All outdoor wood furnaces installed after the effective date of this Ordinance shall comply, at minimum, with the Phase 2 emissions guidelines of the United States Environmental Protection Agency's (USEPA) Voluntary Program for Hydronic Heaters. Should the USEPA, the State of Michigan or Van Buren County adopt more restrictive emissions requirements, all wood boilers installed after the effective date of the new requirements shall comply with the more restrictive requirements.
2. Any outdoor wood furnace installed prior to the adoption of this ordinance that does not meet this subsection D shall be considered to be conforming, provided that all other requirements of this Section are met.

E. A copy of the manufacturer's installation and operation instructions shall be submitted as part of the permit application. The applicant shall provide a written statement from the installer that the outdoor wood boiler was installed according to all manufacturer's instructions and any applicable Township, county, state or federal requirements.

F. Only seasoned, dry and untreated wood and clean burning wood byproducts (such as wood pellets) may be used for fuel. Other biomass fuel materials may be used (such as corn cobs) provided that the unit is designed to burn such materials while meeting the emissions requirements stated in this Section.

G. The outdoor wood furnace shall be operated according to the manufacturer's instructions as well as all applicable Township, county, state or federal requirements.

Section 9.34. *Outdoor display or sales*

A. Principal Building. A principal sales office building is required.

B. Setbacks. Outdoor sales areas shall comply with setbacks applicable to principal buildings.

C. Maximum Lot Coverage. Outdoor sales areas are subject to maximum lot coverage requirements in Section 6.3.

D. Surface. Sales areas shall be asphalt, concrete, gravel, or crushed stone. Gravel and crushed stone surfaces are subject to the following requirements:

1. Shall be properly drained in accordance with Township stormwater requirements.
2. Dust generation shall be minimized.
3. The surface will be maintained and free of excessive weeds and overgrown vegetation.

E. Screening. Outdoor sales areas shall be screened when abutting residential zoning districts. See Section 12.1 K for screening requirements. After a recommendation from the Planning Commission, the Township Board may waive screening if existing vegetation or required buffering is sufficient to minimize the visual impact of outdoor storage areas viewed from residential dwellings on abutting properties.

F. Repair. No major repair or major refinishing to a vehicle shall be conducted on the subject site. All service and minor repair facilities shall be located within an enclosed building. Damaged vehicles and/or vehicles waiting for

minor repair may be stored outside provided such storage area is screened by an obscuring wall six (6) feet.

G. Hazardous Materials. No flammable liquids, solvents, cleaners, or other hazardous substances capable of contaminating groundwater shall be displayed outdoors.

Section 9.35. Outdoor Donation Collection Facilities

The Zoning Administrator may approve a plan and permit for establishment of Outdoor Donation Collection Facilities as accessory uses under the following conditions.

A. General:

1. No person shall place, alter or replace any Outdoor Donation Collection Facility without first obtaining a permit.
2. For-profit commercial Outdoor Donation Collection Facilities are prohibited and use is limited to charitable purposes.
3. Facilities must be labeled, in clear sight, with contact information for each organization that receives any of the donated property or proceeds.
4. Facilities and their immediate surroundings are subject to Anti-Junk and Blight regulations.
5. Only one facility is permitted per property.
6. No facility may be placed on a property where there is not a primary structure.

B. Permitting:

1. All Outdoor Donation Collection Facilities must be permitted by the Zoning Administrator.

2. Permits shall be revoked for violations of this section or any other section of the Zoning Ordinance.
3. All Outdoor Donation Collection Facilities that exist on the effective date of this section that fail to receive a permit within thirty days of the effective date of this section shall be removed by the property owner or operator.
4. The property owner or operator shall be responsible for any and all costs associated with the removal, storage and disposal of facilities that are not permitted or are in violation of the Zoning Ordinance.

C. Application:

1. The application shall include a local contact person and the operator of the facility, with the appropriate contact telephone number to address any maintenance, damage, or concerns with the facility.
2. As part of the application, written authorization from the property owner consenting to the placement and maintenance of the facility must be obtained and provided if the applicant is not the property owner.
3. A management plan shall be provided at the time of application. The plan shall address: schedule of inspections, frequency of collections, security plan, emergency contact information and maintenance procedures.
4. A sketch plan showing the proposed location of the facility shall be provided.
5. A description and specifications of the facility, including dimensions, color and type shall be provided.

D. AG, R-1, R-2, R-3 Districts:

1. Outdoor Donation Collection Facilities shall only be permitted as accessory uses to conforming and legally nonconforming non-residential uses.
2. Only Mobile Donation Collection Equipment shall be permitted.
3. Mobile Donation Collection Equipment shall not be permitted for periods longer than thirty consecutive days and not more than twice a calendar year on an individual property.

E. GC, LI, CO Districts:

1. Outdoor Donation Collection Facilities may be permitted as accessory uses.
2. Mobile Donation Collection Equipment shall not be permitted for periods longer than thirty consecutive days and no more than twice a calendar year on an individual property.

F. Guidelines:

1. Message content on facilities is limited to the organization name, logo and contact information.
2. A new facility may not be placed within 250' of any other existing and permitted Outdoor Donation Collection Facility.
3. Donation Collection Bins are limited to the following dimensional maximums- 72" high, 54" wide, and 43" deep.
4. Donation Collection Bins shall be maintained free of peeling paint or paper, major dents, fading, staining, rust, or other condition which impairs legibility or creates a blighting, unsightly or unsafe condition.

5. Donation Collection Bins shall not be painted in fluorescent colors.
6. No facility shall be established 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.
7. Placement is prohibited in required parking spaces or required landscaped areas.
8. Placement is prohibited in a location which could interfere with or cause a visual or physical obstruction to vehicle or pedestrian traffic, specifically: prohibited on sidewalks, pathways, driveways and on other motorized and non-motorized circulation routes; prohibited in sight triangles, fire lanes, right of way.
9. Placement is prohibited within building setbacks and required yards.
10. The area around facilities shall remain free of litter and any graffiti must be removed from the bin within 72 hours of being notified by the Township.
11. All facilities must be safely designed in a manner that ensures stability and prevents unauthorized access.
12. Additional reasonable conditions may be required if placement is proposed on property adjacent to residential and institutional uses.

Section 9.36. Public facilities and places of worship**A. Site requirements:**

1. No building shall be closer than 50 feet to any property or road right-of-way line.

2. No more than 30 percent of the gross lot area shall be covered by buildings. Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
3. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located.
4. The site shall have at least one lot line on a paved street.
5. All ingress and egress to the site shall be directly from a paved street.

B. Buffering requirements:

1. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence five feet in height.
2. All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Section 12.1.

C. Performance standards:

1. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same site development.
2. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions shall result.
3. Outdoor storage areas shall be located a minimum of 50 feet from any residentially zoned property.
4. Facilities shall provide off-street parking and passenger loading areas at least 25 feet from residential lot lines.

5. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
6. Any sports fields shall be a minimum of 100 feet from any lot line and 200 feet from any dwelling.

Section 9.37. *Public utility facilities*

- A.** Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence five feet in height.
- B.** All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Section 12.1.
- C.** No adverse environmental conditions such as noise, air pollution, lighting or other disruptions shall result.
- D.** Public utility facilities on parcels one-quarter (1/4) acre or less are exempt from all maximum lot coverage requirements included in the Zoning Ordinance. Public utility facilities on parcels greater than one-quarter (1/4) acre shall be subject to a 50 percent lot coverage maximum.

Section 9.38. *Recreation facilities and health clubs, indoor (commercial)*

- A.** The minimum lot size shall be one acre.
- B.** Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- C.** In those instances where the proposed facility is intended to serve areas beyond a recorded subdivision or planned unit development, the proposed site shall have at least one

property line abutting a major hard surfaced street, and the site shall be so planned as to provide ingress and egress directly onto or from said major street.

D. Front, side, and rear yards shall be at least 80 feet on those sides adjacent to residential districts. Front, side, and rear yards shall not less than 10 feet on those sides adjacent to non-residential districts, or the requirement of the zoning district, whichever is greater. Such required yard setback shall be landscaped in trees, shrubs, grass, and terrace areas. All such landscaping shall be maintained in a healthy condition.

E. There shall be no parking or structures permitted in the required front, side, and rear yards, except for required entrance drives and screening walls used to obscure the use from abutting residential districts.

F. Central loudspeakers/paging systems are prohibited adjacent to residential property.

G. When a swimming pool is constructed under this Section of the Zoning Ordinance, said pool area shall be provided with a protective fence five feet in height, and entry shall be provided by means of a controlled gate.

H. All plans for storm sewers, sanitary sewers, water, and other utilities shall be reviewed and approved by the Township Engineer.

Section 9.39. Recreation facilities, outdoor, (commercial)

A. All ingress and egress to the site shall be directly from a hard surfaced street.

B. Minimum site area shall be three acres

C. No building or spectator seating facility shall be located within 100 feet of a lot line.

D. Front, side and rear yards shall be at least eighty (80') feet. The first 50 feet of such yards shall not be used for off-street parking and shall be landscaped.

E. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five foot wall or greenbelt shall be provided along the sides of the parking area adjacent to such residential land.

F. Race tracks and drive-in theaters shall be enclosed around the entire perimeter with an obscuring screen fence at least eight feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.

G. The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.

H. Facilities shall provide off-street parking and passenger loading areas.

I. Adequate stacking area shall be provided for vehicles waiting to enter the lot.

J. Facilities which have a participant capacity greater than 500 people shall provide letters of review from the County Sheriff and Van Buren County Road Commission with respect to the proposed project.

K. Landscaped areas shall be maintained in a healthy condition pursuant to Section 12.1.

L. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.

M. In no case shall a recreational accessory use pre-date the installation and operation of the principal use. When the principal use ceases to operate, the accessory use shall immediately cease.

- N. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
- O. Not more than 65 percent of the land area shall be covered by recreational uses.
- P. Central loudspeakers/paging systems are prohibited adjacent to residential property.
- Q. No temporary sanitary facility or trash receptacle shall be located within 200 feet of an existing dwelling.
- R. All sanitary facilities shall be designed and constructed in strict conformance with Van Buren County Health Department regulations.
- S. Adequate trash receptacles shall be provided as needed throughout the site.
- T. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners.

Section 9.40. Restaurants

A. Restaurants with drive through facilities:

- 1. No property line shall be located within 500 feet from an elementary, junior, or senior high school property line.
- 2. Points of vehicular ingress and egress shall be limited to an adjacent major street only.
- 3. The minimum width of driveways at the property line shall be 24 feet, and not greater than 30 feet.
- 4. The minimum distance between driveways on the site shall be 75 feet measured from the two closest driveways' curbs, measured along the right-of-way.

- 5. The minimum distance between a driveway into the site from a street intersection shall be 60 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
- 6. Motor-vehicle oriented businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- 7. The entire parking area shall be paved with a permanent surface of concrete or asphalt and shall be graded and drained in accordance with standards specified by Van Buren County. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times and separated from the paved parking or driveway area by a raised curb or other equivalent barrier.
- 8. Concrete curbing, six inches in height, shall be properly placed and maintained along or parallel to all property lines, except where bumper guards are required and except across approved driveways, so as to prevent vehicular encroachment onto or over the public right-of-way and to prevent vehicular encroachment onto or over the adjoining property, or vehicular damage to the adjoining buildings.
- 9. The Planning Commission, upon application of the property owner, may modify or waive the curbing requirement where unusual site characteristics exist or in instances where landscaping or other natural or manmade features would produce the same effect.
- 10. All outside trash receptacles, except those intended for use by the customer, shall be enclosed by a six foot wall. The material being stored shall not be stacked higher than the wall.

11. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
12. Drive-in establishment management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
13. During the period when a drive-in restaurant, fast-food restaurant, or carry-out restaurant is vacated, closed, or otherwise not opened for business for more than 30 consecutive days, the owner, franchise holder, or lessee shall be subject to complying with the following regulations:
14. Vehicular parking and storage shall be prohibited at all times anywhere on the premises and the owner, franchise holder, or lessee shall post a sign or signs on the premises, giving notice that all parked or stored vehicles are subject to ticketing and removal by the Township at vehicle owner's expense. In addition, the owner, franchise holder, or lessee, whoever is in possession, is subject to ticketing if unlawfully parked or stored vehicles are permitted on the premises by consent of owner, franchise holder, or lessee. The Township shall have the right of entry to subject property for the purpose of accomplishing said ticketing and removal.
15. The ground shall be kept free of rubbish and debris, and the grass, if any, shall be well kept and cut as necessary so as to present a neat and attractive appearance at all times.
16. Within 60 days of such closing, all curb cuts across driveway entrances and all other points of ingress and

egress to the premises shall be closed to vehicular traffic.

B. Restaurants in the CO Commercial Overlay District:

1. Restaurants with drive through facilities are not permitted.
2. All service areas, including loading and unloading areas and trash enclosures, shall be no less than 75 feet from any residential property line.

Section 9.41. Schools, trade/commercial

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Necessary steps shall be taken to ensure that any resulting dust, flushing, fumes, gas, noise, odor, smoke, vapor, or vibration do not create a condition detrimental to the surrounding area.
- C. In the case of vehicle mechanics, any temporary outdoor storage of vehicles for repair shall be screened from view and not be located within 50 feet of a public right-of-way or a residential district.

Section 9.42. Accessory non-commercial solar energy collectors**A. Applicability.**

1. This section authorizes and regulates accessory non-commercial building-mounted and ground-mounted solar energy systems.
2. This section does not regulate commercial solar energy systems.

3. This section does not apply to smaller-scale solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than six (6) feet above the ground.

B. Application and Review.

1. In addition to all other required application contents for zoning and building permits, equipment and unit renderings and plans shall be submitted for review.
2. Accessory non-commercial building-mounted solar energy systems shall be approved administratively by the Township Building Official.
3. Accessory non-commercial ground-mounted solar energy systems shall be approved administratively by the Zoning Administrator and the Building Official.

C. Accessory Non-Commercial Building-Mounted Solar Energy Systems.

1. Zoning Districts. Systems are permitted in all zoning districts.
2. Setbacks. All components comply with required building setbacks applicable to the building in which they are attached.
3. Height. Systems shall not project more than three feet above the highest point of the roof and may exceed the maximum building height limitation for the applicable zoning district by no more than three (3) feet.

D. Accessory Non-Commercial Ground-Mounted Solar Energy Systems.

1. Zoning Districts. Systems are permitted in the AG, R-1, and LI zoning districts.

2. Lot Coverage. Systems shall count against the maximum lot coverage required by the Zoning Ordinance.
3. Glare and Reflection. The exterior surfaces of solar energy collectors shall be substantially non-reflective of light. A system shall not be installed or located in a manner that directs considerable glare onto neighboring dwellings or adjacent streets. At the request of the Zoning Administrator or Planning Commission, the applicant shall prepare a glare analysis to demonstrate compliance with this standard.
4. Location. Systems are permitted in rear yards.
5. Installation. Systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township before installation.
6. Wires. All wires shall be buried underground. Overhead wires are prohibited.
7. Setbacks. Accessory non-commercial ground-mounted solar energy systems shall be subject to the setbacks required for principal buildings. Measurement shall be taken from the outermost edge of the support structure or solar panel, whichever is closer to the property line, to the applicable property line.
8. Maximum Number. One (1) accessory non-commercial ground-mounted solar energy system and its associated support structure are permitted per lot or parcel. However, in the case of a unique-shaped or extraordinary conditions of the land, a single system with multiple structures and panels may be approved as long as the structures are clustered in close proximity.

9. Maximum Size. Systems shall be designed and sized to produce no more than 125 percent of the annual kWh usage or 1,500 square feet, whichever is less. Proposed system power generation specifications and historic annual usage data shall be provided by the applicant for Township review.
10. Maximum Height. The maximum height of a system at its highest point, or at full tilt, shall be 16 feet. Height is measured from the natural grade below the system to the highest point of the panels or any part of the support structure, whichever is greater.
11. Abandonment. Systems that cease to produce energy continuously for 12 months will be considered abandoned by the Township unless the property owner provides a plan to reinstate the operation before the end of the 12-month period. If a plan is provided, a 12-month extension for reinstatement may be granted by the Zoning Administrator.
12. Removal. The property owner shall remove the support structure, panels, and all equipment and restore the site to its condition prior to the installation of the system within one (1) year of abandonment.
13. Special Land Use Options.
 - a. Side and Front Yard Systems. The appropriateness of systems proposed to be located in side and front yards shall be reviewed against special land use standards of approval and the following considerations:
 - i. Existing site, land, or building constraints make rear yard placement impractical to construct from a technical or physical perspective or a rear yard location is unfeasible for energy production.
 - ii. The system is sufficiently set back from public right-of-way to prevent glare onto roadways or visual impact.
 - b. Off-Site Systems. The appropriateness of systems on off-site parcels intended to serve a building or buildings on a separate parcel shall be reviewed against special land use standards of approval and the following considerations:
 - i. There is no feasible location on parcel that includes the principal land use because of existing site, land, or building constraints that make construction impractical from a technical or physical perspective or because all potential locations are unfeasible for energy production.
 - ii. The system is sufficiently set back from public right-of-way to prevent glare onto roadways or visual impact.
 - c. Oversized Systems. The appropriateness of systems proposed to exceed 1,500 square feet of collector panels shall be reviewed against special land use standards, and there must be a demonstrated need for excess square footage to power existing and proposed buildings.
 - d. General Standards. The following additional general standards of approval also apply to the special land use options:
 - i. There will not be a significant visual impact on neighboring property, or the system will be buffered or screened.
 - ii. The placement does not negatively impact the existing residential and neighborhood character of the area.

- iii. The placement does not negatively impact public health, safety, and welfare.

Section 9.43. Two-family dwellings

- A.** Within the R-2 Zoning District, two-family dwellings shall not be established on lands designated as Agricultural Preservation and Rural Preservation on the Future Land Use Map within the Antwerp Township Master Plan.

Section 9.44. Vehicle repair, major

A. Locational Requirements:

- 1. For facilities including any underground storage tanks, the site shall be 300 feet from any residential well, 800 feet from a non-community public water well and 2,000 feet from any public water well.
- 2. All ingress and egress to the site shall be directly from a hard surfaced street, or from a shared access drive to such roadway.
- 3. No driveway or curb cut shall be located less than 10 feet from any lot line, measured from the edge of the driveway to the lot line.
- 4. No more than two driveways onto a roadway shall be permitted per site. Driveway approach width shall not exceed 30 feet.
- 5. The site shall be no less than 200 feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.

B. Site Requirements:

- 1. In addition to the minimum lot size of the district, Automobile Filling Stations shall have an additional 500 square feet of lot area for each pump over four, and 1,000 additional square feet of lot area for each additional bay over two.
- 2. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or encroaching upon any public sidewalk, street or right-of-way.
- 3. Any stored items may not be stacked higher than the enclosing wall height. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding five days.
- 4. All gasoline pumps shall be located not less than 15 feet from any lot line or within 30 feet of the road right-of-way, and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or street right-of-way.
- 5. The entire area used for vehicle service shall be hard-surfaced and adequately drained.
- 6. There shall be no above-ground outdoor storage/dispensing tanks on the site without leak proof secondary containment sufficient to accommodate 120 percent of the volume of the tank.
- 7. All outside storage areas for trash, auto parts and similar items shall be enclosed by a six foot wall with such storage being located in the rear yard.

C. Greenbelt and Buffer Requirements:

1. Greenbelts and buffers shall comply with the requirements of Section 12.1.
2. Restroom and service bay doors shall not be visible from adjacent streets and residential districts.

D. Performance Standards:

1. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
2. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than 30 days and then only for the purpose of temporary storage pending transfer to a junkyard. Such storage shall not occur in front of the building.
3. No public address system shall be audible from any abutting residential parcel.
4. All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.

Section 9.45. Vehicle sales

A. No major repair or major refinishing to a vehicle shall be conducted on the subject site. All service and minor repair facilities shall be located within an enclosed building. Damaged vehicles and/or vehicles waiting for minor repair may be stored outside provided such storage area is screened by an obscuring wall six (6) feet.

Section 9.46. Vehicle service stations

- A. No repair work shall be permitted, other than incidental service, such as the addition of motor oil, windshield/wiper fluid or transmission fluid.
- B. No steam cleaning or undercoating shall be permitted.
- C. A principal building, of not less than 400 square feet in area, shall be required.
- D. All ingress and egress to the site shall be directly from a hard surfaced street, or from a shared access drive to such roadway. Access drives shall not be more than 30 feet in width.
- E. Not more than two driveways onto adjacent roadways shall be permitted per road frontage. Curb cuts shall not be permitted where, in the opinion of the Van Buren County Road Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- F. No drive or curb opening shall be located closer than 25 feet to any intersection or adjacent residential property line, as measured along the property line. No drive shall be located closer than 30 feet, as measured along the property line, to any other drive on the premises. No drive shall be located less than 10 feet from any lot line, as measured along the property line.
- G. The entire lot, excluding the area occupied by buildings, shall be hard-surfaced with concrete or asphalt material, except landscaped areas which shall be separated from all paved areas by a low barrier or curb.
- H. When adjoining residentially zoned property, a six foot wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls

may be eliminated or gradually stepped down in height within 25 feet of any right-of-way line, subject to approval by the Zoning Administrator.

- I. All gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or encroaching upon any public sidewalk, street or right-of-way.
- J. All outside storage areas for trash, auto parts and similar items shall be enclosed by a six foot obscuring wall with such storage being located in the rear yard.
- K. There shall be no aboveground outdoor storage/dispensing tanks on site.
- L. A permanent covered structure shall be provided over that portion of the pump island and drive area of any station wherein customers are required to dispense fuel into their own vehicles on a self-service basis. This structure shall not be enclosed by walls and shall be provided with a minimum clearance of 13 feet six inches between the underside of the roof structure and the drive surface. For purpose of this Ordinance, setback requirements shall not apply to canopies; however, in no instance shall they extend beyond the property line.
- M. Accessory retail uses and/or fast food restaurants, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
 - 1. Buildings shall be so arranged on site in a manner that screens any drive-through lanes from adjoining residentially zoned land.
 - 2. Drive-through lanes shall be separated from pump islands and from routes necessary for entering and exiting the property and shall conform to the

requirements of 9.32.A. A drive-through facility is not permitted in the CO Overlay District.

- 3. Customer parking for convenience store and/or fast food use shall be located on the site in a manner which precludes pedestrians from traversing through drive-through lanes and off-street loading zones.
- 4. Loading zones shall be restricted to the rear or side yards.
- 5. There shall be provided no fewer than five stacking spaces for the drive-through lane.
- 6. Food service areas shall be physically separated from vehicle repair and service facilities.
- 7. The sale of snack food items, commonly consumed by travelers (e.g., pop, candy, packaged snacks and goods dispensed through a vending machine), bread, milk, juice, cigarettes and sundry items shall be permitted, provided that the sale of such items is clearly incidental to the sale of vehicular fuel and lubricants, minor parts and accessories; and further provided that the area used for the sale and storage of food and sundry items does not exceed a usable floor area of 1,200 square feet.

Section 9.47. Vehicle wash establishments

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. Minimum lot size shall be 10,000 square feet.
- C. All washing activities must be carried on within a building.
- D. Vacuuming activities shall be at least 50 feet distant from any adjoining residential zone.

- E. The entrances and exits of the wash facility shall be from within the lot and not directly to or from an adjoining street. A street shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
- F. Provision shall be made for the drying of the vehicles undercarriage during subfreezing weather prior to entering the public thoroughfare.
- G. There shall be provided two vehicle stacking spaces for each self-serve wash stall, not containing the vehicle wash or vacuum area.
- H. There shall be provided 15 stacking spaces for each automatic wash lane.
- I. All off-street parking areas and maneuvering lanes shall be drained so as to preclude drainage of water onto adjacent property and public rights-of-way.

Section 9.48. Veterinary hospitals and clinics

- A. All ingress and egress to the site shall be directly from a hard surfaced street.
- B. The minimum area shall be two acres.
- C. Buildings wherein animals are kept, animal runs, and/or exercise areas shall not be located closer than 100 feet to any interior property line.

Section 9.49. Warehousing, storage, distribution, and truck terminals

- A. In the General Commercial Zoning District, uses are restricted to parcels with compliant frontage on M-40.
- B. Vehicle repair and service shall also comply with Section 9.43.

Section 9.50. Wind energy conversion systems

This Section establishes standards and procedures by which the installation and operation of an On-Site Service WECS shall be governed within Antwerp Township.

- A. Only On-site Service WECS shall be allowed. A WECS with the primary purpose of providing power to the utility grid or any other use not on the same site is prohibited.

B. Review Requirements

- 1. WECS Up to 50 Feet in Height. A WECS that does not exceed 50 feet in height shall require a sketch plan, in accordance with Section 11.3, and shall be reviewed and approved by the Zoning Administrator.
- 2. WECS Exceeding 50 Feet in Height. For any WECS exceeding 50 feet in height, a special land use must be approved by the Township Board, according to Chapter 10.
- 3. Application and Site Plan Requirements. For all WECS requests, the application and site plan shall include the following information:
 - a. Name of applicant, name of site plan preparer (if different), name of WECS manufacturer and name of WECS installer, with contact information;
 - b. A scaled drawing of the property, showing dimensions of all property lines and the area of the lot in square feet;
 - c. Location and setback of all structures on the site, including any overhead utility lines;
 - d. Proposed location of the WECS equipment on the site or on the building;

- e. Setbacks of the WECS, in accordance with the setback requirements of this Section, from property lines and (if ground mounted) from structures;
- f. A scaled elevation drawing of the WECS installation (including the building, if the WECS is building mounted) showing WECS height, rotor diameter and all other applicable elements to confirm conformance with the requirements of this Section;
- g. Certification that the WECS system and mount meets any current standards developed by one of the following: the IEC (International Electrotechnical Commission), ANSI (American National Standards Institute), or SWCC (Small Wind Certification Commission).

5. No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
6. There shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed to the base of the tower or to the nacelle. No sign shall exceed three square feet in area.
7. There shall be no lighting on or directed to the WECS, except as may be required by the Federal Aviation Administration.
8. The WECS shall be painted in a matte color, such as gray or light blue, intended to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
9. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be posted on the tower in an easily viewable location, or for building mounted WECS, shall be in a location easily accessible and viewable.
10. A WECS shall employ an anti-climbing device or be designed to prevent climbing and other unauthorized access.
11. A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
12. The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.

C. On-site Service WECS General Requirements:

1. A property may have either ground mounted or building mounted WECS, but not both.
2. Minimum Lot Area. A building mounted WECS shall be allowed on any lot, provided that all other requirements are met. The minimum lot area for installation of a ground mounted WECS shall be 30,000 square feet.
3. Power rating of the WECS turbine shall not be greater than 25 kilowatts (kW).
4. The WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property.

13. All WECS installations shall comply with applicable electric and building code standards, as adopted by the State of Michigan and the Township.
14. **Abandonment.** A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months.
15. **Repair and Maintenance.** An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the Zoning Administrator, provided that the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. For the purposes of this paragraph, a "new or replacement WECS" shall mean all of the WECS, excluding the tower or support structure.

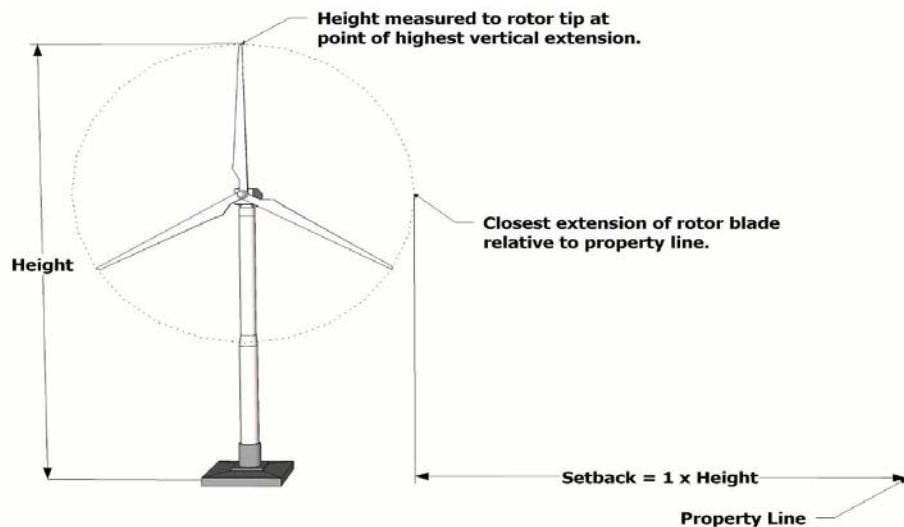


Figure 9-1: Ground Mounted WECS

D. Ground-Mounted On-Site Service WECS

1. There shall be no more than one ground mounted on-site service WECS per parcel or lot.
2. A ground mounted WECS shall not be located within a front yard.
3. The WECS shall be located on the property so that it is set back from all property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line. No part of a single WECS (including guy wire anchors) shall be located within or above any required setback. (See **Figure 9-1**)
4. The WECS height shall be limited by available setbacks as required in paragraph 3 above; however, no WECS shall exceed 50 feet high on a property at least 30,000 square feet but less than one acre in area; or 75 feet high on a property one acre in area but less than three acres; and no more than 125 feet high on any property three acres in area or greater. Any WECS over 50 feet high is subject to Special Land Use review according to Chapter 10, regardless of lot size.
5. The minimum rotor blade tip clearance from grade, any structure or utility line shall be 15 feet.
6. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed 50 feet.

E. Building Mounted On-Site Service WECS

1. There may be more than one building mounted on-site service WECS on a single property; however, each individual WECS shall meet all of the requirements in this Subsection, and each WECS shall be separated from any other WECS no less than 10 feet, measured between the maximum extension of the rotors.
2. The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the combined height of the WECS and the height of the portion of the building on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see **Figure 9-2**).
3. The WECS height shall be limited by available setbacks as required in paragraph 2 above; however, no building mounted WECS shall exceed the maximum permitted height for principal buildings in the district, plus 20 feet.
4. The diameter of the rotor shall not exceed 25 feet.
5. A building mounted WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location.
6. The mount and the structure used to support a building mounted WECS shall meet applicable standards, as certified by an engineer.

F. Discretionary Conditions: The Township may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any

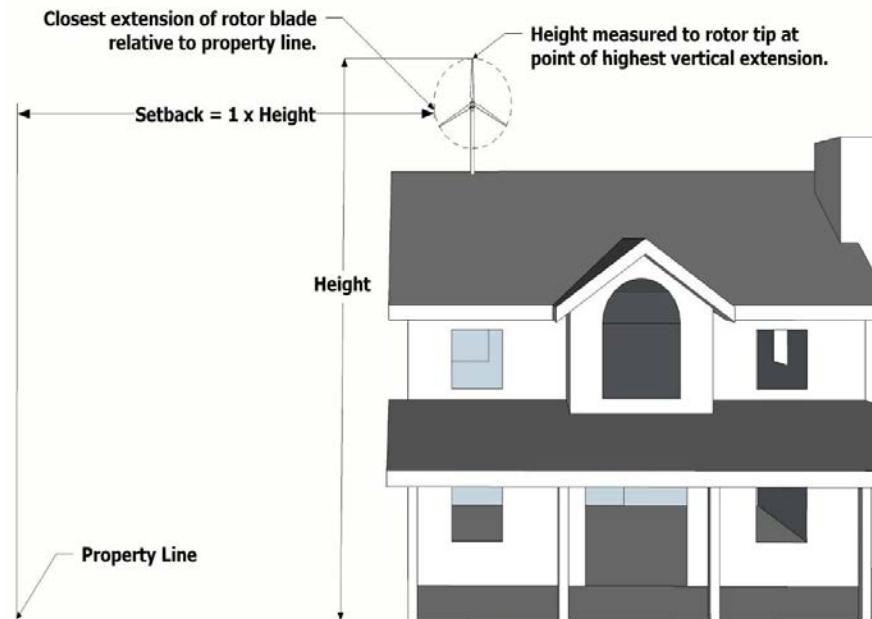


Figure 9-2: Building Mounted WECS

WECS. Such other terms and conditions may include, but are not limited to, the following:

1. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
2. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
3. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
4. Requiring a performance bond or letter of credit, in favor of the City, and conditioned upon the timely and

faithful performance of all required conditions of the special land use, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the Section, when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

Section 9.51. Wireless communication facilities

A. Purpose and Intent.

The regulations of this Section are intended to conform with federal laws and administrative rules governing facilities needed to operate wireless communication systems and to set forth procedures and standards for review and approval for the location of such facilities within Antwerp Township. It is the

Township's intent to reasonably regulate the location and design of such facilities to retain the integrity of neighborhoods and the character, property values and aesthetic quality of the township. Given the increase in the number of wireless

communication facilities requested as a result of the new technology and the Federal Telecommunications Act of 1996, it is the policy of the township that all users should co-locate on Attached Wireless Communication Facilities and Wireless Communication Support Structures. Collocation is proposed in order to assure the most economic use of land and to prevent the proliferation of duplicative services. In recognition of the Township's concern that technological advances may render certain Wireless Communication Facilities obsolete or unnecessary in the future, requirements are set forth for the removal of unused or unnecessary facilities in a timely manner and provide security for removal.

B. Zoning Districts and Approval Process for Wireless Communication Facilities. Wireless Communication Facilities may be located within the Township in accordance with Table 9-1 set forth below:

Table 9-1 Approval Process for Wireless Communications Facilities

Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
1. Attached to existing structures:		
Attached to an existing conforming structure that will not be materially altered or changed in appearance	All non-single family residential districts	Administrative approval by the Zoning Administrator
Attached to an existing utility pole that will not be modified or materially alter the pole or impair sight lines or compromise safety	All districts	Administrative approval by the Zoning Administrator, provided letter of acceptance is provided by the utility company
Collocation upon an attached wireless communication facility previously approved for such collocation	All districts	Administrative approval by the Zoning Administrator
2. Located on a municipally owned site:		
Monopole up to 150 feet in height ¹	All districts	Special Land Use and Site Plan approval by the Township Board in accordance with Chapter 10.

Table 9-1 Approval Process for Wireless Communications Facilities		
Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
3. Located on a site owned by another governmental entity, religious institution or place of worship, or public school		
Monopole up to 100 feet in height ¹	All districts	Special Land Use and Site Plan approval by the Township Board in accordance with Chapter 10.
4. New facility not addressed above:		
Monopole up to 150 feet tall ¹	AG, R-1, CG and LI	Special Land Use and Site Plan approval by the Township Board in accordance with Chapter 10.
Monopole 150 feet to 300 feet tall	LI District	Special Land Use and Site Plan approval by the Township Board in accordance with Chapter 10.
Lattice tower (of any height) where it can be demonstrated that a monopole is not feasible.	LI District	Special Land Use and Site Plan approval by the Township Board in accordance with Chapter 10.

Footnotes to Table 9-1:

1. Height may be increased an additional ten (10) feet where determined necessary to provide future collocation.

C. Application Requirements. The following information shall be provided with the application, in addition to other submittal requirements for sketch plan or site plan, as required in Chapter 11.

1. Signed certification by a professional engineer licensed by the State of Michigan with regard to the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. "fall zone"), and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
2. Performance Guarantee.
 - a. A description of performance guarantee to be posted at the time of receiving a land use permit for the facility to ensure removal of the facility when it is abandoned or is no longer needed. The applicant shall demonstrate that funds will be available to the Township for removal of any structure used for

wireless communication in an amount which reasonably reflects the cost of removal of the facility and restoration of the property or structure upon which the facility is located or placed. Adequate funds shall also be provided to cover the Township's administrative costs in the event that the applicant or its successor does not remove the Wireless Communication Facility in a timely manner.

- b. The security shall, at the election of the Township Board, be in the form of: (1) cash; (2) security bond; (3) letter of credit; or, (4) an agreement in a form approved by the Township Attorney and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property, or their successors, to remove the facility in a timely manner as required under this Section of the ordinance. It shall further be provided that the applicant, owner or successor, shall be responsible

for payment of any costs or attorney fees incurred by the Township in securing removal.

3. A map that illustrates existing and known proposed wireless communication facilities within Antwerp Township and adjacent communities, which are relevant in terms of potential collocation or to demonstrate the need for the proposed facility. If and to the extent the information in question is on file with the township, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy MCL 15.243(l)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
4. For all new facilities, in recognition of the township's policy to promote collocation, a written agreement, transferable to all assessors and assigns, that the operator shall make space available on the facility for collocation.
5. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

D. Design Standards Applicable to All Facilities. In addition to the Criteria of Site Plan Review listed in Chapter 11 and Special Land Use Review listed in Chapter 10, all wireless communication facilities shall be constructed and maintained in accordance with the following standards:

1. Facilities shall be located and designed to be harmonious with the surrounding areas. The Planning Commission may require unique design of the structure to either diminish the visual impact or to create an architectural feature that will contribute to or enhance community character.
2. A permit for the construction and use of a new wireless communication facility shall not be granted until the applicant demonstrates a feasible collocation is not available for the coverage area and capacity needs.
3. All new and modified wireless communication facilities shall be designed and constructed to accommodate collocation, with a written agreement in a format approved by the Township Attorney.
4. Landscaping shall be provided to screen the structure base, accessory buildings and enclosure from adjacent uses and public rights-of-way.
5. Elevations of the accessory buildings shall be provided. All accessory buildings shall be constructed of brick, provided the Planning Commission may waive this requirement for a building that is located in the Industrial district and is not visible from a public right-of-way or non-industrial zoning district.
6. Fencing shall be provided for protection of the support structure and security from children and other persons who may otherwise access facilities.
7. Any nonconforming situations on the site, such as, but not limited to, outdoor storage, signs, inadequate landscaping, unpaved parking, lack of a sidewalk, improper lighting or similar conditions shall be brought into conformance prior to the erection of the wireless communication facility. If existing buildings or structures are not in conformance with the current

zoning standards, improvements shall be made to decrease the nonconformity or additional landscaping shall be provided to reduce the impact of the nonconformity and the wireless facility.

8. The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
9. The applicant shall demonstrate that the requested height of the new or modified support structure and antenna shall be the minimum height necessary for reasonable communication by the applicant, including additional height to accommodate future collocation where appropriate.
10. Minimum required setbacks for new facility or support structure.
 - a. From any residential district - the height of the structure, plus twenty five (25) feet, provided the engineering information required in (d)(1) is provided. The person or body with authority to approve the facility may decrease this setback to that provided in c below upon a finding that no residential use exists or is expected on the adjacent site.
 - b. From any existing or proposed rights-of-way or other publicly traveled roads or non-motorized improved pathways - half the height of the structure, plus twenty five (25) feet, provided the engineering information required in (d)(1) is provided; otherwise the setback shall be the height of the facility.
 - c. From non-residential district - one half the height of the structure, plus ten (10) feet, provided the engineering information required in (d)(1) above demonstrates such setback is adequate.
11. Accessory buildings shall be a maximum of fourteen (14) feet high and shall be set back in accordance with the requirements for principal buildings in that zoning district.
12. There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
13. Where an attached wireless communication facility is proposed on the roof of a building if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
14. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements

confirming the suitability of soil conditions for the proposed use.

15. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted. Any aviation hazard lighting shall be detailed on the plans.
16. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

E. Removal. As a condition of every approval of a wireless communication facility, adequate provision shall be made for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

1. When the facility has not been used for 180 days or more. For purposes of this Section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
2. Six months after new technology is available at reasonable cost, as determined by the Township Board, which permits the operation of the communication system without the requirement of the support structure.
3. The situations in which removal of a facility is required, as set forth in paragraphs 1 and 2 above, may be applied and limited to portions of a facility.
4. Upon the occurrence of one or more of the events requiring removal, specified in paragraphs 1 and 2

above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

5. If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

F. Collocation.

1. **Statement of Policy.** It is the policy of Antwerp Township to minimize the overall number of newly established locations for Wireless Communication Facilities and Wireless Communication Support Structures within the Township and to encourage the use of existing structures for Attached Wireless Communication Facilities. If a provider fails or refuses to permit collocation on a facility owned or controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be required, in contradiction with Township policy. Collocation shall be required unless an applicant demonstrates that collocation is not feasible.
2. **Feasibility of Collocation.** Collocation shall be deemed "feasible" for the purpose of this Section where all of the following are met:

- a. The wireless communication provider or property owner where collocation is proposed will accept market rent or other market compensation for collocation and the wireless communication provider seeking the facility will pay such rates.
- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c. The collocation being considered is technically reasonable, e.g. the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.

G. Nonconforming facilities and penalties for not permitting collocation. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect. In addition, if a party refuses to allow collocation in accordance with the intent of this Section, and this action results in construction of a new tower, the township may refuse to approve a new wireless communication support structure from that party for a period of up to five (5) years. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

H. Variances. The Zoning Board of Appeals may consider a variance from the standards of this Section, based upon a finding that one or more of the following factors exist, as appropriate for the type of variance requested:

1. For location, the applicant has demonstrated that a location within a district or location in accordance with the standards of this Section cannot reasonably meet the coverage or capacity needs of the applicant.
2. For no collocation the applicant has demonstrated that a feasible collocation is not available for the coverage area and capacity needs because existing structures cannot support the facility, that collocation would result in unreasonable interference, or that reasonable financial terms are not available for collocation.
3. For setback, the applicant has provided engineering information that documents that the tower is self collapsing and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
4. For height, the height requested is due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, or would reduce the number of towers to the benefit of the township.
5. For all, the applicant has proposed means to mitigate any negative impacts through provision for future collocation, if found to be appropriate by the township, and special design of the facility and site.
6. For all, the wireless communication and accessory facilities shall be designed to be compatible with the existing character of the proposed site, neighborhood and general area such as a steeple, bell tower, or similar form.

Section 9.52. Commercial solar energy systems

- A. Principal or Accessory Use.** Commercial solar energy systems may be established as principal or accessory uses.
- B. Applications.** In addition to all other required application contents, equipment and unit renderings or plans shall be submitted for review. Multiple participating commercial solar energy parcels operating as one commercial solar energy system may be requested under a single special land use permit application. However, each participating commercial solar energy parcel is subject to special land use and site plan application fees.
- C. Lot Coverage.** Systems shall count against the maximum lot coverage required by the Zoning Ordinance.
- D. Glare and Reflection.** The exterior surfaces of solar energy collectors shall be substantially non-reflective of light. A system shall not be installed or located in a manner that directs considerable glare onto neighboring dwellings or adjacent streets. The applicant shall provide a glare analysis to demonstrate compliance with this standard.
- E. Minimum Setbacks.** Commercial solar energy systems and all equipment, aside from wires, shall be set back a minimum of 100 feet from property lines and public right-of-way. Commercial solar energy systems shall not be subject to property line setbacks between participating commercial solar energy commercial solar energy parcels.
- F. Maximum Height.** The maximum height of a system at its highest point, or at full tilt, shall be 16 feet. Height is measured from the natural grade below the system to the highest point of the panels or any part of the support structure, whichever is greater.

- G. Minimum Acreage.** The minimum acreage for commercial solar energy system on a single parcel is 40 acres. For commercial solar energy systems spanning multiple contiguous participating commercial solar energy commercial solar energy parcels, the minimum combined acreage is 40 acres.
- H. Screening.** Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of fences, screening walls, landscaping, or preservation of existing vegetation, that will blend the facility into the natural setting and existing environment.
- I. Abandonment.** Systems that cease to produce energy continuously for 12 months will be considered abandoned by the Township unless the responsible party provides a plan to reinstate the operation before the end of the 12-month period. If a plan is provided, a 12-month extension for reinstatement may be granted by the Township Board.
- J. Removal.** The responsible party shall remove all equipment and structures and restore the site to its condition prior to the installation of the system within one (1) year of abandonment.
- K. Decommissioning.** A decommissioning plan signed by the responsible party and the property owner (if different) addressing the following shall be submitted prior to approval:
 1. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
 2. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations.

3. Restoration of property to its original condition, or a condition that is stabilized and graded to be consistent with the character of the area.
4. The timeframe for completion of decommissioning activities.
5. Description of any agreement (e.g. lease) with the property owner regarding decommissioning, if applicable.
6. The entity or individual responsible for decommissioning.
7. The financial plan for decommissioning activities and site restoration.
8. Protocol for updating the decommissioning plan.
9. A performance guarantee may be required to be posted in the form of a bond, letter of credit, cash, or another form acceptable to the Township to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the Township when setting the performance guarantee amount. The performance guarantee shall be valid throughout the lifetime of the facility. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two (2) years from the anniversary date of special land use approval.
10. The property owner and responsible party shall agree to the decommissioning plan, and the Township's requirements for decommissioning, in the form of a written agreement with the Township that shall be filed with the Van Buren County Register of Deeds office.

Section 9.53. Agricultural tourism

A. Farm Property. In accordance with the definition of agricultural tourism, this special land use shall only be authorized on active and working farms. To qualify, a farm operator and applicant must demonstrate that the farm on the subject property has been annually producing agricultural products commercially. A noncommercial agricultural property shall not qualify for consideration of agricultural tourism activities. Upon a recommendation from the Planning Commission, the Township Board shall make the final determination concerning the applicant's demonstration of compliance with this requirement.

B. Land Use Regulation.

1. Permitted Uses. Picnic facilities, playgrounds, historic exhibits, and nature trails.
2. Special Land Uses. All other uses specified in the definition of Agricultural Tourism.

C. Minimum Acreage. A single parcel, or contiguously-owned parcels, not less than 10 acres.

D. Setbacks. Parking and buildings associated with the use shall be 100 feet from all lot lines. The use of existing buildings and parking areas that do not conform to the required setback or proposals for buildings and parking areas with setbacks less than 100 feet may be approved if it is determined that the proposed use will have no harmful effects on adjacent residential uses. However, as a condition of approval, the Township may also require increased setbacks if it determined that greater separation would better protect adjacent residents and landowners.

E. Location of Buildings. In consideration of the site plan associated with the special land use, the Township shall

consider the placement of buildings and activities as they relate to the potential impact on adjacent properties.

F. Parking and Driveway Surface. Parking is prohibited along public roads and right-of-way. Barrier free spaces shall be provided pursuant to the Michigan Barrier Free Act. Parking areas shall be located and designed to ensure safe and efficient circulation for both pedestrians and vehicles. See Table 12-11 for the minimum number of parking spaces and Section 12.3 C for parking space and drive aisle dimensional requirements. The surface may be gravel, aggregate, or grass if approved by the Township. Grass lots shall be subject to the following requirements:

1. Lanes and parking rows shall be designated by permanent markings; temporary markings such as paint, cones, flags or ribbons; or parking can be coordinated by attendants.
2. Grassed lots shall be maintained, mowed, and seeded to ensure a passable and stable surface.

G. Annual and Seasonal Events. The Township may set the allowable number of annual and seasonal events and activities during the review and approval of the special land use application. Limitations may be imposed by the Township to preserve existing community character.

H. Hours of Operation. The Township may set the hours of operation during the review and approval of the special land use application.

I. Sanitation. Permanent or temporary restroom facilities shall be provided in accordance with the rules and regulations of the County Health Department.

J. Noise. Amplified sound is prohibited unless it can be demonstrated that abutting residential properties will not be affected by excessive noise. Proposals for amplified sound shall be considered on a case-by-case basis, based

on an assessment of potential decibel level, location of speakers, proximity to nearby residential uses, the existence of trees and vegetation, and proposed hours of operation.

K. Building and Fire Code Compliance. All buildings or structures accessible to the public shall have permits obtained and inspections completed to ensure building and fire code compliance for the use group specified.

L. Buffering and Screening. At the discretion of the Township, screening and buffering may be required to reduce the visual and audible impact to nearby residential properties, as well as light spillover.

M. Alcohol Service at Events.

1. Beer, wine, and spirits may be served at private events under a MLCC Catering Permit; however, alcoholic beverages shall not be sold directly to consumers.
2. Service shall comply with the requirements of the MLCC. In cases where the requirements of this section are stricter than MLCC requirements, this section shall supersede.
3. This section does not apply to private events where a host and/or guests supply alcoholic beverages, and there are no charges of any kind, such as entry fees and donations to cover the cost of the beverages.

Section 9.54. Accessory dwelling units

A. Accessory dwelling units are only permissible on conforming lots and parcels with an existing principal single-family detached residential dwelling.

B. An accessory dwelling unit shall be integrated within or attached to the principal dwelling as an attached accessory

dwelling unit or as a separate building as a detached accessory dwelling unit.

- C. Only one (1) attached or detached accessory dwelling unit shall be permitted per lot or parcel.
- D. The separate rental of an accessory dwelling unit to a different party than the tenant of the principal dwelling is prohibited. Accessory dwelling units shall only be occupied by members of the family, as defined in this ordinance, of the occupants of the principal dwelling. A restrictive covenant that acknowledges the rental restriction shall be recorded with the Van Buren County Register of Deeds prior to the issuance of zoning and building permits for accessory dwelling units.
- E. Accessory dwelling units shall comply with all setback requirements applicable to principal dwellings. The conversion of an accessory building that does not comply with principal building setbacks is prohibited.
- F. Attached and detached accessory dwellings shall retain a residential appearance consistent with the architectural design and building materials of the principal dwelling, including but not limited to roof material, roof type, siding material, and window type and placement.
- G. Accessory dwelling square footage shall not exceed 800 square feet, or 50 percent of the total square footage of the accessory and principal living space, whichever is less.
- H. An additional access driveway to a public or private street to serve the accessory dwelling unit is prohibited.
- I. One (1) additional off-street parking space is required for an accessory dwelling unit.
- J. Well and septic approval by the Van Buren/Cass District Health Department is required. Systems may be shared with the principal system or separate, contingent upon the

approval of the Van Buren/Cass District Health Department.

- K. Accessory dwelling units shall not have a separate meter for public utilities, such as electric and gas service, or a separate mailing address.
- L. Specific Requirements for Attached Accessory Dwelling Units.
 - 1. Attached accessory dwellings may be designed as an independent living area that can be isolated from the principal dwelling space; however, an internal connection to the principal dwelling must be maintained, and the principal and accessory living space must both be accessible through the primary entrance of the dwelling. This requirement does not preclude separate entrances to either living space.
 - 2. An attached accessory dwelling unit located over an attached garage may be served by a single access point separate from the rest of the building.
- M. Specific Requirements for Detached Accessory Dwelling Units.
 - 1. A parcel shall not be divided in a manner that separates a detached accessory dwelling unit and principal dwelling unit onto separate parcels if the division results in a nonconformity.
 - 2. A new detached accessory dwelling unit to be constructed shall not be located closer to a front lot line than the principal dwelling.
 - 3. In the case of a detached accessory dwelling unit over garage space, such as a carriage house, the first-floor garage space shall not count against the maximum square footage applicable to the accessory dwelling unit.

4. The minimum square footage shall be the minimum necessary to comply with applicable building codes.
5. The height of a detached accessory dwelling unit shall not exceed the height of the principal dwelling. However, the height of a detached accessory dwelling unit over garage space may exceed the height of a single-story principal dwelling by 10 feet. This requirement does not apply to the conversion of an existing accessory building that was originally constructed for non-residential use.
6. In the case of the conversion of an existing accessory building to a detached accessory dwelling unit, at its discretion, the Township may approve greater square footage than permitted by this Section after a review against the special land use standards, and if the following additional standards are met:
 - a. The accessory building was originally constructed for storage, agriculture, or non-residential use at least three years prior to the application for special land use; or, the building was constructed as a single-family dwelling but was subsequently abandoned or converted to an accessory building.
 - b. The excess converted square footage does not impact the character of the area.
 - c. The accessory dwelling unit remains incidental and secondary to the principal dwelling on the site, as it relates to visual impact, occupancy, and intensity of use.

Section 9.55. *Outdoor storage*

- A. Principal Building.** A principal office building is required.
- B. Setbacks.** Outdoor storage areas shall be subject to the setbacks for principal buildings.
- C. Maximum Lot Coverage.** Outdoor storage areas are subject to maximum lot coverage requirements in Section 6.3.
- D. Surface.** Storage areas shall be asphalt, concrete, gravel, or crushed stone. Gravel and crushed stone surfaces are subject to the following requirements:
 1. Shall be properly drained in accordance with Township stormwater requirements.
 2. Dust generation shall be minimized.
 3. The surface will be maintained and free of excessive weeds and overgrown vegetation.
- E. Screening.** Outdoor storage areas shall be screened from all sides. See Section 12.1 K for screening requirements. After a recommendation from the Planning Commission, the Township Board may waive screening if existing vegetation or required buffering is sufficient to minimize the visual impact of outdoor storage areas viewed from residential dwellings on abutting properties.
- F. Hazardous Materials.** No flammable liquids, solvents, cleaners, or other hazardous substances capable of contaminating groundwater shall be stored outdoors.

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CHAPTER 10 SPECIAL LAND USES

Section 10.1. Statement of purpose

It is the purpose of this Chapter to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

The following use permit review procedures are instituted to provide an opportunity to use a lot or parcel for an activity which, under certain circumstances, might be detrimental to other permitted land uses and should not be permitted within the same district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. The procedures apply to those Special Land Uses which are specifically designated as such in the Zoning Ordinance.

Section 10.2. Review and approval authority

The Planning Commission shall have the authority to review special land use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the Commission may require for any special land use included in the various provisions of this Zoning Ordinance. Final approval shall be received from the Township Board.

Section 10.3. Submission requirements

A. Applications for Special Land Uses authorized in this Ordinance shall be submitted to the Zoning Administrator.

Applications shall include 12 copies of the site plan and the fees as established by the Township Board. Applications will be processed according to the procedures adopted by the Township Board.

B. The Zoning Administrator shall review the proposed application to determine if all required information has been supplied, and forward completed applications and supporting data in accordance with the provisions of this Chapter. If the application is found to be incomplete, the Zoning Administrator shall return the application to the applicant with a written explanation of the deficiencies.

1. An application for a special land use permit shall include the following:
 2. Applicant's name, address, and telephone number.
 3. Address and tax identification number of the proposed site.
 4. A signed statement that the applicant is the owner of the proposed site, or is acting as the owner's representative.
 5. A complete site plan containing all the applicable data required by Section 11.3.
 6. Supporting statements, evidence, data, information and exhibits that address the standards for assessing special land use applications as provided in Section 10.5.
 7. Any additional information deemed necessary by the Planning Commission to determine the impact of the proposed special land use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to,

traffic impact analyses, environmental impact assessments, market studies (to determine demand, use saturation), fiscal impact analyses or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment. Any additional studies deemed necessary by the Township shall be completed by an individual or firm of the township's choosing, but at the applicant's expense.

Section 10.4. Public hearing requirements

The township supervisor or designee will review the application and if determined to be complete, shall schedule a public hearing to consider the special land use. The public hearing shall be noticed as required by the Zoning Act.

Section 10.5. General standards for approval

The Planning Commission shall review the particular circumstances and facts applicable to each proposed Special Land Use in terms of the following standards and requirements and shall make a determination as to whether the use proposed and subject site meet the following standards and requirements:

- A.** Will be in accordance with the general objectives, intent and purposes of this Ordinance.
- B.** Will be in accordance with the goals and objectives of the Antwerp Township Comprehensive Plan.
- C.** Will be designed, constructed, operated and maintained in harmony with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

- D.** Will not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
- E.** Will be served adequately by essential infrastructure, such as highways, streets, storm water drainage, refuse disposal, water and sewage facilities.
- F.** Will not create excessive additional requirements at public cost for infrastructure and will not be detrimental to the economic welfare of the community.
- G.** Will not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, glare or odors.
- H.** Will ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- I.** Will not impede the normal and orderly development and improvement of surrounding property for uses permitted within the Zoning District.

Section 10.6. Specific requirements

- A.** In addition to the General Standards of Approval in Section 10.5, any specific requirements for a use, as listed in Chapter 9, shall also be met.
- B.** If meeting any dimensional requirement related to a proposed special land use results in a practical difficulty as defined in Chapter 13, the applicant may apply for a variance to the Zoning Board of Appeals. The Zoning Board of Appeals must rule on any such request prior to Planning Commission consideration of the Special Land

Use. Any conditions imposed on the variance by the Zoning Board of Appeals must be incorporated into the special land use.

Section 10.7. Attachment of Special Conditions

- A.** The Planning Commission may recommend and the Township Board may impose special conditions or limitations in granting approval as may be permitted by State law and this Ordinance which it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include:
 1. Assurance that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
 2. Protection of the natural environment, conservation of the natural environment and conservation of natural resources and energy;
 3. Assurance of compatibility with adjacent uses of land;
 4. Promotion of the beneficial use of land in a socially and economically desirable manner.
- B.** Special conditions imposed shall meet each of the following criteria:
 1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

- C.** The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Township Zoning Administrator shall maintain a record of changes granted in conditions.

Section 10.8. Reapplication

No special land use application that has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of 12 months or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions. A reapplication shall be processed in the same manner as the original application.

Section 10.9. Amendments

Any approved site plan shall become part of the record of Special Land Use approval. Subsequent improvements relative to the authorized use shall be consistent with the approved site plan, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission. A site plan amendment or any change in the use or the conditions applied to the original approval shall be reviewed and considered in the same manner as the original Special Land Use application, except as otherwise provided in this Ordinance.

Section 10.10. Validity and revocation of special land use permits

- A. Validity of Permit:** A special land use permit shall be valid for a period of 12 months from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this 12 month period, the Zoning Administrator shall notify the applicant in writing of the expiration of said permit. The Planning Commission may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction.
- B. Once the Special Land Use is established and the conditions of the permit fulfilled, the Special Land Use permit shall be valid until such time that there is a change of conditions or use related to the permit. The Planning Commission reserves the right to review, with the applicant and the Township Zoning Administrator, the status of Special Use Permits.**
- C. Permit Revocation:** The Planning Commission shall have the authority to revoke special land use approval following a hearing, if construction of the approved improvements does not proceed in conformance with the approved site plan. Upon discovery of a violation, the Building Inspector shall issue a stop work order and a notice to appear for a hearing before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than 10 days prior to the date of the meeting.

Section 10.11. Fees

Before the issuance of a building permit, all application fees, including those incurred for additional professional reviews or studies, shall be paid in full by the applicant.

CHAPTER 11 SITE PLAN REVIEW

Section 11.1. Purpose and intent

The site plan review procedures and standards set forth herein provide a consistent and uniform method for review of proposed development plans, to ensure full compliance with the standards contained in this Ordinance, other applicable local ordinances, standard engineering practices, and state and Federal laws. The procedures set forth herein are further intended to:

- A. Achieve efficient use of the land;
- B. Protect natural resources both on the site and in the vicinity of the site, including priority resource protection areas as identified by Antwerp Township and the Southwestern Michigan Regional Planning Commission.
- C. Minimize adverse impacts on adjoining or nearby properties;
- D. Provide a mechanism for review of new development as well as redevelopment of existing sites and, to bring

existing development into compliance with current standards; and,

- E. Encourage cooperation and consultation between the Township and the applicant to facilitate development in accordance with the Township's land use objectives.

Section 11.2. Scope of application

- A. Site Plan Review and approval shall be required for the proposed types of construction or improvement listed in Table 11.2. The level of approval varies between the Township Board (TB) and Administrative approval (AA) depending upon the extent of construction proposed. Site plans shall include all detailed engineering drawings, as required by this Chapter. Sketch plans are less detailed. Items that are exempt from site/sketch plan approval still require zoning compliance. All construction or building modification is subject to building code and permit requirements.

Table 11-1 Site Plan and Sketch Plan Review Requirements

AA = Administrative approval; TB = Township Board approval after PC recommendation

Proposed Use or Development	Site Plan	Sketch Plan	Zoning Compliance
New Construction			
Construction of any building or structure in any zoning district for a non-residential use, excluding farms and special land uses	TB		
Construction of any building or structure containing three or more dwelling units	TB		
Public or essential service buildings, including: public utility buildings and structures, telephone exchange buildings, electric substations, natural gas storage facilities and transmission towers, with a total floor or enclosure area over 220 square feet ¹	TB		
Essential service structures other than those listed above			AA
Establishment of a new special land use (see Chapter 10)	TB		

Table 11-1 Site Plan and Sketch Plan Review Requirements

AA = Administrative approval; TB = Township Board approval after PC recommendation

Proposed Use or Development	Site Plan	Sketch Plan	Zoning Compliance
Planned Unit Development (see Chapter 8)	TB		
Establishment of a condominium (see Section 3.24)	TB		
Construction, reconstruction, erection or expansion of a single-family or two-family dwelling on a single lot or parcel			AA
Construction or extension of a private road or shared driveway (see Section 3.17)	TB		
Expansion/Modification To Existing Building or Use			
A cumulative expansion of more than 10% from the original approved square footage of a non-residential building, provided that any previous minor expansions be considered in making the determination	TB		
A cumulative expansion of no more than 10% from the original approved square footage of a non-residential building			AA
Upgrades to building façade to meet architectural standards of Section 6.5.C			AA
Expansion of or change to an existing special land use, including changes to conditions of approval (see Chapter 10)	TB		
Expansion or change to a use that is nonconforming because a special land use is required under the current ordinance	TB		
Minor amendment to a site plan or special land use site plan per Section 11.5			AA
Change In Use			
Any change of use in land or building to a more intensive use that requires a substantial change in such features as increased parking, increased traffic flow or increased need for public services	TB		
Change in use to a special land use (see Chapter 10)	TB		
Change in use to a special land use where, in the opinion of the Zoning Administrator, there is no impact on the site plan or where there is no exterior effect		TB	
Reuse or re-occupancy of an existing building where no building expansion is proposed; only if the new use is similar or less intense than the past use in terms of parking, traffic generation, drainage, utility needs, noise, and other external impacts, as determined by the Zoning Administrator		AA	
Accessory Structures, Site Improvements and Other Miscellaneous Uses			
Non-residential accessory structures ²		TB	
Construction of a new parking lot or addition to an existing parking lot that results in more than 5 new spaces ³	TB		

Table 11-1 Site Plan and Sketch Plan Review Requirements

AA = Administrative approval; TB = Township Board approval after PC recommendation

Proposed Use or Development		Site Plan	Sketch Plan	Zoning Compliance
Paving of an existing parking lot			AA	
Expansion to an existing parking lot that results in 5 or fewer new spaces			AA	
Construction or erection of signs that conform to Section 12.4				AA
Wind energy conversion systems	Up to 50 feet in height		AA	
	50 feet and higher	TB		
Permitted accessory buildings and structures that are accessory to a single family or two-family dwelling in any zoning district				AA

Notes to Table 11-1:

- (1) Wireless telecommunications facilities are not essential services and shall be reviewed as special land uses according to Sections 9.48.
- (2) Accessory structures that are constructed along with a principal structure are subject to the site plan review requirements for the principal structure.
- (3) Parking lots that are constructed along with a principal use are subject to the site plan requirements of the principal use.

B. Development eligible for zoning compliance shall be reviewed by the Zoning Administrator, according to the process in Section 14.2.

Section 11.3. Submittal requirements

A. Site plans and sketch plans shall contain the elements listed in Table 11-2. The Zoning Administrator may waive certain of these requirements if it is determined that they do not apply to the property or use in question.

Table 11-2 Site Plan and Sketch Plan Submittal Requirements

Required Elements	Site Plan	Sketch Plan
A. Applicant and Site Information:		
Name and address of the applicant and property owner	X	X
Address and common description of the property and property ID number	X	X
Legal description	X	
Total acreage and net acreage (land minus public or private right-of-way)	X	X

Table 11-2 Site Plan and Sketch Plan Submittal Requirements

Required Elements	Site Plan	Sketch Plan
Description of proposed project or use, type of building or structures, and name of proposed development, if applicable	X	X
Name and contact information for the firm or individual who prepared the site plan	X	X
Evidence of property ownership or written power of attorney when the applicant is acting as an agent of the property owner	X	X
B. Site Plan Descriptive and Identification Data:		
Site plans shall consist of an overall plan for the entire development, drawn to an engineer's scale of not less than 1 inch = 50 feet for property less than 3 acres, or 1 inch = 100 feet for property 3 acres or more in size. Sheet size shall be sufficient to show adequate detail. If a large development is shown in sections on multiple sheets, then one overall composite sheet shall be included	X	X ¹
Title block with sheet number/title name, address and telephone number of the applicant and firm or individual who prepared the plans and date(s) of submission and any revisions (month, day, year)	X	X
Scale and north-point	X	X
Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile	X	
Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared drawings	X	
Zoning classification of applicant's parcel and all abutting parcels	X	X
Proximity to section corner and major thoroughfares	X	
C. Site Data:		
Existing lot lines, building lines, structures, parking areas and other improvements on the site	X	X
Existing lot lines, building lines, structures, parking areas and other improvements within 100 feet of the site	X	
Topography on the site and within 100 feet of the site at 2 foot contour intervals, referenced to a U.S.G.S. benchmark	X	
Site conditions, including existing drainage courses, floodplains, lakes, streams, wetlands and woodlands	X	X
Proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site	X	X
All existing and proposed easements	X	X

Table 11-2 Site Plan and Sketch Plan Submittal Requirements

Required Elements	Site Plan	Sketch Plan
D. Building and Structure Details:		
Location, height, and outside dimensions of all proposed buildings or structures	X	X
Building floor plans and total floor area	X	
Details on accessory structures	X	
Size, height and method of shielding for all site and building lighting	X	
Location of all freestanding signs, with setback	X	X
Size, height, and lighting of all proposed signs	X	
Building facade elevations for all sides, drawn at an appropriate scale	X	
Description of exterior building materials	X	
Location, height, and outside dimensions of all outdoor storage areas and facilities.	X	X
E. Access and Circulation:		
Dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access easements	X	X
Dimensions of acceleration, deceleration, and passing lanes	X	
Opposing driveways and intersections within 250 feet of site	X	
Cross section details of proposed roads, driveways, parking lots, and non-motorized paths illustrating materials and thickness	X	
Dimensions of parking spaces, landscaped islands, circulation aisles and loading zones	X	X
Calculations for required number of parking and loading spaces	X	X
Designation of fire lanes	X	X
Traffic regulatory signs and pavement markings	X	
Location of existing and proposed sidewalks/pathways within the site or right-of-way	X	X
Proof that required permits have been submitted to the Van Buren County Road Commission or Michigan Department of Transportation, as applicable	X	
F. Landscape Plans:		
General location and canopy outline of all existing woodlands, with an identification of trees to be removed and trees to be preserved	X	X
Description of methods to preserve existing trees	X	
Location of existing and proposed lawns and landscaped areas, including percentage of lot area	X	X
Landscape plan, including location and type of all proposed shrubs, trees, and other live plant material, according to Section 12.1	X	
Notation of required greenbelts and calculation of required plants	X	X

Table 11-2 Site Plan and Sketch Plan Submittal Requirements

Required Elements	Site Plan	Sketch Plan
G. Information Concerning Utilities, Drainage and Related Issues:²		
Location of existing and proposed septic systems or sanitary sewers	X	
Location and size of existing and proposed well sites, water service and fire suppression systems	X	
Fire service features on site, including fire hydrants and fire connections mounted on buildings	X	X
Stormwater drainage and retention/detention calculations	X	
Site grading, drainage patterns and other stormwater management measures	X	X
Stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume and outfalls	X	
Location underground storm sewers and drains	X	X
Size, slope and elevation data for all storm sewers and related structures	X	
Location of above and below ground gas, electric and telephone lines, existing and proposed	X	
Sedimentation control measures	X	
Location of transformers and utility boxes	X	
Site lighting, including locations and details for lighting fixtures	X	
Waste receptacle enclosure location and details, if required	X	
Locations and storage containment details for any hazardous materials or chemicals, if applicable	X	
H. Additional information required for Residential Development		
The number and location of each type of residential unit	X	
Density calculations by type of residential unit (dwelling units per acre)	X	
Garage and/or carport locations and details, if proposed	X	
Mailbox clusters	X	
Location, dimensions, floor plans and elevations of common building(s) (e.g., recreation, laundry, etc.), if applicable	X	
Location and size of recreation and open space areas and an indication of type of recreation facilities proposed for recreation area	X	
I. Other Information		
Any required permits by other Township, County, State or Federal agencies, or proof that permit applications have been submitted	X	X
Other information required by the Planning Commission to demonstrate compliance with this Ordinance	X	X

Notes to Table 11-2:

(1) The Zoning Administrator may allow submittal of a site survey when the proposed use or development has minimal or no exterior effect, provided that the survey shows all existing conditions on the site and all dimensions.

(2) The Zoning Administrator may require utility, grading and drainage elements to be reviewed by an engineer as part of site plan review. All costs related to this review are subject to the Township escrow policy.

Section 11.4. Procedures and requirements

A. Planning Commission Review. Site plans and sketch plans that are required to be reviewed by the Planning Commission according to Table 11.2 must be submitted in accordance with the following procedures and requirements:

1. Applicant attendance. The application shall be submitted by the owner of an interest in the land for which site plan approval is sought, or the designated agent of said owner, provided in writing. The applicant or a designated representative must be present at all scheduled review meetings or consideration of the plan shall be tabled due to lack of representation.
2. Site plan submittal. The applicant shall submit 12 copies of the following to the Township. The application shall not be placed on the Planning Commission agenda until all application materials are complete.
 - a. A complete application form supplied by the Township;
 - b. A written description of the proposed project or use;
 - c. A complete site plan or sketch plan that includes the information listed in Section 11.3, "Submittal Requirements."

3. Technical reviews. The application and site plan(s) shall be forwarded to the Zoning Administrator. Depending on the type of development, the Zoning Administrator may also have copies forwarded to a consulting engineer or other professional, and to the Township Attorney. The petitioner may submit revised site plans in response to technical reviews, which shall be re-reviewed prior to the Planning Commission meeting. Providing new plans at the Planning Commission meeting or without adequate time for review prior to the meeting is discouraged, and the Zoning Administrator or the Planning Commission may determine that such late submittals will not be considered. The Planning Commission shall not consider material that has not been submitted for review by the Zoning Administrator and any other professionals designated by the Zoning Administrator.
4. Planning commission review. Once the site plan has been reviewed and determined to be complete, it shall be placed on the agenda of the Planning Commission. Incomplete or deficient submittals shall not be placed on a Planning Commission agenda. The Planning Commission shall review the application for site plan review, together with the reports and recommendations from the Zoning Administrator and other reviewing agencies, as appropriate. The Planning Commission is authorized to table, recommend approval, recommend

approval subject to revisions, or recommend denial as follows:

- a. *Table:* The application may be tabled if it is determined to be incomplete, the applicant has not fully responded to deficiencies identified in the review, an ordinance interpretation or variance is needed from the Zoning Board of Appeals, or that revisions are necessary to bring the site plan into compliance with applicable standards and regulations. The Planning Commission shall direct the applicant to prepare additional information or revise the site plan. The applicant shall be required to prepare revised plans accompanied by a complete list of all changes, certified by the applicant's design professional. Amended plans or other material that show a diligent effort to address all reasons for tabling shall be placed on the agenda of the Planning Commission for further review and action.
- b. *Recommend approval:* Upon determination that a site plan is in compliance with the standards of Section 11.6, the requirements of this Ordinance and other applicable ordinances and laws, approval shall be recommended to the Township Board.
- c. *Recommend approval subject to conditions:* Upon determination that a site plan is in compliance except for revisions to the plan or conditions of operation necessary to meet the standards of this Chapter, the revisions or conditions shall be identified and the applicant shall be given the opportunity to correct the site plan and/or provide written commitment to comply with all conditions, prior to the application being placed on the Township Board agenda, as outlined in Subsection C, below.

d. *Recommend denial:* Upon determination that a site plan does not comply with the standards of Section 11.6 and requirements of this Ordinance or the applicant has not satisfactorily addressed all reasons for site plan tabling, the Planning Commission shall recommend that site plan approval be denied. The applicant must revise the plans and submit a new application if the applicant is still interested in pursuing the project. A re-submittal shall be considered a new site plan and be required to re-initiate the full site plan review process. Any person aggrieved by the decision of the Planning Commission in denial of a site plan shall have the right to appeal the decision to the Zoning Board of Appeals.

- B. Agency approvals:** The applicant shall be required to obtain all other necessary agency permits from the Michigan Department of Natural Resources and Environment, the Van Buren County Road Commission, the Van Buren County Drain Commission, the Van Buren County Health Department and any other County, State or Federal agency with jurisdiction. The Planning Commission may recommend approval of a site plan conditioned on obtaining necessary permits, provided that the required permits have been applied for.
- C. Township Board approval:** For projects that require Township Board approval according to Table 11.2, the Planning Commission shall recommend approval, approval subject to conditions or denial to the Township Board. Where the site plan is recommended for approval subject to conditions, the changes shall be made to the site plan and copies of the revised site plan shall be submitted to the Township prior to being placed on the agenda for a Township Board meeting, unless this requirement is waived by the Township Board. The Township Board shall

then grant approval or denial based upon the recommendation of the Planning Commission, the standards of Section 11.6. and the requirements of this Ordinance. If the Township Board grants approval subject to any conditions, the applicant shall re-submit the site plan, accompanied by a complete list of all changes, certified by the applicant's design professional, for final approval by the Zoning Administrator, prior to application for building permits.

D. Recording of site plan review action: Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission and Township Board meetings. The grounds for action taken upon each site plan shall also be recorded in the minutes. After action has been taken, copies of the application and site plans, signed by the Township Clerk, shall be maintained on file at the Township, with a copy provided to the applicant.

E. Engineering review: Following Planning Commission or Township Board approval of a site plan, the Zoning Administrator shall determine if a professional review by a consulting engineer is required. If so, the consulting engineer shall make a full review of the engineering plans.

1. A building permit shall not be issued until the Zoning Administrator issues final approval of the engineering plans, based upon the consultant review. Approval shall only be granted if the consulting engineer certifies that the engineering plans comply with federal, state and local requirements and engineering best practices, and that the plan is consistent with the site plan approved by the Planning Commission.
2. If the Zoning Administrator determines that, based upon the consultant review, the engineering plans do not comply with Township, federal, and state requirements and engineering standards and best

practices, and would require revision to the extent that the basic site plan configuration approved by the Planning Commission would be altered, the applicant shall be required to revise the site plan and engineering plans and resubmit the site plan to the Planning Commission for review and approval as an amended site plan.

3. All costs related to this review shall be subject to the Township Escrow Policy.

F. Completion of site design.

1. Following final approval of the site plan or sketch plan and final approval of any engineering plans by the Zoning Administrator, if applicable, a building permit may be requested. It shall be the responsibility of the applicant to obtain all other applicable County, State or Federal permits prior to issuance of a building permit.
2. If construction has not commenced within one year of site plan or sketch plan approval, the approval becomes void and a new application for site plan or sketch plan review shall be required. The applicant may request a one year extension by the Township Board, provided a written request is received before the expiration date and the site plan complies with current standards (i.e. any amendments to the Zoning Ordinance since the site plan was approved).
3. It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site plan on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site plan approval is sought according to the requirements of this Chapter and approved. Any property owner who fails to maintain the property in

accordance with the approved site plan shall be deemed in violation of the applicable use provisions of this Ordinance and shall be subject to penalties.

Section 11.5. Changes to approved site plans.

- A.** Minor changes to the approved final site plan may be approved by the Zoning Administrator without requiring a resubmittal to the Planning Commission and Township Board, provided that the applicant or property owner notifies the Zoning Administrator of any proposed amendment to such approved site plan prior to making the change on the site, and the Zoning Administrator determines the proposed minor revision does not:
 - 1. Alter the basic design;
 - 2. Reduce or affect compliance with the standards of approval specified in Section 11.6, nor any specified conditions of the approved site plan; and
 - 3. Does not impact any natural feature that was proposed to be preserved.
- B.** Where the modifications are not determined to be minor, then the site plan shall require resubmittal for approval as a site plan amendment.

Section 11.6. Standards for site plan approval

Site plan approval shall be granted only if the site plan meets all applicable standards set forth in this Ordinance as outlined below:

- A. Adequacy of information.** The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structure(s).

B. Site design characteristics. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this Ordinance. The site shall be designed to conform to all provisions of the Zoning Ordinance. Redevelopment of existing sites shall be brought into conformance with all site improvement provisions of the Zoning Ordinance that are relative to and proportionate to the extent of redevelopment, as determined by the Planning Commission.

C. Buildings. Buildings and structures will meet or exceed setback requirements, height and other dimensional requirements, and be placed to preserve environmentally sensitive areas. Redevelopment of existing structures shall meet or exceed all requirements for which a variance has not been obtained. Building architecture for nonresidential structures shall comply with the standards of Section 6.5.C.

D. Preservation of natural areas. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading. Insofar as practical, natural features and the site topography shall be incorporated into the proposed site design.

- 1. **Protective fencing.** Prior to any development or site clearing, barrier fencing shall be installed at the limits of soil disturbance adjacent to priority protection areas. Barrier fencing shall be a minimum of four (4) feet in height and shall remain in place in good condition until the Township authorizes the developer to remove the

fencing. No filling, excavating or storage of materials, debris or equipment shall take place within the fenced area, except where permitted by the Planning Commission.

2. **Connections.** If the development site contains high quality natural areas that connect to other off-site areas of a similar nature, the development plan shall preserve such connections. Such connections shall be maintained to allow for the continuance of existing wildlife movement between natural areas and to enhance the opportunity for the establishment of new connections between areas for the movement of wildlife. Breaks or gaps in wildlife movement corridors should be minimized and when possible re-established using appropriate native vegetation.

3. **Surface water features.** If the development site contains a lake, pond or stream, the development plan shall include such enhancements and restoration as are necessary to provide wildlife habitat and improve aesthetic quality in areas of shoreline transition and areas subject to wave or stream-bank erosion. The development plan shall also include a design that requires uniform and ecologically and aesthetically compatible treatment among the lots or tracts surrounding a lake, reservoir, pond or stream with regard to the establishment of erosion control protection and shoreline landscaping on or adjacent to such lots or tracts.

4. **Site disturbance.** Site disturbance shall be minimized and shall be demonstrated by the applicant in the following manner:

- Identify minimal disturbance areas and no disturbance areas on site plan and construction drawings. Minimal and no disturbance areas must be protected by having the limits delineated, flagged and fenced in the field. Notes to this effect must be included on construction drawings. Areas to prioritize include significant stands of mature trees, notable wildlife habitat, sensitive or protected plant life or natural features, significant viewsheds, and other resources deemed by the Township, County, State, or Federal government as unique, significant, and/or protected.
- No disturbance areas must not be subject to grading or movement of existing soils. Existing vegetation must be present in a healthy condition. Invasive vegetation may be removed.
- Minimal disturbance areas must not be subject to excessive equipment movement. Vehicle traffic and storage of equipment and/or materials is not permitted.
- Pruning or other required maintenance of vegetation is permitted. Additional planting with site-appropriate plants, including turf grass is permitted.
- No work should occur until protective fencing is set up and until a pre-clearing inspection and/or written Township approval is provided.

5. **Natural flow pathways.** Natural flow pathways shall be avoided to the maximum extent practical. The applicant shall demonstrate the following:

- Identify all existing natural flow pathways on site plan. Site plans must include existing topography and natural features so that these areas can be identified.
- Natural flow pathways to be protected must have the limits delineated/flagged/ fenced in the field.

Notes to this effect must be included on construction drawings.

- E. Privacy:** The site design shall provide reasonable visual and sound privacy for dwelling units located therein and adjacent thereto. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants.
- F. Emergency vehicle access:** All buildings or groups of buildings shall be arranged so as to permit emergency vehicle access by some practicable means to all vehicles. The fire service features required by Section 13.08 shall be provided.
- G. Ingress and egress:** Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets. Safe and efficient traffic access to the site shall be provided in a manner that does not conflict with existing or future access to adjacent property.
- H. Vehicular and pedestrian circulation layout:** The arrangement of public, private or other common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pathways in the area. The width of streets and drives shall be appropriate for the volume of traffic they will carry, provided that. The pedestrian circulation system shall be insulated as completely as is reasonably possible from the requirements of the applicable road jurisdiction are met.
- I. Drainage and soil erosion control:**
 - 1. All stormwater drainage and erosion control plans shall meet all generally accepted best management practices as approved by the Zoning Administrator for design and construction. Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of

the site to the maximum extent possible and shall not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or cause alterations which could increase flooding or water pollution on or off the site. Where feasible, nonstructural control techniques shall be utilized, including but not limited to:

- a. Limitation of land disturbance and grading;
- b. Maintenance of vegetated buffers and natural vegetation;
- c. Minimization of impervious surfaces;
- d. Use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined swales; and,
- e. Use of infiltration devices.

- 2. Stormwater disconnection shall be incorporated within development sites and disconnection areas must be shown on the site plan. Stormwater volume shall be minimized by disconnecting roof leaders, impervious roads, and driveways and direct runoff to other BMPs including vegetated areas that allow infiltration on the site. Building and site design shall conform to the following design guidelines within the latest edition of the Low Impact Development Manual for Michigan: A Design Guide for Implementors and Reviewers (SEMCOG), or any other design guidelines recognized by the Michigan Department of Environmental Quality.

- J. Exterior lighting:** Exterior lighting shall be designed meet the requirements of Section 12.2. Lighting shall be directed downward and confined to the site to minimize impact on the night sky.
- K. Public services:** The scale and design of the proposed development shall facilitate the adequate provision of

services currently furnished by or that may be required of the Township or other public agency.

- L. Traffic impact:** The expected volume of traffic to be generated by the proposed use shall not adversely impact the capacity or safety of existing roads.
- M. Hazardous materials:** Sites that include storage of hazardous materials or waste, fuels or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby surface water bodies. Such sites shall be designed to meet all applicable state and federal regulations and shall be approved by the Fire Department that serves Antwerp Township.

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CHAPTER 12 SITE DEVELOPMENT REQUIREMENTS

Section 12.1. *Landscaping*

A. Intent. The intent of this Section is to promote the public health, safety and welfare by establishing minimum standards for the design installation and maintenance of landscaping, greenbelts and buffer zones. Landscaping and buffers are necessary for the continued protection and enhancement of all land uses. Landscaping and buffers enhance the visual image of the Township, preserve natural features, improve property values, and alleviate the impact of noise, traffic, and visual distraction. Buffers protect less intense uses from the noise, light, traffic, litter, and other impacts of adjacent, more intensive uses. Specifically, the intent of these provisions is to:

1. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way.
2. Protect and preserve the appearance, character, and value of the neighborhoods which abut non-residential areas, parking areas, and other intensive use areas.
3. Integrate the various elements within a site and link a development with the surrounding environment.
4. Reduce soil erosion and depletion.
5. Increase soil water retention, thereby helping to prevent flooding, erosion, and sedimentation.
6. Remove air pollutants, and reduce, eliminate or control glare, reflection and heat island effects.
7. Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts.
8. Create a more desirable microclimate.

9. Provide natural green space to allow infiltration of stormwater, minimize erosion and filter sediments from runoff

B. Definitions. For the purpose of this Section, the following terms are defined:

1. **Berm:** An earth mound covered with grasses, trees, and other plants, designed to provide visual interest, to screen undesirable views and impacts, and to help separate incompatible uses.
2. **Buffer area:** An open space free of development, structures, and buildings, but which may include landscaping, a screen wall or berm; used to physically separate and screen one use or property from another.
3. **Canopy tree:** A deciduous shade tree.
4. **Evergreen tree:** A tree with foliage that persists and remains green throughout the year.
5. **Ground cover:** Low-growing, living plants such as perennials, grass, and vines. Chipped wood, bark, similar mulching materials or nonliving artificial plants are not considered ground cover.
6. **Growing season:** The period of plant growth, generally from March to October.
7. **Hardy plants:** Plants capable of withstanding winter and other adverse conditions.
8. **Native vegetation:** Indigenous trees, shrubs, wildflowers, grasses, and other plants.
9. **Ornamental tree:** A small deciduous tree grown for its foliage and/or flowers.

10. Screen wall: A solid, un-perforated wall or fence erected to shield, buffer, and/or screen incompatible uses.
11. Shrubs: Woody plants with several stems arising from the base.

C. General requirements.

1. These regulations apply to all new uses and expansions of existing uses requiring site plan approval.
2. Landscaping shall be installed before occupancy of the development. The applicant may file an irrevocable letter of credit or similar performance guarantee, acceptable to the Township, to receive an extension due to inclement weather or the end of the growing season. Required landscaping thus guaranteed shall be planted as soon as practicable, or within the next growing season, as applicable.
3. All required landscaping shall be maintained after planting, and shall be regularly watered, fertilized, pruned and kept free from disease. Following installation, the property owner(s) shall be held responsible for all landscape maintenance. If a common neighborhood association, condominium association or like body owns or controls a landscaped area, that body shall be responsible for its maintenance.
4. Diseased or dead plants shall be replaced within one growing season, at the property owner's expense.
5. All landscaping shall be hardy and capable of maturing in Antwerp Township.
6. All landscaped areas that are not planted with trees and shrubs must be planted in ground cover. Mulch

must be confined to areas underneath plants and is not a substitute for ground cover plants.

7. Non-living, artificial plants shall not be considered to meet the requirements of this Section.
8. Landscaping shall be required for each front yard on a corner lot and any other lot with more than one frontage.
9. All berms shall have a maximum slope ratio of one foot vertical to three feet horizontal, unless otherwise permitted by the Planning Commission, and shall be constructed so as to not alter drainage patterns. Berms shall have a maximum height of 6 feet.
10. Landscaping shall not result in sight distance obstacles for drivers, in accordance with Section 3.12.
11. In non-residential districts, and for non-residential uses in residential districts, the yards that front on any street and the area between the edge of the street pavement and property line, with the exception of paved driveways and parking areas, shall be planted with trees, shrubs, grass, and other landscaping designed, planted and maintained in an aesthetically pleasing manner, in accordance with the requirements of this Section. All other unpaved areas of the lot shall also be landscaped and maintained.
12. The Planning Commission may vary the landscaping requirements of this Section if site conditions warrant, as follows:
 - a. When existing natural or topographic features render compliance with the requirements unnecessarily difficult; or
 - b. When adherence to the requirements result in the loss of significant natural or cultural features; or

- c. Where a variation of the requirements clearly results in a superior landscape that could not be achieved under the requirements of this Section.
- d. Where the distance between the building, parking area or use is more than 200 feet from a side or rear lot line, the Planning Commission may reduce the landscape buffer requirements along that lot line by 50 percent.

13. The Planning Commission may impose conditions on landscaping as part of the approval of a site development plan.

14. Where a development is proposed in phases, implementation schedules shall be provided to the Township, as required with the site development plan. Applicable landscaping requirements shall be adhered to for each phase.

15. Where this Section requires landscaping based on a particular distance measured in feet along a property boundary and a dimension results in a fraction of the given requirement, the landscaping required within the fractional area shall be proportional to the fractional length; however, any fractional result less than 25% of the required distance may be disregarded.

16. As a condition of approval, the Township may require that the applicant file a letter of credit or other performance guarantee to ensure that all landscaping be installed.

17. Landscaping that utilizes low impact development methods, such as rain gardens and vegetated swales, are encouraged and may be used to meet the requirements of this Section.

D. Buffer areas

- 1. Buffer areas shall apply when commercial and industrial developments occur adjacent to land that is in a residential district, and when multiple family residential developments occur adjacent to land in a single family residential district.
- 2. Buffer area requirements shall not apply when the qualifying adjacent zoning districts are separated by a public road right of way.
- 3. Buffer areas are not required for the front yard; however, the landscaping requirements of subsections F, G and H of this Section shall be met as applicable. Buffer areas shall follow the property lines adjacent to the qualifying zoning district.
- 4. Buffer areas are required even if the adjacent parcel is unimproved or undeveloped.
- 5. A building, structure or parking lot shall not encroach within a required buffer area, except for a drive or access street that the Planning Commission determines is needed to allow for safe access to the property.
- 6. Developments adjacent to Planned Unit Developments (PUD) with a residential component shall provide buffers as required by this Section, according to the residential density of the PUD. The base density of the PUD shall be compared to the minimum lot area requirements of the conventional residential districts, and the buffer shall be provided as if the adjacent development were located in the district with corresponding density requirements. The Planning Commission may relax or eliminate this requirement if the development is adjacent to non-residential

elements of the PUD, or is adjacent to areas within the PUD that are permanently dedicated as open space.

7. Buffer areas are required as illustrated in Table 12-5.

Table 12-5 Buffer area requirements by district

Subject Zoning District	Adjacent district								
	AG	R-1	R-2	R-3 1 or 2 Family	R-3 Multi-Family	MHP	GC	CO ¹	LI
R-3 Multi-family	C	B	B	B					
MHP	A	A	A	A	B		D	D	D
GC	B	B	A	A	B	C		D	D
CO ¹	C	C	B	B	C	D	D		D
LI	B	B	A	A	B	C	D	D	

Read from subject zoning district across to adjacent district; the buffer landscaping is required to be located within the subject district according to the buffer type.

Footnotes to Table 12-5:

(1) Applies only to property in the CO Commercial Corridor Overlay District where a special land use is proposed and located.

8. The required plantings for each buffer type shall be as required in Table 12-6:

Table 12-6 Buffer Area Planting Requirements

Buffer Type	Minimum Width	Minimum Plant Materials	Intensity
A	25 feet	2 canopy trees, <i>plus</i> 1 evergreen tree or 1 ornamental tree, <i>plus</i> 12 shrubs, for each 50 linear feet of buffer area	Most Intense  Least Intense
B	10 feet	1 canopy tree, <i>plus</i> 1 evergreen tree or 1 ornamental tree, <i>plus</i> 8 shrubs, for each 50 linear feet of buffer area	
C	10 feet	1 canopy tree or 1 evergreen tree <i>plus</i> 1 ornamental tree or 12 shrubs, for each 50 linear feet of buffer area	
D	10 feet	1 canopy tree or 1 evergreen tree <i>plus</i> 1 ornamental tree or 12 shrubs, for each 100 linear feet of buffer area	

9. The required plants shall be distributed throughout the buffer area. Plants may be arranged formally, or may be planted for a more random, natural effect.
10. Buffer Alternatives.
 - a. Berms may be constructed in the buffer area, subject to Planning Commission approval. Where a berm, at least three feet in height, is constructed for at least 85 percent of the length of the buffer, the minimum planting requirements may be reduced by 50 percent.
 - b. As an alternative, a screen wall six feet in height may be allowed in the buffer area, subject to Planning Commission approval. Screen walls shall be architectural block, brick, wood, or poured concrete that has an applied textured pattern. No other type of fence or wall can be used to meet this requirement. If a screen wall is utilized, the landscape requirements may be reduced by 75 percent.

E. Minimum plant requirements

1. Unless site conditions require otherwise, no more than 30 percent of the total trees or shrubs used on a site shall be of a single species.
2. The minimum plant size at the time of installation shall comply with Table 12-7:

Table 12-7 Minimum plant size at installation

Plant Material	Minimum Caliper Size	Minimum Height	Minimum Spread
Canopy Tree	2.5 inches		
Ornamental Tree	2 inches		
Evergreen Tree		6 feet	
Shrubs			24 inches

3. Existing healthy and desirable trees to be preserved may satisfy the landscaping regulations of this Section as shown in Table 12-8. Each credit may be applied toward fulfilling the requirements set forth in this Section (i.e., 1 credit equates to 1 equivalent tree).

Table 12-8 Credit for existing landscaping

Tree Material	Minimum Caliper	Minimum Height	Credits
Canopy Tree	4 to 8 inches		1
	Greater than 8 inches		2
Ornamental Tree		6 to 10 feet	1
		Greater than 10 feet	2
Evergreen Tree		6 to 12 feet	1
		Greater than 12 feet	2

F. Residential development.

1. In all residential subdivisions, land divisions, and site condominiums, a minimum of one canopy tree shall be planted per dwelling unit, between the right-of-way and the street and shall be spaced evenly, except where site conditions warrant greater or lesser spacing.
2. In all multi-family developments, a minimum of one canopy tree per 4,500 square feet of gross lot area and one shrub per 1,000 square feet of gross lot area shall

be planted. Areas of the site that are not occupied by buildings, paving, or accessory structures shall have ground cover.

G. Landscape requirements for non-residential districts and permitted non-residential uses in the residential districts

1. For all uses in the GC and LI districts, any approved special land use in the CO District and for any permitted non-farm or non-residential use in the AG, R-1, R-2 and R-3 districts, for every 100 linear feet of frontage or percentage thereof, as measured along the right-of-way line, the following minimum landscaping shall be provided in the front yard, in addition to any landscaping required for parking lots, as listed in Section 12.H:
 - a. Any combination of five trees, which can be canopy, evergreen or ornamental; provided that at least one is a canopy tree and at least one is an evergreen tree.
 - b. Six shrubs.
2. The required front yard landscaping shall be planted between the parking area and the road right of way. If there is no front yard parking, the Planning Commission may allow the landscaping anywhere within the front yard.
3. The required landscaping may be spaced along the frontage according to the number of plants required based on the linear frontage; or may be planted in informal groupings, provided that the plants are distributed along the frontage so that there are no gaps greater than 50 feet, relative to the front lot line, between canopy and/or evergreen trees.

4. Berms are encouraged; where a berm at least three feet in height is constructed in the front yard, the landscaping requirements may be reduced by 50 percent (see Section 12.1.D.I0.a, above). The berm may be used to meet the screening requirement for parking lots as required in Subsection H, below.
5. For properties that front upon snowmobile routes, the required landscaping may be placed 10 feet from the right-of-way line. During winter months, temporary snow fencing may be placed in front of the landscaping to prevent snowmobiles from damaging the landscaping. This fencing shall be removed at the end of the snowmobile season, but in no case later than April 15.

H. Parking lot landscaping.

1. Where any parking lot, except those serving one or two family dwellings, abuts or faces a public right-of-way or is within 20 feet of any lot line adjacent to a residentially zoned or used lot, the parking lot shall be screened by a three foot high continuous screen, comprised of plants, a berm, screen wall, or any combination of these elements. If the screen is located in the front yard, it shall be provided in addition to the minimum front yard area landscape requirements.
2. To provide shade and to break up the visual monotony of large paved surfaces, parking lots containing more than 20 parking spaces shall be landscaped according to the following requirements:
 - a. One canopy tree for every 12 parking spaces shall be planted within a parking lot landscape island or peninsula.
 - b. *Landscape islands and peninsulas:*

- i. All landscaped islands and peninsulas shall be protected by raised curbs; dub-downs are permitted to facilitate drainage and irrigation.
- ii. Islands or peninsulas may be combined to provide an expanded planting area.
- iii. Trees shall be planted at least three feet from the edge of the curb or pavement to avoid contact with vehicles.
- iv. Landscape islands and peninsulas shall conform to the requirements of Table 12-9:

Table 12-9 Parking Lot Island and Peninsula Landscaping Requirements

Minimum Size	150 square feet; 75 square feet if irrigated
Minimum Width	9 feet
Required Depth	2 feet shorter than adjacent parking space
Required Radii	Minimum 10 feet at ends facing main circulation aisles, minimum 1 foot for others

- 3. Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking lot and at driveway entrances, in accordance with Section 3.12.

I. Outdoor storage areas. When permitted, outdoor storage areas shall be screened by buildings and by a continuous landscaped buffer at least 10 feet wide, measured perpendicular to the outdoor storage area. This buffer area shall contain:

1. A screen wall or fence at least six feet in height, along with any combination of the following, in numbers

sufficient to provide an effective screen, as approved by the Planning Commission:

- a. Berms
- b. Canopy, evergreen and ornamental trees
- c. Shrubs

2. If the property is adjacent to land in another district and a buffer is required according to Section 12.1.D above, that buffer shall be considered to meet the requirements of this Subsection, provided that the screen wall or fence required above is constructed.

J. Detention and retention ponds. Detention and retention ponds shall be landscaped and graded in the following manner:

1. Plantings shall be non-invasive, hardy, and suitable for the EPA Southern Michigan/Northern Indiana Drift Plains Eco-Region.
2. Planting and landscape design for detention and retention ponds shall comply with best practices outlined in the *Low Impact Development Manual for Michigan and the Michigan Nonpoint Source Best Management Practices Manual*, as amended. Native plants and vegetation are encouraged
3. Ponds shall be designed to not require fencing whenever possible by utilizing a gradual slope not to exceed 5:1. If fencing is unavoidable the use of ornamental fencing shall be used with appropriate landscaping to provide attractive views to the pond.
4. To the extent possible, pond configuration shall be incorporated into the natural topography of the site and shall not be permitted in the front yard. Where these requirements are not practical, the pond shall be

shaped to emulate a natural formed 'free form' depression and shall be part of the natural landscape and open space system of the site.

5. The edge of the pond shall consist of sculptured landforms to filter and soften views of the pond.
6. Plantings shall replicate a natural environment. Trees and shrubs shall be clustered around the basin and contain a variety of plant material.
7. Trees must be planted above the freeboard line of the pond. Shrubs planted below the freeboard line of the pond must be tolerant of wet or moist soil conditions. The location of plant material shall consider the need to provide access for and minimize disruption of plant material during routine pond maintenance.

K. Screening

1. Screening shall be required in the following situations, except as may be provided elsewhere in this Section.
 - a. Around all trash dumpsters in all Districts.
 - b. Around any designated loading/unloading area.
2. Solid waste dumpsters may be located in buffers as required by this Section, provided that they are screened in accordance with this Subsection. The Planning Commission may require additional landscaping around the enclosure, depending upon its location within the buffer and its visibility from adjacent rights-of-way and adjacent properties. Loading/unloading areas may not be located within a required buffer.

3. Screening shall be required, even if the surrounding area or adjacent parcels are unimproved.
4. When any developed parcel changes to a more intense land use or a special land use or site plan approval is required, screening shall be provided in accordance with this Chapter.
5. Screening requirements.
 - a. Unless otherwise permitted, in accordance with this Section, a required screen shall be comprised of a solid, sight-obscuring fence or wall meeting the following specifications:
 - i. Six feet high.
 - ii. Enclosed on all sides and not containing any openings other than a gate for access, which shall be closed at all times when not in use. However, this standard shall not apply to a screen around loading/unloading areas.
 - iii. Constructed of masonry, treated wood, or other material approved by the Planning Commission if determined to be durable, weather resistant, rust proof, and easily maintained. Chain link and barbed wire fences are not permitted.
 - iv. Gate openings shall be protected by bollards or other protection to prevent vehicles from damaging the enclosure. The Planning Commission may require bollards or other protection to be placed within a trash dumpster enclosure to protect it from being damaged by the trash receptacle.
 - b. If approved by the Planning Commission, the required screen may be comprised of berms or plant material, in combination with or as a

substitute for a fence or wall upon determining that the alternate materials will provide the same degree, or better, of opacity and screening required by this Section.

L. Landscape site plan requirements

1. Proposed landscaping shall be shown on a separate drawing at the same scale as the site plan. The plan shall indicate any existing or proposed underground utilities and exclusive easements, to ensure that proposed landscaping is not affected by or does not interfere with utilities.
2. Landscape plans shall show all planting areas and label plants by common and scientific name, show the distance between plants, indicate size at the time of planting and anticipated mature height and spread. Anticipated mature height and spread shall be shown with circles indicating anticipated plant size after five growing seasons.
3. Text shall accompany the landscape plan, detailing the species types and calculations of the proposed landscaping, and illustrating in textual form how the plan successfully complies with the regulations of this Section.
4. Existing, natural, and man-made landscape features shall be indicated clearly on the plan, with contours shown at intervals no greater than two feet.
5. Existing structures and other features, as required for the general site plan, must be indicated on the landscape plan.
6. All other site plan review requirements and standards, as set forth in Chapter 11 of this Ordinance, shall be followed.

M. Installation and maintenance. The following requirements shall be observed where installation and maintenance of landscape materials is required:

1. Installation. Landscaping shall be installed in a sound, professional manner to ensure the continued growth of healthy plant material.
2. Protection from vehicles. Landscaping shall be protected from vehicles through use of wheel stops or other means. Landscape areas shall be elevated above the pavement to a height adequate to protect the plants from snow removal, salt, and other hazards.
3. Maintenance. Required landscaping (including berms, greenbelts, buffer zones, walls, woodlots, trees, lawns and ground cover) shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead plant material shall be replaced in the next appropriate planting period. The landscape plan shall indicate the individual(s) or business(es) who will be responsible for continued maintenance of the landscaping. Those charged with this responsibility shall also be responsible for maintenance of adjacent landscaped areas in public rights-of-way. Tree stakes, guy wires, and tree wrap must be removed after one year.
4. Irrigation. The method or irrigation must be specified. Irrigation equipment is not permitted within the right-of-way.

N. Treatment of existing plant material. The following regulations shall apply to existing plant material:

1. Utilization of existing elements in the landscape design. In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place

of the requirements set forth previously in this Section, provided the substitution is in keeping with the spirit and intent of this Section and this Chapter in general. Existing hedges, berms, walls, or other landscape elements may be used to satisfy the requirements set forth previously, provided that such existing elements are in conformance with the requirements of this Section.

2. **Preservation of existing plant material.** Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are six (6) inches or greater in diameter at breast height. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan.
3. **Destruction or removal of healthy trees.** In the event that healthy plant materials which are intended to meet the requirements of this Section are cut down, damaged or destroyed during construction, the removed plant material shall be replaced. The Planning Commission may determine that replacement shall be at a greater rate than one new tree per each destroyed tree, when the destroyed tree is of a caliper or species that is of greater size or value than a single new tree.

Section 12.2. Exterior lighting requirements

The following lighting requirements shall apply to all uses requiring site plan review, as stated in Chapter 11.

A. Exemptions. The following lighting applications are exempt from regulation under this Section:

1. Lighting for all agricultural and single and two-family residential uses, provided that the level of illumination at any property line adjoining an agricultural use shall not exceed 0.1 footcandles.

2. Pedestrian walkway lighting.
3. Soffit lighting, provided that the light source is recessed or flush with the soffit surface.
4. Emergency lighting, provided that the lights are designed to operate only under emergency or loss of power situations.
5. Holiday decorations.
6. Window displays.
7. Lighting for temporary events, such as fairs, carnivals and similar temporary outdoor uses.
8. Ornamental lighting that is incorporated into an architectural design, such as colored tubes, lighting of fountains, statuary or other outdoor art and other building elements (other than signs), provided that the light source is shielded to direct light onto the lighted element.

B. Prohibited lighting

The following lighting types and methods are prohibited:

1. **High intensity lights:** Laser light sources, search lights or any similar high intensity light for outdoor advertisement or entertainment.
2. **Hazardous lights:** Any lighting where it is determined that the light source is creating off-site glare and is a hazard to travelers on an adjacent street or road.
3. **Exposed bulb lights:** The use of any exposed bulbs, visible from any property line unless exempt under Subsection A, above, or as part of a sign that meets the requirements of Section 12.4.
4. **Flashing and moving lights:** Lighting that is of a flashing, moving or intermittent type, excluding those

associated with signs meeting the requirements of Section 12.4 of this Ordinance.

5. **Traffic control or emergency lights:** Lighting that appears similar to that used for traffic control devices or for emergency vehicles.

C. Shielding and glare

1. All outdoor lighting shall be shielded to reduce glare and shall be placed so that a nuisance is not created for motorists, adjacent uses or residential dwellings.
2. All outdoor lighting, with the exception of those ground-based lights with the purpose of illuminating governmental flags, shall be directed and confined toward the ground or the article being illuminated and shall not impair the safe movement of automobile traffic on any street. Flag lighting shall be directed to illuminate the flag only and shall be placed so that lighting or glare is not directed toward streets or adjacent properties.

D. General requirements

1. Lighting shall be provided throughout any non-residential or multi-family parking lot. Lights to illuminate parking lots shall not be attached to any building, except for the lighting of single parking rows nearest and parallel to buildings may be wall-mounted. This requirement does not apply to home occupations.
2. Lighting shall be required by the Planning Commission for any roads being constructed as part of or in advance of any new development. Street lighting shall meet the requirements of the Van Buren County Road Commission.
3. Reasonable use of lighting for security purposes shall be permitted, however the Township retains the right to

prohibit the full use of the total lights on a parcel, i.e., allowing only a portion of the lights to be in use 24 hours per day. This requirement does not extend to residential subdivisions where it may be necessary to operate all interior street lighting twenty-four (24) hours per day.

E. Specific requirements.

1. Under-canopy lighting.
 - a. Canopy lighting shall be mounted flush with the canopy surface.
 - b. No light fixture shall protrude below the underside (fascia) of any canopy.
2. Fixtures.
 - a. Type.
 - i. Lighting fixtures shall be a down-lighted type having 100 percent cut off.
 - ii. Light shall be fully shielded, confined on-site by the direction of the fixture, shielding, or adjustment the level of brightness.
 - iii. Protruding lenses shall be prohibited.
 - iv. The lighting color temperature of all new or replacement lighting shall not exceed 3,000 Kelvins.
 - b. Height. Light poles shall have a maximum height of 20 feet when in or adjacent to an Agricultural or Residential Zoning District. All other light poles shall have a maximum height of 25 feet. The maximum height shall be measured from the parking lot grade at the base of the pole to the top

of the pole. No portion of any light fixture mounted on a light pole may extend more than one (1) additional foot higher than the maximum light pole height.

3. Signs. Lighting of signs shall be subject to the requirements of Section 12.4.D.11.

4. Illumination levels. Light levels on a site that is subject to site plan approval under this ordinance shall meet the requirements in Table 12-10 for the developed portion of the site containing buildings, drives and parking lots.

Table 12-10 Required site illumination

Location on Site	Minimum Footcandles⁽¹⁾	Maximum Footcandles	Min. Average for Specified Area	Uniformity Ratio⁽⁶⁾
Commercial and Industrial Districts: Parking Lots, Loading Areas, Sidewalks & Building Entrances	0.6 fc ⁽²⁾	10 fc ⁽³⁾	2.4 fc	4:1
Agricultural and Residential and CCO: Parking Lots, Loading Areas, Sidewalks & Building Entrances	0.2 fc	10 fc	0.8 fc	4:1
Under Canopies Such as Gas Stations, Drive-Thru Bank Porte-Cochere	3 fc	20 fc	-	4:1
Along Front Lot Line Adjacent to the Street Frontage	-	3 fc ⁽⁴⁾	-	-
Along a Lot line Adjoining a Non-Residential Use or District	-	1 fc ⁽⁵⁾	-	-
Along a Lot line Adjoining a Residential Use or District	-	0.5 fc		

Footnotes to Table 12-7:

- (1) Minimum lighting levels do not apply if business hours are limited to daylight hours. Dimmers, timers, and use of occupancy motion sensors are permitted after hours of public access.
- (2) The minimum illumination levels shall not apply to portions of the site that are fenced to restrict public access, such as storage yards.
- (3) For automobile dealerships and other types of approved outdoor sales areas the maximum illumination may be increased to 15 footcandles, provided the limits at the lot line are not exceeded.
- (4) Shall not apply to ornamental street lighting, public street lights or driveway/intersection lighting necessary for pedestrian and traffic safety.
- (5) The light level along a non-residential lot line may be increased to five footcandles where there is shared access/vehicular connections or the adjacent use is a similar use.
- (6) The uniformity ratio of average footcandles to minimum footcandles, shall not be exceeded.

F. Lighting plans

1. Compliance with the lighting design criteria shall be demonstrated by submitting the following information for as part of the required site plan:
 - a. Lighting plan (as part of the site plan package) showing light fixture locations and type designations.
 - b. Lighting equipment specifications and data sheets, including fixture height.
 - c. Any other materials or information required to convey the intent of the lighting design.
2. Photometric plans. The Zoning Administrator or Planning Commission may require a photometric plan to ensure that the intent and requirements of this section are met. When required, a photometric plan (lighting grid) shall be professionally prepared. The photometric plan shall show horizontal luminance levels in a point by point format. Canopy lighting must also be included in luminance levels.
3. A photometric plan is required for all parking areas.

Section 12.3. Parking and loading requirements

In all districts at the time of erection or enlargement of any main building or structure, vehicle off-street parking spaces shall be provided with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or buildings uses, shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

A. Off-Street Parking General Requirements

1. Location of off-street parking.

- a. *Non-required yards and required rear yard.* Off-street parking may be located within any non-required yard and within the rear yard setback unless otherwise provided in this Ordinance.
- b. *Required side yard.* Off-street parking shall not be permitted in a required side yard setback unless otherwise provided in this Ordinance.
- c. *Required front yard setback.* Off-street parking shall be allowed within a front yard setback, provided that a setback of 15 feet is maintained between any portion of the parking area (except for access drives) and the street right-of-way line.
2. Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.
3. Residential off-street parking shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, except for shared parking as allowed by this Subsection.
4. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere, or a change in use requires fewer parking spaces.
5. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

6. The storage of merchandise, motor vehicles for sale, trucks, or repair of vehicles is prohibited within or on any off-street parking area, except those accessory to an approved vehicle sales facility.
7. Shared parking.
 - a. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately, unless otherwise approved by the Planning Commission.
 - b. The Planning Commission may reduce the parking requirements based upon a finding that there will be a lower demand for parking due to shared parking by multiple uses where there will be a high proportion of multipurpose visits or uses have peak parking demands during differing times of the day or days of the week.
 - c. If shared parking is approved, pedestrian and vehicular connections shall be maintained between the lots and shared parking agreements shall be filed with the County Register of Deeds and the Township. A shared parking agreement shall only be in force so long as the parking demands of any use that utilizes the shared parking lot does not increase beyond those in existence at the time the agreement was recorded.
8. Deferred parking.
 - a. Where an applicant demonstrates the parking requirements for a proposed use would be excessive, the Planning Commission may defer some of the parking, provided the site plan designates portions of the site for future construction of the required parking spaces.
- b. Areas reserved for future parking shall be maintained in a landscaped appearance and not used for building area, storage, or other accessory use.
- c. The deferred parking shall be required to meet Ordinance requirements if constructed and may not occupy required greenbelts.
- d. Construction of the deferred parking area to add parking spaces may be initiated by the owner or required by the Township, based on parking needs or observation, and shall require administrative approval of an amended site plan.
- e. A performance guarantee, meeting the requirements of Section 14.6 shall be provided to the Township prior to issuance of a building permit for the cost of constructing the deferred parking. The performance guarantee shall be refunded to the applicant five years following issuance of a certificate of occupancy if the Township determines that the deferred parking is not required or upon construction of the parking lot if the Township or owner determines within the first five years that the deferred parking is needed.
9. Uses not listed. For those uses not specifically listed, the requirements for off-street parking facilities shall be in accord with a use which the Zoning Administrator considers is similar in type. Alternatively, the Zoning Administrator may require that the applicant provide studies of the potential parking demand of the use and may use such information as the basis of determining an appropriate minimum parking space requirement.

B. Required off-street parking spaces

1. When units or measurements determining the number of required parking spaces result in the requirements of a fractional space, the fraction shall require one parking space if it consists of .5 or greater.
2. For the purpose of computing the number of parking spaces required, the definition of "gross floor area" (GFA) and "useable floor area" (UFA) shall govern.
3. Maximum parking. In order to minimize excessive areas of pavement which reduces aesthetic standards and contributes to high rates of storm water runoff, exceeding the minimum parking space requirements by more than 10 percent shall require approval by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
4. Minimum requirements. The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 12-11.

Table 12-11 Minimum Number of Parking Spaces

UFA = usable floor area; GFA = gross floor area

Use	Minimum Number of Parking Spaces
Residential	
Adult foster care small group homes and group day care homes	Two plus one for each caregiver, in addition to the requirement for the resident family
Bed and breakfasts	Two for the owner/operator and one for each leasable room
Boarding houses	Two, plus one for each bed or sleeping room
Farm wineries and micro breweries	One for each 300 square feet of UFA dedicated to retail sales, tasting and other indoor activities or 5 spaces, whichever is more
Housing for the elderly (independent and assisted living)	One for each two units and one for each employee. Should units revert to general occupancy, then the requirement for multiple family dwellings shall be met
Multiple-family dwellings	Two for each dwelling unit, plus one guest parking space for each 4 dwelling units
Single-family detached and two-family dwellings	Two for each dwelling unit
Institutional	
Convalescent and nursing homes	One for each two employees plus one for each four persons in residence
Elementary and junior high schools	One for each one teacher, employee, or administrator in addition to the requirements for auditorium or stadium, where applicable
Hospitals and clinics	One per each two beds, plus one per employee (including doctors employed off-site)
Library, museum, or post office	One for each 800 square feet UFA, plus one for each 2 employees
Places of worship	One for each three seats or six feet of pews in the main unit of worship

Table 12-11 Minimum Number of Parking Spaces

UFA = usable floor area; GFA = gross floor area

Use	Minimum Number of Parking Spaces
Senior high schools, colleges, universities, and commercial trade schools	One for each one teacher, employee, or administrator, and one for each ten students, in addition to the requirements for auditorium or stadium, whichever seats more, where applicable
Offices	
Financial institutions	One for each 200 square feet UFA, plus three for each walkup ATM. Drive-up windows shall be provided four stacking spaces for each window
Professional offices, except medical offices	One for each 250 square feet of UFA
Professional offices of doctors, dentists, or similar professions and veterinary hospitals and clinics	One for each 200 square feet of UFA
Retail Uses	
Agribusiness	One for each 300 square feet of UFA. A minimum of five customer parking spaces shall be provided for all uses of 1,000 square feet or less
Farm markets	One for each 200 square feet UFA for indoor sales and display. For outdoor sales and display, one for each 1,000 square feet of land area
Farm wineries	One for each 300 square feet of UFA dedicated to retail sales, wine tasting and other indoor activities. A minimum of five customer parking spaces shall be provided for all uses of 1,000 square feet or less
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of UFA. (for that floor area used in processing assembly or repair, one additional space shall be provided for each two persons employed therein.)
Grocery store/supermarket	One space per 200 square feet UFA
Outdoor commercial display & sales	One for each 500 square feet of outdoor land area being used for display
Retail stores, except as otherwise specified herein	One for each 300 square feet of UFA
Roadside stands	Four spaces, situated for ingress/egress without maneuvering on the street
Shopping centers with multiple tenants	One for each 300 square feet of UFA. Non-retail uses such as restaurants, places of worship, bars and theaters shall be calculated separately based upon their respective requirements
Vehicle sales	One for each 400 square feet of UFA of sales room and one for each auto service stall in the service department

Table 12-11 Minimum Number of Parking Spaces

UFA = usable floor area; GFA = gross floor area

Use	Minimum Number of Parking Spaces
Restaurants/Food and Beverage	
Restaurant, carry-out (with no eating on premises)	Six per service or counter station, plus one for each employee
Restaurant with drive through facilities	One for each employee, one for each 85 square feet of UFA in the dining area and five stacking spaces for each drive-through window or station
Restaurant without drive through facilities	One for each 100 square feet of UFA or one for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is the greater
Taverns, bars, lounges, nightclubs (majority of sales consist of alcoholic beverages)	One per each 75 square feet of UFA or one (1) per two seats, whichever is greater
Service Uses	
Vehicle service stations	One at each pump station, plus one for each employee, plus one for each 100 square feet of UFA used for cashier, office, or retail sale of food, beverages and other products. In no instance shall the facility provide fewer than three spaces for cashier's and office use
Vehicle service and repair	Two for each service stall, plus one for each employee
Vehicle wash establishment	One for each one employee, plus three stacking spaces per manual wash bay, 10 stacking spaces per automatic wash bay and one stacking space per vacuum
Beauty parlor or barber shop	Two spaces for each of the first two beauty or barber chairs, and one and one-half spaces for each additional chair
Dry cleaners	One per 500 square feet of UFA
Kennel, commercial	One for each employee, plus an additional five for visitors
Laundromats and coin-operated dry cleaners	One for each two washing and/or dry-cleaning machines
Funeral homes and mortuaries	One for each 50 square feet of UFA in assembly rooms, parlors and slumber rooms
Hotels and motels	One for each one occupancy unit plus one for each employee plus spaces as required for accessory uses such as a bar, restaurant, meeting rooms, etc.
Miniwarehouse/self storage facilities	One for each 20 storage units plus two for manager's residence (if provided)
Video rental establishments	One per 250 square feet of UFA
Recreation Uses	
Bowling alleys	Five for each one bowling lane plus spaces required for accessory uses such as a bar or restaurant

Table 12-11 Minimum Number of Parking Spaces

UFA = usable floor area; GFA = gross floor area

Use	Minimum Number of Parking Spaces
Campgrounds	Two per each camp site, plus two per each 500 square feet of UFA for accessory office and retail uses that serve the camp
Clubs, private noncommercial	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes
Outdoor recreational facilities	Two for each batting cage, archery range or similar activity; 14 per athletic field
Dancehalls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	One for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes or one for each 200 square feet of UFA, whichever is greater
Golf courses, open to the general public, except miniature golf	Six for each one golf hole and one for each one employee, plus spaces required for each accessory use such as a restaurant or bar
Golf driving range	Two for each driving tee plus three spaces for employees
Ice skating or roller rink	One for each seat or six feet of benches, or one for each 150 square feet of skating area, whichever is the greater
Indoor recreational facilities and health clubs	One per each 500 square feet of GFA, plus one per employee, except a billiard hall shall provide one per each 100 square feet of UFA; a bowling alley shall provide one per each 275 square feet UFA
Miniature golf courses	Two for each one hole plus one for each one employee
Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for each two member families or individuals plus spaces required for each accessory use such as a restaurant or bar
Stadium, athletic arena, or similar large sports facilities	One for each three seats or six feet of benches
Tennis club, paddle-ball club, racquetball club and other similar uses	Six per court, plus such additional spaces as may be required herein for affiliated uses such as restaurants, plus one per employee
Theaters and auditoriums	One for each three seats plus one for each two employees
Industrial	
Industrial or research establishments and related accessory offices	Five plus one for every 1.5 employees in the largest working shift or one for each 500 square feet of UFA in those instances where shift size is not known. Space on the site shall also be provided for all construction workers during periods of plant construction
Warehousing and wholesale establishments and related accessory offices	Five plus one for every one employee in the largest working shift, or five plus one for every 1,700 square feet of UFA, whichever is greater

C. Off-street parking space layout, requirements, construction, and maintenance

Wherever the off-street parking requirements in Section 12.3.B above require the building of an off-street parking facility, it shall be laid out, constructed and maintained in accordance with the following requirements.

1. No parking lot shall be constructed until zoning compliance has been determined by the Zoning Administrator and a building permit has been issued by the Building Inspector.
2. Layout. Plans for the layout of off-street parking facilities shall be in accord with the minimum requirements in Table 12-12.

Table 12-12 Off-Street Parking Dimensional Requirements				
Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One-Way	Two-Way
0° (Parallel)	8.5 ft.	22 ft.	12 ft.	22 ft.
30° to 53°	9 ft.	18 ft.	13 ft.	22 ft.
54° to 74°	9 ft.	18 ft.	16 ft	22 ft.
75° to 90°	9 ft.	18 ft.	24 ft.	24 ft.

3. Access.
 - a. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street is prohibited.
 - b. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned or used for other than single family residential use shall not be across land zoned R-1 or R-2.

- c. All maneuvering lane widths shall permit one way traffic movement, except that the 90 degree pattern may permit two way movement.
- d. Each entrance and exit to and from any off-street parking lot located in an area used or zoned for other than single family residential use shall be at least 25 feet from any adjacent property located in R-1 or R-2 districts.
4. Landscaping. Parking lots shall be landscaped according to the requirements of Section 12.1. When a front yard setback is required, all land between said wall and the front property line or street right of way line shall be kept free from refuse and debris and shall be landscaped in accordance with Section 12.1. All landscaping and planting shall be maintained in healthy, growing conditions, neat and orderly in appearance.
5. Parking lot surface. The entire parking area, including parking spaces and maneuvering lanes, required under this Section shall be provided with asphalt or concrete surfacing in accordance with specifications approved by the Township Board. However, it is the intent of this Ordinance to minimize the amount of impermeable paved surface; therefore the Planning Commission may approve alternative paving materials, such as permeable/grass pavers, based upon the review and recommendation of the Township engineer. The parking area shall be surfaced prior to the issuance of a certificate of occupancy, or, in case of seasonal difficulties, a performance guarantee shall be provided in accordance with Section 14.6.
6. Drainage. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of

water onto adjacent property or toward buildings, and plans shall be approved by the Township engineer.

7. **Lighting.** All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only and shall comply with the requirements of Section 12.2.

D. Off-street loading and unloading

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, adequate space for dedicated loading and unloading shall be provided and maintained. The loading and unloading space shall be provided as follows:

1. Loading areas shall be provided in the ratio of spaces to floor area found in Table 12-13.

Table 12-13 Loading Area Dimensional Requirements	
Gross Floor Area	Loading and Unloading Space Required
Less than 1,400 sq. ft.	None
1,401 to 20,000 sq. ft.	One space
20,001 to 100,000 sq. ft.	One space plus one space for each 20,000 sq. ft. in excess of 20,001 sq. ft.
100,001 sq. ft. or more	Five spaces

2. All spaces shall be laid out in the dimension of at least 10 feet wide by 50 feet deep, or 500 square feet in area, with clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless surface.
3. The Township may modify the required size of loading spaces for uses that will involve smaller delivery trucks, such as offices.

Section 12.4. Signs

A. Intent. This Section is intended to protect and further the health, safety, and welfare of the residents of Antwerp Township; to maintain and improve the appearance of Antwerp 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. These regulations are further intended to provide reasonable identification for businesses and other uses within the community.

B. Sign definitions

1. **Awning sign:** A sign affixed flat against the surface of an awning.
2. **Balloon sign:** A sign composed of a non-porous structure filled with air or supported by air.
3. **Business center sign:** A pylon or ground sign located at a development or complex with multiple businesses or commercial or office tenants.
4. **Electronic display:** A sign or portion of a sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
5. **Government sign:** A temporary or permanent sign erected by Antwerp Township, Van Buren County, or the state or federal government.
6. **Ground sign:** A sign resting directly on the ground or supported by short poles not attached to a building or wall.
7. **Internal site sign:** Smaller signs internal to a parcel not oriented toward the public right-of-way.

8. **Marquee sign:** A sign affixed flat against the surface of a marquee.
9. **Mural:** A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
10. **Occupant frontage:** The width of a building, or the width of a tenant space within a multi-tenant building, on the side oriented toward the street, parking lot or access drive.
11. **Portable sign:** Any sign not permanently attached to the ground or other permanent structure and designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, or signs mounted on A-frames or T-frames (see Figure 12-1).
12. **Projecting sign.** A double-faced sign attached to a building or wall that extends more than 12 inches but not more than 36 inches from the face of the building or wall.
13. **Pylon sign:** A sign supported on poles or pylons and not attached to a building or wall.
14. **Reader board:** A portion of a permanent sign that is integrally constructed within the sign, on which copy is changed manually. A portable sign or the changeable copy portion of a portable sign that is attached to or made a part of a permanent sign shall not be considered a reader board.
15. **Roof sign:** A sign erected upon a roof. A sign erected upon a mansard roof or other roof surface with a pitch of greater than 45 degrees shall be considered to be a wall sign.
16. **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.
17. **Special sign:** Temporary signs subject to special permitting requirements.
18. **Temporary yard sign:** A sign, that is not permanently secured and is not intended or designed for permanent use.
19. **Vehicle sign:** A sign designed to be mounted to a vehicle or trailer and designed to be visible to other motorists or pedestrians. A sign painted on a vehicle that identifies the business that owns or uses the vehicle, or a sign depicting the name of the owner of the vehicle, shall not be considered a vehicle sign.
20. **Wall sign:** A sign painted on or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of the wall to which it is attached.
21. **Window sign:** A sign installed inside a window and intended to be viewed from the outside.

C. Permit required: No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a sign permit, except those specifically exempted from permit requirements in Section 12.4.F, below.

D. General sign provisions

1. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility or creates a blighting, unsightly or unsafe condition.

2. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility or creates a blighting, unsightly or unsafe condition.
3. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
4. When a sign is allowed to be illuminated, it 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 into traffic or onto residential property.
5. **Sign location:** 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 commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street.
9. Except for electronic displays as allowed by this Section, no sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided that variable time-temperature signs may be 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 above or beyond the edge of the wall to which it is affixed.
12. **Illumination.** Except as otherwise prohibited in this Section, a sign may be illuminated. Illumination may be interior to the sign, or may be by use of exterior lights directed onto the sign. Exterior lights may not be directed to areas beyond the sign, other than signs illuminated by ambient lights. Exterior illumination shall be so arranged so that the light source is not visible from the street and there is no glare directed toward adjacent properties.

E. Prohibited signs

The following signs shall be prohibited within Antwerp Township:

1. Any sign not specifically permitted.
2. Vehicle signs; however, signs attached to a public transit vehicle or other government-owned vehicle shall be exempt from this Section.
3. Projecting signs.
4. Roof signs.
5. Balloon signs, except when allowed as a commercial event sign.
6. Signs that are held by or supported by a person for commercial advertising purposes.
7. Portable signs, except as allowed under Section 12.4.I.6.

F. Exempted signs

The following signs shall be exempt from the permit requirements of this Section, except as otherwise required by this Section:

1. Internal site signs, subject to the requirements of Section 12.4.I.1, below.
2. Government signs. A permanent government sign may include an electronic display or reader board.
3. Historical markers.
4. Window signs, provided that no more than 50 percent of the window area is covered with signs.
5. Memorial signs or tablets.
6. Murals, provided that no portion of the mural contains advertising.
7. Signs not visible from any street or alley.
8. Signs for essential services.
9. Signs not exceeding two square feet.
10. Flags or insignia of any nation, state, city, community organization, or educational institution.
11. Commercial signs mounted to a public transit vehicle or government vehicle.
12. Temporary yard signs, subject to the requirements of Table 12-5.

G. 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 expanded, enlarged, or extended. Nonconforming signs may be maintained by painting and minor repairs; however, structural alterations are prohibited. The face of a nonconforming sign may be replaced with a similar sign face.
3. For purposes of this Chapter, 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, provided, however, that once reduced it shall not be expanded at any time in the future. If a sign is nonconforming in its setback, this paragraph 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 value of the sign on the date of loss.
5. Any sign which for a period of three months or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within 30 days of receipt of written notice by the Zoning Administrator. The Zoning Administrator may grant one extension of up to six months, provided that the proprietor of the sign can show due cause for the extension.

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.

H. Sign regulations applicable to all zoning districts

1. Units of measurement (see **Figure 12-1**)

- a. The area of a sign shall be measured as the area within a regular geometric form or combination of such forms, 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 back-ground against which it is placed, excluding only the structure necessary to support the sign.
- b. The area of a pylon, 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.
- c. 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. Where the ground is built up or raised (such as a berm), the height of the sign shall be measured from the original grade. Increasing the grade for the purpose of increasing sign height is prohibited.
- d. For buildings with multiple tenants, the sign areas for wall signs and awning signs shall be determined

by taking the occupant frontage applicable to each tenant and computing sign requirements for that portion of the wall.

- e. The setback of a sign shall be the distance from the nearest property line to the leading edge of the sign structure's maximum extension toward the property line.
2. Reader boards: All ground, pylon and wall signs as permitted in Section 12.4.I.7, below, may include a reader board. No more than 40 percent of the sign area may be a reader board. A reader board is not permitted on a sign that has an electronic display.
3. Awning signs shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.

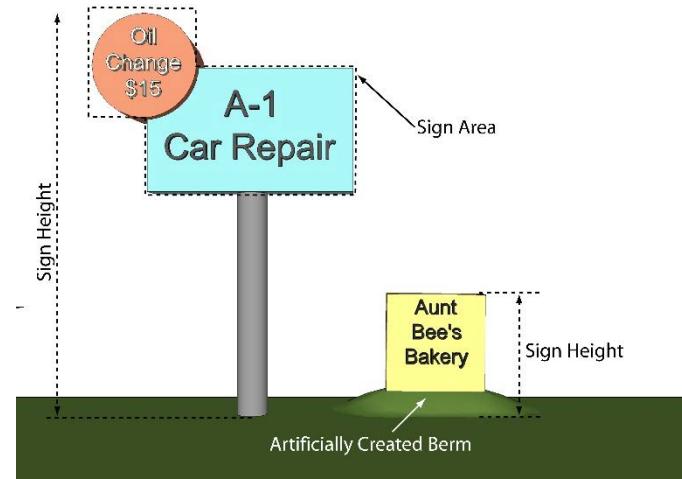


Figure 12-1 Sign Height and Area

I. Specific sign requirements

1. Internal site signs. Internal site signs are permitted for nonresidential uses and multiple family developments in any zone district, subject to the following restrictions:
 - a. No such sign shall exceed four square feet in area or three feet in height.
 - b. Internal site signs may only be illuminated from within.
2. Home occupation and home based business signs.
 - a. *Home occupations*. A sign for a home occupation shall be limited to one wall sign that is no greater than four square feet in area. A home occupation sign may not be illuminated.
 - b. *Home based businesses*. A home based business, if allowed as a special land use, may have one non-illuminated ground sign or wall sign, no more than 16 square feet in area and (if a ground sign) no higher than eight feet. The Planning Commission may also permit one additional non-illuminated wall sign, mounted on the dwelling or on the accessory structure housing the home-based business, with a maximum area of four square feet.
3. Business center signs. In the GC and LI districts and in commercial and mixed use planned unit developments, a business center sign is permitted, subject to the following requirements:
 - a. Any property or building designed for more than one business shall require a business center sign. Separate pylon or ground signs for individual businesses within a Business Center shall not be permitted.
- b. Number: One per street frontage, but not more than two signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least 75 feet in order to have a second sign located upon that frontage.
- c. Area: A business center sign shall not exceed one square foot for each linear foot of lot frontage, to a maximum of 200 square feet,
- d. The name and primary street address of the Business Center shall be displayed on the sign with lettering at least four inches in height.
- e. Setback: Minimum of 15 feet from any property line for pylon signs.
- f. Height: No higher than eight feet for ground signs or 15 feet for pylon signs.
- g. Illumination. Business center signs may be illuminated according to Section 12.4.

- d. An awning sign may be illuminated only by means of backlighting behind the awning surface. The light source shall not be visible from outside the awning.
- 5. **Electronic displays:** An electronic display is permitted, subject to the following requirements:
 - a. *General requirements*
 - i. An electronic display is permitted only on pylon or ground signs, except that an electronic display that displays time and temperature only may be allowed as part of a wall sign.
 - ii. An electronic display is not permitted on a sign that has a reader board.
 - iii. The entire sign face shall only convey a single product or message at any one time.
 - iv. Except for the change from one display to the next, which shall be instantaneous, each individual sign display shall be stationary. No elements of the display may move, flash or scroll.
 - v. Displays may change no less than five seconds apart.
 - vi. An electronic display strictly for the purpose of stating gasoline prices is exempt from these requirements; however the area of any such display shall be included in the total permitted area of the sign of which the display is a part.
 - b. *District requirements*
 - i. In residential districts and residential planned unit developments, an electronic display is permitted for an allowed non-residential use

- only. The electronic display shall consist of no more than 40 per-cent of the sign area.
- ii. In the GC and LI districts and any commercial or mixed use planned unit development, an electronic display is permitted for nonresidential uses, provided that the electronic display shall consist of no more than 50 percent of the sign area.
- iii. In the CO District, an electronic display shall be reviewed as part of the special land use request and if permitted, shall conform to the conditions of the special land use; however, no electronic display may consist of more than 50 percent of the sign area.
- 6. **Portable signs:**
 - a. *Portable signs existing at the time of adoption.* A portable sign existing on the effective date of this Section, regardless of nonconforming or permitted status, shall be allowed to continue, subject to the following requirements:
 - i. All signs existing on the effective date of this Section shall be inventoried by the Zoning Administrator. The requirements of this subparagraph shall apply only to those signs listed on the inventory.
 - ii. An existing portable sign shall not be replaced with a different portable sign while allowed under this subparagraph. If a permanent sign that is not a portable sign, meeting the requirements of this Section, is located on the premises, the portable sign must be re-moved.
 - iii. All such signs shall be maintained and repaired in good working condition. All frames, etc. shall

be painted and rusted areas shall be rust proofed and repainted.

- iv. Lettering shall be maintained to create complete words and readable messages.
- v. The portable sign structure shall be correctly oriented horizontally and vertically, and shall not be allowed to bend or sag.
- vi. Illumination may be backlighting from within the sign, or from a shielded light source directed only upon the sign. The light source shall not be visible from the street.
- vii. A portable sign under this subparagraph shall not be mounted on a trailer or other wheeled vehicle. Any such portable sign is prohibited.
- viii. All portable signs subject to this subparagraph shall be brought into conformance with the above requirements no less than eight months after the effective date of this Ordinance. Any sign not in compliance by this deadline shall be removed by the owner of the property on which the sign is located, or if the owner fails to do so, by the Township at the expense of the owner. The Township may use any authorized means to recover the costs related to such removal.
- ix. All portable signs subject to this subparagraph shall be removed no later than five years after

the effective date of this Section. Any sign not removed by this deadline may be removed by the Township at the expense of the owner of the property on which the sign is located. The Township may use any authorized means to recover the costs related to such removal.

- (a) Any portable sign existing as of the date of adoption of this Ordinance that does not comply with the above requirements is hereby declared an illegal use and shall be removed.
- (b) This subsection shall not apply to a portable sign allowed as a special sign, as regulated under Table 12-15.

7. Ground, wall and pylon sign requirements: Where permitted, ground, wall and pylon signs shall be erected according to the requirements of Table 12-14.

Table 12-14 Sign requirements – Ground, wall and pylon signs

Sign Type	Requirement	Zoning District			
		AG, R-1, R-2, R-3 ¹	Multiple Family and MHP ²	GC	CO ³
Ground	Number	1 per entrance; maximum of 2	1 per development	1 ground sign or 1 pylon sign per lot	1 ground sign or 1 pylon sign per lot
	Area (max. sq. ft.)	32	32	80	One square foot per linear foot of lot frontage, to a max. of 80 square feet
	Location (ft.)	15 from all property lines	15 from all property lines	15 from all property lines	15 from all property lines; 25 from adjacent residential property lines if illuminated
	Height (max. ft.)	6	6	8	8
Wall	Number	1 per street frontage	1 per street frontage	No limit	1 per street frontage
	Area (max)	0.5 sq. ft. per linear foot of building frontage; 40 sq. ft. max.	0.5 sq. ft. per linear foot of occupant frontage; 40 sq. ft. max.	Total of all signs: 1 sq. ft. per linear foot of occupant frontage, 80 sq. ft. max;	1 sq. ft. per linear foot of occupant frontage; 60 sq. ft. max.
	Location	On wall facing street	On wall facing street	On wall facing street and facing parking area	On wall facing street

Table 12-14 Sign requirements – Ground, wall and pylon signs

Sign Type	Requirement	Zoning District			
		AG, R-1, R-2, R-3 ¹	Multiple Family and MHP ²	GC	CO ³
Pylon	Number	Not permitted	Not permitted	1 ground sign or 1 pylon sign per lot	1 ground sign or 1 pylon sign per lot
	Area (max sq. ft..)			80	One square foot per linear foot of lot frontage, to a max. of 80 square feet
	Location			15 from all property lines; 25 from adjacent residential property lines if illuminated	15 from all property lines
	Height (ft. max)			15	15

Notes to Table 12-14:

- (1) Applies to permitted nonresidential and agricultural uses only.
- (2) Applies to any multiple family use, any planned unit development with multiple family uses and the MHP District.
- (3) Applies only to uses listed in Table 6.1 as special land uses allowed in the Corridor Commercial Overlay District

8. Temporary sign requirements:

- a. Requirements for temporary signs shall be according to Tables 12-15 and 12-16.
- b. Temporary yard signs and temporary signs at residential development sites shall not be illuminated. Special signs may be illuminated.

Table 12-15 Temporary sign requirements by zoning district

Sign Type	Requirement	Zoning District			
		Residential ¹	GC	CO ²	LI
Temporary Yard Sign	Number		1 sign		
	Area (max.)		6 sq. ft.		
	Location		15 ft. from any property line		
	Height (max.)		6 feet high		
	Other Requirements		N/A		
Extra Temporary Yard Sign	Number		1 sign		
	Area (max.)		6 sq. ft.		
	Location		15 ft. from any property line		
	Height (max.)		6 feet high		
	Other Requirements		From property listing to 30 days after closing of sale/lease.		
Extra Temporary Yard Sign	Number		1 sign		
	Area (max.)		32 sq. ft.		
	Location		15 ft. from any property line		
	Height (max.)		8 feet high		
	Other Requirements		From permitting of construction to 15 days after Certificate of Occupancy		
Extra Temporary Yard Sign	Number	The same number as the number of issues and candidates.			
	Area (max.)	6 sq. ft.			
	Location	15 ft. from any property line			
	Height (max.)	6 feet high			
	Other Requirements	From candidate/issue filing to six (6) days after election.			

Table 12-15 Temporary sign requirements by zoning district

Sign Type	Requirement	Zoning District						
		Residential ¹	GC	CO ²	LI			
Special Sign ⁽³⁾	<i>Number</i>	Only permitted for approved non-residential uses within residential zoning districts. Special signs are also permitted in non-residential zoning districts.	1 per frontage					
	<i>Area (max.)</i>		32 square feet					
	<i>Location</i>		Signs made of flexible or nondurable materials, such as vinyl or cardboard, may only be mounted on the building wall and may not extend above the top of the wall or be attached to poles, other signs or to the ground.					
	<i>Height (max.)</i>		15 feet from any side or rear property line. If a portable sign is used, it shall be set back 5 feet from the front lot line					
	<i>Other Requirements</i>		5 feet high Permits shall be valid for no more than 12 consecutive days. No more than 4 permits shall be issued for the same property in a calendar year.					
Temporary Sign at Residential Development Site	<i>Number</i>	One per frontage						
	<i>Area (max.)</i>	32 square feet						
	<i>Location</i>	15 feet from all property lines						
	<i>Height (max.)</i>	8 feet high						
	<i>Other Requirements</i>	Property development signs are permitted within any zone district when erected to advertise a new residential subdivision or other residential development, or a new non-residential development. Property development signs shall be removed when 80 percent of the lots or space(s) available have been sold or leased						

Notes to Table 12-15:

(1) Includes the AG, R-1, R-2, R-3 and MHP districts.

(2) Applies only to approved special land uses within the CO District. (1) In the residential districts, a portable sign (if utilized) is allowed only on a lot containing a permitted non-residential use.

(3) In the residential districts, a special sign (if utilized) is allowed only on a lot containing a permitted non-residential use.

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CHAPTER 13 ZONING BOARD OF APPEALS

Section 13.1. *Creation and membership*

A. The Antwerp Township Zoning Board of Appeals is hereby established, which shall perform the duties and exercise the powers as provided in the Michigan Zoning Enabling Act (Public Act 110 of 2006, the Zoning Act, as amended), in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured and substantial justice done.

B. Membership.

1. The membership of the Board of Appeals shall be in accordance with the requirements of the Zoning Act. There shall be five regular members. The first regular member of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining members shall be selected from the electors of the Township. The members shall be representative of the population distribution and of the various interests present in the Township.
2. One regular member may be a member of the Township Board, if so appointed; however, an elected officer of the Township shall not serve as chairperson of the Zoning Board of Appeals.
3. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
4. The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. The alternate members may be called upon to sit as regular members of the Zoning Board of Appeals if a regular member is absent from or unable to attend a meeting

of the Zoning Board of Appeals. An alternate member may also be called to serve on a case in which a regular member has abstained for reasons of conflict of interest. An alternate 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.

5. Terms shall be for 3 years, except for members on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

Section 13.2. *Meetings and public hearings*

- A.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as determined by the Zoning Board of Appeals. All meetings shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall also keep records of its hearing and other official action.
- B.** 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.
- C.** Whenever a public hearing before the Zoning Board of Appeals is required, the Township shall provide due notice in accordance with the requirements of the Zoning Act.

Section 13.3. Jurisdiction and decisions

A. The Zoning Board of Appeals shall have the following powers :

1. To hear and decide on all matters referred to it upon which it is required to pass under this Ordinance.
2. **Administrative appeals:** To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Zoning Administrator, or the Planning Commission in the enforcement of this Ordinance.
3. **Dimensional variances.** Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties , within the meaning of this Ordinance, the Zoning Board of Appeals shall have power to authorize such variation or modification of the provisions of this Ordinance, with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance and so that public safety and welfare are secured and substantial justice is done.
4. **Interpretations.** The ZBA has the authority to:
 - a. Interpret the location of district boundaries on the Zoning Map where said boundaries are unclear due to scale or legibility of the Zoning Map.
 - b. Interpret the provisions of the Ordinance in such a way as to carry out the intent and purpose of the Plan, as shown upon the Zoning Map, fixing the use districts accompanying and made part of this Ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.

c. Determine if a proposed use that is not otherwise listed in this Ordinance as a permitted use or special land use, or is not specifically prohibited, is similar to any listed use, subject to Section 3.2.

B. Decisions.

1. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or other administrative body, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.
2. The decision of the Zoning Board of Appeals shall become final upon certification of the decision in writing, signed by the Chair of the Zoning Board of Appeals, or the approval of the minutes for the meeting at which the decision was reached, whichever occurs first.
3. No zoning compliance permit or building permit for a project that is reliant on the decision of the Zoning Board of Appeals shall be issued until the decision is final.

Section 13.4. Administrative appeals

A. An appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation or by any officer, Department, Board or Bureau affected by the requirements of this Ordinance or a decision of the Zoning Administrator or other official or board charged with the administering of this Ordinance.

B. An appeal from any decision or action shall be filed no later than 30 calendar days after the decision or action being appealed was taken. Where an appeal has been filed, the Zoning Administrator shall transmit to the Zoning

Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

- C. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of appeal has been filed, that by reason of facts stated in the certificates a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property; in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.
- D. The Zoning Board of Appeals shall give due notice to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appeal and testify before the Zoning Board of Appeals, either in person or by duly authorized agent or attorney.
- E. In exercising this power, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the official or board from whom the appeal is taken. The Zoning Board of Appeals may reverse an order of an administrative official or the Planning Commission only if it finds that the action or decision appealed meets one (1) or more of the following requirements:
 - 1. Was arbitrary or capricious.
 - 2. Was based on an erroneous finding of a material fact.
 - 3. Constituted an abuse of discretion.
 - 4. Was based on erroneous interpretation of the Zoning Ordinance or zoning law.

Section 13.5. Dimensional variances

- A. The Zoning Board of Appeals shall not grant a variance from a Zoning Ordinance requirement unless it finds that a practical difficulty exists. A practical difficulty is determined to exist if the Zoning Board of Appeals provides a positive answer to all of the following six questions and documents its findings:
 1. Would strict compliance with the zoning requirement unreasonably prevent the landowner or applicant from using the property for a permitted land use, or would strict compliance render conformity with the zoning requirement unnecessarily burdensome? The Zoning Board of Appeals shall not consider the cost to conform with the zoning requirement or financial return when reviewing this standard.
 2. Is the predicament caused by a unique circumstance related to the property? A unique circumstance is one that is not similarly shared by neighboring properties within the general vicinity and within the same zoning district. Unique circumstances are determined to exist if at least one of the following conditions are identified by the Zoning Board of Appeals:
 - a. Exceptional narrowness of the width or depth of a lot or parcel, or an irregular shape, as compared to a conforming lot or parcel.
 - b. Exceptional natural or topographic features located on the lot or parcel, such as steep slopes, surface water features, existing significant trees, or other unique or extreme physical conditions of the land.
 - c. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional features of the land.

- d. Other natural, topographic, built, or dimensional conditions or characteristics of land, lot, or parcel, which are determined by the Zoning Board of Appeals as exceptional or extraordinary.
3. Did the predicament result from a circumstance other than a self-created problem caused by the current landowner or any previous landowner? A self-created problem is described as one or more of the following conditions:
 - a. A problem that occurs when one can reasonably develop a property in a compliant manner, but the landowner or applicant's personal desires and preferences for property development do not align with zoning requirements.
 - b. A problem that occurs when a property is currently built-out under current zoning constraints, but the landowner or applicant's personal desires and preferences for expansion do not align with zoning requirements.
 - c. A problem that results from the action, preference, or desire of the landowner or applicant that is not a result of a unique characteristic of the property.
 - d. A problem that exists because the landowner, previous landowner, or applicant took a specific action that created the need for the variance, such as adjusting a lot line, constructing a building, or developing a site in a manner that does not allow future compliant construction, building expansion, or site development.
4. Will granting the requested variance, or a variance of a lesser degree, provide substantial justice to the landowner or applicant and neighboring landowners and occupants? Substantial justice to neighboring landowners and occupants means that the requested variance will not grant special privileges to the applicant that are denied to nearby, similar-situated properties located in the same zoning district.
5. Is it true that granting of the variance is not anticipated to impact public health, safety, welfare, and will it not impact the character of the area?
6. Will granting the variance align with the intent and spirit of the Zoning Ordinance and its requirements?

Section 13.6. Conditions of approval

The Zoning Board of Appeals may impose conditions upon an affirmative decision. These may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent land uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

- A.** Be designed to protect, as applicable, natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B.** Be related to a valid exercise of the police power and purposes that are affected by the proposed use or activity.
- C.** Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration

and be necessary to ensure compliance with those standards.

D. The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged, except upon the mutual consent of the Township and the landowner. The Township shall maintain a record of changes granted in conditions.

Section 13.7. Rehearing and reapplication

A. **Rehearing:** No rehearing on an application denied by the Zoning Board of Appeals shall be reconsidered except upon the grounds of newly discovered evidence or a falsehood previously relied upon that is discovered to be valid by the Zoning Board of Appeals. A rehearing shall be processed in the same manner as the original application, including payment of the required fee. A request for rehearing shall be made on behalf of the applicant by either the Township Board or Zoning Board of Appeals, within eight days.

B. **Reapplication:** No application for a variance, interpretation, or appeal that has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one year from the date of the last denial, except on proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

Section 13.8. Limitation on powers

A. **Use Variances not permitted:** The Zoning Board of Appeals shall not have the power to permit any use in a district in which it is not permitted.

B. **Special land uses.** The Zoning Board of Appeals may grant dimensional or other site plan related variances to the specific requirements for special land uses; however,

the Zoning Board of Appeals shall not have the power to reverse or modify the Township Board's decision to approve or deny a special land use permit, nor grant variances to any conditions placed on special land use approval.

C. **Planned unit developments.** The Zoning Board of Appeals shall not have the authority to reverse the decision of the Township Board on a PUD site plan, change any conditions placed by the Planning Commission or Township Board or grant variances to the PUD regulations. The Zoning Board of Appeals shall have the authority to hear and decide a request by an individual lot owner for an administrative appeal or variance applying to his/her property following final approval of the PUD, provided the variance does not impact any required common open space or natural area shown on the PUD site plan, violate any of the requirements of the PUD regulations, or affect or modify any conditions attached to the PUD approval.

D. Nothing herein shall be construed to grant to the Zoning Board of Appeals the power to alter or change the Zoning Ordinance or the official Zoning Map

Section 13.9. Official record; findings of fact

A. Minutes shall be kept of each meeting. The Zoning Board of Appeals shall record into the minutes all relevant findings, conditions, facts and other relevant factors, including the vote of each member upon each question and all of its official actions. To this end, the Zoning Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall, at a minimum, include the following items:

1. The relevant administrative records and orders issued relating to the appeal, variance or interpretation;

2. The notice of the appeal, variance, or interpretation, if required;
3. Such documents, exhibits, photographs or written reports as may be submitted to the Zoning Board of Appeals for its consideration.
4. The findings of the Zoning Board of Appeals, stating the facts of the application, the decision, any conditions of the decision and the reasons for reaching such a decision, including any applicable standards of review.

B. A decision of the Zoning Board of Appeals shall also be certified in writing, either by a certification denoting the decision for a specific request, signed by the Chair, or by approval by majority vote of the Zoning Board of Appeals of the official minutes of the meeting at which the decision was made.

Section 13.10. Miscellaneous

A. The order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for one year, during which time a building permit for the approved erection or alteration issued, construction is started and proceeds to completion in accordance with the terms of such permit.

B. The decision of the Zoning Board of Appeals shall be final. Appeals from decisions of the Zoning Board of Appeals shall be to the Circuit Court, as provided by the Zoning Act.

CHAPTER 14 ADMINISTRATION AND ENFORCEMENT

Section 14.1. Administration and enforcement

- A. An administrative official who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this Ordinance. He/she may be provided with the assistance of other persons as the Township Board may direct.
- B. If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance or to prevent violation of its provisions
- C. In carrying out the administration and enforcement duties of this Ordinance, the Zoning Administrator shall also act in accordance with the requirements of any other Township regulations regarding code enforcement, and may cooperate with the Zoning Enforcement Officer in the enforcement of the requirements of this Ordinance.

Section 14.2. Zoning compliance

- A. The Zoning Administrator shall have the authority to determine zoning compliance in accordance with the requirements of this Ordinance.
 - 1. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there

is a non-conforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance.

- 2. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building or parking area, or to commence the moving or alteration of any structure, including accessory buildings, exceeding 100 square feet in gross ground floor area, unless the plans, specifications and intended use of such structure conforms in all respects to the provisions of this Ordinance. The Zoning Administrator or, in the case of a single or two family structure or a structure accessory thereto, the Building Official, shall determine if the project complies with this Ordinance according to this Section.
 - a. It shall be unlawful for the Zoning Administrator to approve any plans or determine zoning compliance for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
 - b. Issuance of a zoning compliance determination shall in no case be construed as waiving any provision of this Ordinance.
 - c. The Zoning Administrator shall not refuse to issue a zoning compliance determination when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, County, and State regulations. Violations of private contracts, such as covenants or private agreements, which may result upon the granting of

the permit, are not cause for refusal to issue a determination.

- d. The Zoning Administrator may refuse to issue a zoning compliance determination to a property where there are unresolved or outstanding violations to any Township ordinance, including this Zoning Ordinance. Upon resolution of prior unresolved or outstanding violations, the Zoning Administrator shall issue the determination of zoning compliance in accordance with subparagraph c, above.
- e. When the Zoning Administrator receives an application that requires Planning Commission, Township Board, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- f. A zoning compliance determination shall not be made until all applicable fees, charges and expenses have been paid in full.
- g. In the case of a single or two family dwelling or an accessory structure on the same lot as a single or two family dwelling, the Building Official may determine zoning compliance during review of a building permit.

3. Zoning compliance review shall not be required for ordinary repairs or maintenance to one- or two-family residential dwellings or any structure accessory thereto, including but not limited to roofing, siding, and interior work, provided that such construction does not increase the gross ground floor area of the building by more than 100 square feet and/or does not change the use of the structure. In addition, zoning compliance review shall not be required for construction of a child's play structure in a side or rear yard.

- 4. A structure that does not require a zoning compliance review shall still comply with the requirements of this Ordinance.

Section 14.3. Zoning Administrator; additional duties

- A.** The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in the Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
- B.** The Zoning Administrator shall have the authority to review any and all plans, applications, and requests prior to such plans, applications, and requests being heard by the Planning Commission to determine completeness and conformance with the requirements of this Ordinance.
- C.** The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of the Ordinance.
- D.** The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.
- E.** The Zoning Administrator shall require every application for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan or sketch plan prepared in accordance with specifications of Chapter 11.
- F.** If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this ordinance and in conformance with the provisions of the building code, the Zoning Administrator shall determine that the project is in compliance with this Ordinance, provided all other requirements are satisfied. If the Zoning Administrator

determines that the project or use is not in compliance, the reasons for the rejection shall be stated in writing.

Section 14.4. Schedule of fees, charges and expenses established by the township

- A.** The Township Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning compliance reviews, appeals, Special Land Uses, variances, site plan reviews, rezoning applications, planned unit developments and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the Zoning Administrator and may be amended only by the Township Board. In the case of a permit or variance request where work or improvements have been completed prior to legal issuance of permits, the Township Board may require a higher fee.
- B.** An appropriate fee established by the Township Board shall accompany any application. Additionally, a separate deposit may be collected from the applicant, as determined by the Township Board, and used to reimburse another party retained by the Township to provide expert consultation and advice including, but not limited to, legal, planning and engineering professionals regarding the application. The amount of the deposit shall be based on a reasonable estimate to provide such services; however, the Township Board may, by resolution, adopt a minimum deposit. Any unused portions of this fee shall be returned to the applicant after the Township has paid all costs for consultant services.

Section 14.5. Interpretation

- A.** In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals,

safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or Ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that 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.** The Zoning Administrator shall interpret the terms, requirements and processes of this Ordinance. The interpretation of the text shall be narrow and based on common understanding of terms. Any determination of the Zoning Administrator may be appealed to the Zoning Board of Appeals, according to Section 13.4.

Section 14.6. Performance guarantee

In the interest of insuring compliance with this Zoning Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Township Board, Planning Commission or Zoning Board of Appeals as a condition of approval of the proposed use may require the applicant to deposit a performance guarantee as set forth herein to insure completion of improvements connected with the proposed use required by this Ordinance including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- A.** Performance guarantee as used herein shall mean a cash deposit or certified check in the amount of the estimated cost of the improvements to be made as determined by the

applicant and confirmed and verified by a representative of the Township.

B. Where the Township requires a performance guarantee, said performance guarantee shall be deposited with the Township prior to the issuance of a zoning compliance permit by the Township for the development and use of the land. Upon the deposit of the performance guarantee the Township shall issue the appropriate building permit and the Township Clerk shall thereafter retain said deposit, however, if said deposit is in the form of cash or certified check, then it shall be transferred to the Township Treasurer for deposit in an interest bearing account.

C. Where a performance guarantee is required by the Planning Commission as a condition of approval for a proposed use, the Planning Commission shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed, said period to run from the date of the issuance of the building permit.

D. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant amounts of money in reasonable proportions to the ratio of the work completed on the improvements by the applicant as confirmed by the Zoning Administrator, provided that a minimum of 10 percent shall be held back on each element until satisfactory completion of the entire project. The Zoning Administrator may solicit the opinion of a civil engineer licensed in the State of Michigan to determine the value of the work completed. The Township shall retain a portion of the guarantee after granting final approval to ensure final pavement wearing course is complete and that landscaping is established.

E. Upon the satisfactory completion, as determined by the Township, of the improvement for which the performance

guarantee was required, the Clerk shall notify the Treasurer of the Township to return to the applicant the performance guarantee deposited. The Township may retain up to 10 percent to cover any administrative or consultant costs directly associated with review and inspection of the improvements.

F. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited thereon to complete improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements.

G. In the event the applicant defaults in making the improvements and the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay to the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited.

Section 14.7. Amendments and rezoning

A. Amendment to this Ordinance may be initiated by the Township Board on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing an application therefore with the Township Board. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance through the Zoning Administrator and also recommend Ordinance amendments to the Township Board for adoption. Notwithstanding the above, if a request for a rezoning is filed by a person, firm or corporation, the applicant shall

show proof of ownership or other demonstrable interest in the property in question.

B. The following guidelines shall be considered by the Planning Commission and Township Board, in consideration of amendments to the Zoning Ordinance:

1. Text amendment

- a. The proposed text amendment would clarify the intent of the Ordinance.
- b. The proposed text amendment would correct an error in the Ordinance.
- c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan, or effect the implementation of the Master Plan.
- d. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
- e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
- f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
- g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.

h. As applicable, the proposed change shall be consistent with the Township's ability to provide adequate public facilities and services.

i. The proposed change shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community.

2. Map amendment (Rezoning)::

- a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Antwerp Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, consistency with recent development trends in the area.
- b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
- c. Whether, if rezoned, the site is capable of the accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.
- d. Other factors deemed appropriate by the Planning Commission.

C. Amendment Procedure

1. **Filing of Applications:** All petitions for amendments to this Ordinance shall be in writing, signed and filed with the Zoning Administrator, who will forward them to the

Planning Commission upon a determination that the application is complete.

2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
 - a. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
 - b. The nature and effect of the proposed amendment.
 - c. If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the township, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting properties, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 - d. Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
 - e. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
3. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one public hearing, notice of which shall be given in accordance with the requirements of the Zoning Act. All notices of public hearing shall state the time, date, place and purpose of the public hearing.
4. Following the public hearing, the Planning Commission shall submit the proposed amendment with its recommendation and public hearing summary to the County Planning Commission for advisory review and recommendation. The County Planning Commission has up to 30 days to respond unless the County Board of Commissioners has passed a resolution waiving County right of review.
5. The Planning Commission shall then refer the proposed amendment to the Township Board along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore along with any response by the County Planning Commission on the proposed amendment.
6. The Township Board, upon receipt of the recommendation of the Planning Commission, may, at its discretion, hold a public hearing on the amendment, after publication and notice in accordance with the requirements of the Zoning Act.
7. The Township Board may modify and subsequently adopt the proposed amendment, or adopt it as presented by the Planning Commission. The Township Board may refer any proposed modifications back to the Planning Commission for additional comment.
8. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the Township Clerk, and one notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.
9. Within seven days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the Township with a certification of the Township Clerk stating the vote on passage and

when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the map within seven days after enactment of the amendment.

Section 14.8. Conditional rezoning

A. The Township Board recognizes that there are certain instances where it would be in the best interest of Antwerp Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this Section to provide a process by which an applicant seeking a change in zoning boundaries may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.

B. In addition to the requirements of Section 14.7 above, an applicant requesting a change in zoning boundaries may propose a Zoning Agreement, as defined in this Section. The required application and process shall be the same for rezoning requests except as modified by the requirements of this Section.

C. Definitions. The following definitions shall apply to this Section:

1. Rezoning offer shall mean conditions proposed by the applicant and approved by the Township, processed as part of an approval under this Section. These conditions shall constitute requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.

2. Zoning agreement shall mean a written agreement offered by the applicant and approved and executed by the applicant and the Township and recorded with the Van Buren County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When applicable, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan as outlined in Section 11.3 or other approvals that may be required by this Ordinance.

D. Eligibility.

1. An applicant for rezoning may also submit a proposed Zoning Agreement. This election shall be made at the time the rezoning is filed, or may be made at a later time during the rezoning process. Election to file a rezoning with a Zoning Agreement shall be pursuant to the Zoning Act, as amended, and this Section.
2. In order to be eligible for the proposal and review of a rezoning with a Zoning Agreement, an applicant must propose a rezoning of property and voluntarily offer certain conditions to be set forth in a Zoning Agreement, which are equally or more restrictive than the regulations that would otherwise apply under the proposed new zoning district.

E. Zoning agreement.

1. The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:

- a. The applicant proposed the Zoning Agreement and the Rezoning Offer voluntarily, and that the Township relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.
- b. The Zoning Agreement and its terms and conditions are authorized by all applicable State and Federal law and constitution, and that the Zoning Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the Township.
- c. The property shall not be developed and/or used in manner that is not consistent with the Zoning Agreement.
- d. The approval and the Zoning Agreement shall be binding upon the property owner and the Township, and their respective heirs, successors, assigns, receivers or transferees.
- e. If a rezoning with a Zoning Agreement expires in accordance with Section 14.7.K or otherwise becomes void in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.

2. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification

and the specific use(s), activities, or conditions authorized.

3. No part of the Zoning Agreement shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

F. Rezoning offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not permitted in the new zoning district; nor may any variances from height, area, setback, parking or similar dimensional requirements in the Zoning Ordinance of Antwerp Township be allowed unless a variance has been previously granted by the Zoning Board of Appeals pursuant to the requirements of Chapter 13.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a Special Land Use Permit and/or Site Plan Review shall be approved as required prior to establishment of or commencement of development of the use.
3. The Rezoning Offer shall bear a reasonable and rational relationship and/or benefit to the property in question.
4. The Rezoning Offer may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use, and/or may impose more restrictive measures on the location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks,

landscaping, buffers, design, architecture and other features.

5. The Rezoning Offer may also include conditions related to the development of the property that are consistent with the intent of this Section and applicable State, Federal and local regulations. These conditions may include, for example, extension of or improvements to infrastructure serving the site, site-specific improvements intended to minimize the impact of the development on surrounding properties, or such other conditions as deemed important to the development by the Applicant.
6. A Rezoning Offer that includes provisions for preservation of natural features and/or open space, facilities for drainage, facilities for traffic and access, and similar activities that take place on private land shall include a written understanding for permanent maintenance of such features or improvements by entities other than Antwerp Township, unless a separate agreement for dedication of the property to the public has been executed. The Zoning Agreement shall also contain a provision for authorization and finance of maintenance by or on behalf of the Township, after notice, in the event that the property owner(s) fail(s) to timely perform necessary maintenance.

G. Procedure for application, review and approval

1. An application for rezoning shall be the same as outlined in Section 14.7. In addition to the required materials listed in Section 14.7.C, a Zoning Agreement in a recordable format acceptable to the Township shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.

2. The application may be amended during the process of consideration, provided that the applicant voluntarily enters any amended or additional Rezoning Offers.
3. The Township Attorney shall review the Zoning Agreement prior to the required Planning Commission public hearing. The Township Attorney shall determine that the Zoning Agreement conforms to the requirements of this Section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is in a form acceptable for recording with the Van Buren County Register of Deeds.

H. Standards of review

1. Following the public hearing, and further deliberations as deemed necessary by the Planning Commission, the Planning Commission shall make a recommendation based upon the Review Considerations of Section 14.7.B. In addition, the Planning Commission shall consider whether the proposed Zoning Agreement and the Rezoning Offer:
 - a. Are consistent with the intent of this Section.
 - b. Bear a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - c. Are necessary to ensure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties;
 - d. Are necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed Zoning Agreement and Rezoning Offer.
 - e. Lead to a better development than would have been likely if the property had been rezoned without

a Zoning Agreement, or if the property were left to develop under the existing zoning classification.

- f. Are clearly in the public interest, as compared to the existing zoning and considering the site-specific land use proposed by the applicant. In making this determination, the Planning Commission shall find that the benefit to the public as a result of approving the rezoning and Zoning Agreement clearly outweigh any reasonably foreseeable detriments.
- g. The Planning Commission may recommend approval, approval with recommended changes (related to the Zoning Agreement), or denial of the rezoning and Zoning Agreement; provided however, that any conditions which add to or amend the Rezoning Offer are acceptable to the applicant and the applicant has acknowledged this acceptance.
- h. Upon receipt of the Planning Commission's recommendations, the Township Board shall deliberate upon the rezoning and Zoning Agreement. The Township Board shall approve or deny the Zoning Agreement, provided that any conditions that add to or amend the Rezoning Offer are acceptable to the applicant and the applicant acknowledges this acceptance.

I. Revisions by the township board

- 1. Should a Rezoning Offer be revised following the Planning Commission public hearing and recommendation, the Township Board shall be required to conduct its own public hearing, in accordance with the requirements of the Zoning Act.

- 2. Alternatively, should the Township Board determine that the revisions are of such substantial nature or effect that they are significantly different from the Zoning Agreement reviewed by the Planning Commission, the Township Board shall have the option to remand the application to the Planning Commission to hold a public hearing on the Zoning Agreement as revised and submit a report and recommendation to the Township Board.
- 3. If an applicant proposes a Zoning Agreement after the Planning Commission has held a public hearing and made a recommendation on a rezoning request, the Township Board shall first remand the application to the Planning Commission, who shall hold a new public hearing on the rezoning and proposed alternative Zoning Agreement and submit a report and recommendation to the Township Board.

J. Approval

- 1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement (i.e., "R-2a"). The Township Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
- 2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Rezoning Offer shall

supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.

3. The applicant shall record the approved Zoning Agreement with the Van Buren County Register of Deeds, with proof of recording provided to the township.
4. Prior to development, a site plan shall be approved in accordance with Section 11.3, if otherwise required.
5. Upon approval, all use and development of the property shall be in accordance with the approved Zoning Agreement. Any violation of the Zoning Agreement shall be considered a violation of the terms of this Ordinance, and is subject to the remedies and penalties provided herein.

K. Expiration

1. Unless extended by the Township Board for good cause, the rezoning and Zoning Agreement shall expire two (2) years after adoption of the rezoning and Zoning Agreement, unless approved development of the property pursuant to building and other required permits issued by the Township commences within the two (2) year period and proceeds diligently to completion.
2. In the event that approved development has not commenced within the aforementioned two (2) years, the Zoning Agreement shall be void and of no effect.
3. Should the Zoning Agreement become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the Township is taken to bring the property into compliance with the Zoning Agreement, the Township may withhold or, following notice to the owner and a public hearing, revoke permits and

certificates (in addition to or in lieu of any other lawful action to achieve compliance).

4. If the property owner applies in writing for an extension of the Zoning Agreement at least fifty (50) days prior to the expiration date, the Township Board may, after recommendation by the Planning Commission, grant an extension of up to one (1) year. No further extensions may be granted.
5. If the rezoning and Zoning Agreement becomes void as outlined above, then the land shall revert back to its original zoning classification as set forth in the Zoning Acts. The reversion shall be initiated by the Township with notice and hearing as required for rezonings by the Zoning Act and this Ordinance.
6. Nothing in the Agreement, nor any statement or other provision shall prohibit the Township from rezoning all or any portion of the property that is part of the Agreement to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Act.

L. Continuation

1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
2. Failure to comply with the Zoning Agreement at any time after approval, in addition to being a violation of the Zoning Ordinance, may also constitute a breach of agreement. Further use of the property may be subject to legal remedies available to the Township.

M. Amendment

1. During the initial two (2) year period, or during any extension granted by the Township as permitted above, the Township shall not add to or alter the Rezoning Offer in the Zoning Agreement.
2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement.

Section 14.9. Revocation of approvals

Any zoning compliance approval, special land use or site plan approval may be revoked after determination that one (1) or more of the following circumstances exist:

1. A material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.
2. There has been a material departure from the commitments made and the requirements of an approved plan.
3. Material and substantial pollution, impairment or destruction of the environment, or to another legally protected public interest, would occur if the project were to be constructed as previously approved.
4. Failure to perform, unless due to actions or circumstances beyond the applicant's control.

B. Proper notice shall be given prior to revocation of the approval. The Zoning Administrator may revoke zoning compliance permits. If the Planning Commission approved a site plan, they shall vote on the revocation. The Planning Commission shall hold a public hearing on revocation of a

plan that was originally approved or recommended by the Planning Commission after a public hearing.

Section 14.10. Public hearings

In instances where a public hearing before the Planning Commission or the Zoning Board of Appeals is required or is optional under this Ordinance and/or the Zoning Act, written notice of the public hearing shall conform to the requirements of the Zoning Act.

Section 14.11. Violations and penalties

A. Violation. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

B. Municipal Civil Infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum	Maximum
	Fine	Fine
-1st Offense	\$ 150.00	\$ 500.00
-2nd Offense	\$ 250.00	\$ 500.00
-3rd Offense	\$ 350.00	\$ 500.00
-4th or More Offense	\$ 500.00	\$ 500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Antwerp Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 be ordered.

C. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

Section 14.12. Stop work order

A. Upon notice from the Zoning Administrator or Township Building Inspector, or the Township Ordinance Enforcement Officer acting on behalf of the Township, that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.

B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

Section 14.13. Severability clause

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 14.14. Repeal of prior ordinance

The Zoning Ordinance previously adopted by the Township and all amendments thereto, are hereby repealed. The repeal of the prior Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

Section 14.15. Effective date

A. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven days after publication of a "Notice of Ordinance Adoption" in a newspaper circulating within Antwerp Township. Publication shall be preceded by a public hearing and by approval of the Antwerp Township Board, in that order.

B. This Zoning Ordinance shall become effective on the 25th day of February, 2011.

I, Heather Mitchell, the duly elected clerk for Antwerp Township, do hereby certify that the foregoing zoning ordinance was duly adopted at a regular meeting of the Antwerp Township Board on February 8, 2011.

