

ARTICLE VII: SUPPLEMENTAL SITE DEVELOPMENT STANDARDS

Section 7.01 Supplemental Site Development Standards

Those permitted uses and uses allowed by Special Use Permit enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements. The uses listed in this article are only allowed as listed in the Article III: Zoning Districts and Map.

1. **Bed and Breakfast Establishments:**

Bed and breakfast establishments shall be subject to the following regulations:

- A. Bed and Breakfast Establishment as an Accessory Use: The bed and breakfast establishment shall be clearly incidental to the principal residence.
- B. Principal Residence: The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- C. Maximum Number of Units: No more than four (4) bed and breakfast sleeping rooms shall be established.
- D. Kitchen Facilities: There shall be no separate cooking facilities for the bed and breakfast establishment, other than those, which serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast facility.
- E. Building Requirements: A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
 - 1) There shall be at least two (2) exits to the outdoors.
 - 2) Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus and additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
 - 3) Each sleeping room shall be equipped with a smoke detector.
- F. Parking: An off-street parking spot shall be provided for bed and breakfast unit, in accordance with this Ordinance. Off-street parking in the front yard is prohibited.
- G. The number of bathrooms and septic system size shall meet District Health Department requirements.

2. **Campgrounds:**

- A. A minimum lot size shall be ten (10) acres, and not less than six hundred (600) feet width.
- B. The lot shall provide direct vehicular access to a public road. The term "lot" shall mean the entire campground or travel trailer park.
- C. Each campground shall be provided with at least one (1) public phone.

- D. All sanitary stations, privies, or any sanitary facilities shall be located at least one hundred (100) feet from property lines.
- E. Campground perimeter shall be completely screened by natural terrain, neatly finished and well-maintained wooden fence or masonry wall, or by well maintained live evergreens.
- F. Campsites shall be located at least fifty (50) feet from property lines.
- G. All campgrounds and trailer courts shall comply with State of Michigan Health Department requirements.
- H. No person shall occupy any campsite for more than six (6) weeks in any one year.

3. **Cemeteries:**

- A. Location: No portion of any cemetery that is located in a wetland shall be developed or platted for gravesites.
- B. Accessory Buildings: A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission Approval.
- C. Setbacks: No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than fifty (50) feet to the boundary line of any residential or commercial district.

4. **Funeral Home or Mortuary:**

Funeral Home or Mortuary property shall have direct vehicular access to a public road. Funeral home or mortuary property shall be at least one hundred fifty (150) feet of lot width. All uses, off-street parking areas, and loading areas are accommodated on site, without encroachment into the setback areas. The service entrance to the building shall be screened from view of adjoining residential properties, or contained within the confines of the building.

5. **Gasoline / Service Station:**

- A. Minimum lot size shall be twenty thousand (20,000) square feet for a Service station or repair garage and twelve thousand (12,000) square feet for a filling station.
- B. Minimum lot width shall be one hundred twenty (120) feet for a service station, repair garage and one hundred (100) feet for a filling station.
- C. An automobile service station building, repair garage or main building for a filling station shall be located not less than forty (40) feet from the road right-of-way or less than twenty-five (25) feet from the side or rear lot line of any adjoining

residential property or less than twenty-five (25) feet from the side or rear lot line of adjoining commercial or industrial property.

- D. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which such facility is located.
- E. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining road, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, road or public right-of-way.
- F. When adjoining residential property, a masonry wall at least five (5) feet in height shall be constructed parallel to the property line of such residential property. All masonry walls shall be protected by a fixed curb or other barrier to prevent vehicular contact.
- G. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a masonry wall at least five (5) feet in height. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
- H. All exterior lighting shall comply with **Section 6.15 – Outdoor Lighting** of this Ordinance.
- I. On a corner lot, both road frontage sides shall conform to all applicable front yard regulations of this ordinance.
- J. Parking and stacking spaces shall be provided subject to the **Section 6.19 – Off-Street Parking, Loading and Unloading Requirements and Standards**.

6. **Junk and Salvage Material Storage:**

Section 6(a). **Junk Storage:** Junk shall be stored, placed or otherwise located only within a completely enclosed building.

Section 6(b). **Salvage Material Storage:** Any open storage yards or areas used for the storage of salvage materials shall be entirely enclosed by an eight (8) foot high obscuring wall or fence, or a hedge of a minimum height of eight (8) feet. No salvage yard facility (or outside junk storage yard or area) shall be nearer to the exterior boundary of the Light Industrial District than one hundred (100) feet.

7. **Kennels or Veterinary Clinic/Hospital:**

- A. All kennels shall be operated in conformance with County and State regulations and shall be on sites of at least five (5) acres. Veterinary clinics or hospitals shall be located on sites of at least one (1) acre in size.
- B. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, which ever is greater.
- C. Any fenced areas shall be screened from adjacent properties and/or roads with an opaque fence or a vegetated evergreen buffer at least five (5) feet in height.

- D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- E. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8 a.m.
- F. All principal use activities shall occur within an enclosed main building.

8. **Manufactured Home Developments:**

Manufactured home developments shall be subject to the following conditions:

- A. Manufactured home developments shall be developed and licensed pursuant to the requirements of the Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.
- B. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

9. **Mobile Homes and Trailers, Other Uses:**

Mobile homes, travel trailers and motor homes may be used as follows:

- A. Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued, subject to the conditions of this Ordinance. The temporary dwelling shall be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed upon issuance of an Occupancy Permit for the main use.
- B. Mobile homes may be used as a temporary contractor's office and/or equipment shed in any district when in connection with a construction project and authorized by the Zoning Administrator.
- C. The unoccupied storage of a motor home or travel trailer, not a mobile home, on any residential property by the owner thereof shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage

is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views are created for the adjoining property.

10. **Motels and Hotels:**

- A. Motels and Hotels shall have a minimum lot width of one hundred fifty (150) feet at the road line.
- B. There shall be at least eight hundred (800) square feet of lot area per guest room.
- C. Each unit shall contain at least a bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
- D. Motels shall provide customary motel services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.
- E. Parking and stacking spaces shall be provided subject to the ***Section 6.19 – Off-Street Parking, Loading and Unloading Requirements and Standards.***

11. **Nursing Homes, and Assisted Living Facilities:**

Nursing and convalescent homes, medical care facilities and similar uses shall meet the following requirements.

- A. The minimum lot size for such facilities shall be five (5) acres.
- B. Such uses shall front County road and the main means of access for residents or patients, visitors, and employees shall be via the road.
- C. Any such facility shall provide a minimum of fifteen hundred (1,500) square feet of outdoor open space for every room used or intended to be used. The open space shall be landscaped and shall include places for walking and sitting. Off-street parking areas, driveways, and accessory uses or areas shall not be counted as required open space.

12. **Planned Unit Development**

A. **Intent**

The intent of the Planned Unit Development is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a Planned Unit Development is within the parameters and intent of this Ordinance is completely upon the applicant. The Township Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this Ordinance. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, type of

dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure.

B. Criteria

A Planned Unit Development shall be judged against the criteria outlined below. The discretionary judgmental process shall follow, first the procedures specified in this subsection and second other conditions specified in this Ordinance, such as under the General Provisions and Supplemental Site Development Standards.

1) Size

- a) A Planned Unit Development shall be of sufficient size to contain on the site both physically and aesthetically not only the development proposed but also any effects of such development that would ordinarily be apparent and different from the effects of permitted uses on the adjacent properties.
- b) The maximum density for any residential portion of a development (dwelling units per acre) shall be based on the standards set forth in **Section 3.09**. Underwater areas, such as lakes, streams, ponds, and similar watercourses shall not be included as part of the total lot area in the calculation of density.
- c) A PUD located in an Rural Residential - Agricultural district shall have building sites not more than one acre in size to encourage clustering of residential development, allow for the continuation of agricultural practices and the protection of open space.
- d) At least fifty (50) percent of the total land area shall be designated as dedicated open space. The open space may consist of areas which contain physical characteristics that limit the development potential such as steep slopes or wetlands.

The required open space shall be set aside by the developer in a conservation easement or deed restriction placed on the property, whereby the open space shall be developed according to an approved site plan. Said conveyance shall specify that the open space is an integral component in the overall development for the use and enjoyment of the residents within the Planned Unit Development.

Such conveyance shall:

- (i) Provide for the privately owned open-space to be maintained and the provisions of the conservation easement or deed restriction to be enforced by the private property owners.
- (ii) Provide maintenance standards and a maintenance schedule.
- (iii) Grant the Township the right, but not the obligation, to enforce the provisions of the conservation easement or deed restriction, if in the Township's opinion such provisions are not adequately enforced by the property owners.
- (iv) Be held by two entities, one being the Burt Township and the other the landowner's association, land conservancy or

other entity found acceptable to the Burt Township Planning Commission.

2) Unified Control

The proposed development shall be under single ownership or control, such that there is a single person or entity having 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 that indicate that the development will be completed in its entirety as proposed.

3) Internal Design Standards

- a) A Planned Unit Development shall be designed so as to provide future users, residents, visitors, and public service personnel with light, air, privacy, circulation patterns, park areas, and public services equal to or greater than those required of the same uses in any zoning district where they are permitted within Burt Township.
- b) The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission as a condition of approval may require that the open space development preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The planned unit development shall clearly show the location of existing natural features in relation to the proposed buildings, roads, parking areas, areas to be graded and other project elements.
- c) Direct access from a paved minor or major thoroughfare to a planned unit development is required. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).
- d) All private roads shall be constructed within a permanent right-of-way easement duly recorded with the Cheboygan County Register of Deeds. Such easements shall be a minimum of forty feet in width, unless additional right-of-way is required for adequate construction. At any dead-end or cul-de-sac, the easement shall widen to a minimum radius of sixty feet.
- e) Applicable district setbacks will apply, with the exception that no dwelling shall be allowed closer than fifty (50) feet to an exterior property line.

4) External Effects

A Planned Unit Development shall be designed so as not to create any significant negative impact upon adjacent properties, residents, or public facilities.

C. Approval Procedures

1) Pre-Application Meeting

The procedure of application and approval of a PUD permit shall include one (1) or more informal conferences between the applicant and Zoning

Administrator. The applicant shall inform the Zoning Administrator of the applicant's general intentions at this time. The Zoning Administrator may request or recommend the applicant request representatives from Township or County agencies (department of public works, fire department, county sheriff and other agencies) to attend such informal conferences. After consideration of comments from the pre-application meetings, the applicant shall prepare a preliminary plan. In no case, however, shall any representations made by the Planning Commission at the pre-application conference be construed as expressing a position on whether the site plan should be denied, approved, or approved with conditions.

2) Requirements of Preliminary Plan

Following the Pre-application Conference, the applicant may file a PUD application with the Zoning Administrator in order to receive a formal Planning Commission review of a Preliminary Planned Unit Development Plan for the subject property. The applicant shall submit eight (8) copies of Preliminary Planned Unit Development Plan with the PUD application, at least thirty (30) days prior to the date of the Planning Commission meeting at which a Public Hearing on the Plan is to be scheduled. The Zoning Administrator shall review the submitted site plan application and if determined to be complete, (all required information provided), shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting. If the application is not complete, the Zoning Administrator shall send a letter to the applicant identifying the deficiencies.

The Preliminary Planned Unit Development Plan shall provide all the information specified under **Section 4.03 (3) Site Plan Review-Site Plan Data Required.**

3) Planned Unit Development Review Procedure

- a) Public Hearing: Township Planning Commission shall schedule, place one notice in a newspaper of general circulation not less than 15 days prior to the hearing, and conduct a public hearing on the Planned Unit Development Preliminary Plan.
- b) Approval / Action: Following the public hearing, the Township Planning Commission shall approve, disapprove or approve subject to specified conditions / revisions to the proposed Planned Unit Development. If the required conditions or revisions are, in the opinion of the Planning Commission, substantive in nature, a second public hearing shall be held. Approvals shall be valid for twelve (12) months. If a final plan is not submitted within twelve (12) months the preliminary approval shall become null and void.
- c) Final Approval: A final plan shall be prepared incorporating any changes specified as part of the preliminary approval. The Zoning Administrator shall review the final plan for compliance with the provisions of the preliminary approval. If found to be in compliance, the Zoning Administrator shall issue a final approval and shall notify appropriate agencies that construction permits may be issued. Final approval shall be valid for twelve (12) months. If construction permits are not obtained within this time, the approval shall become null and void.

- d) Performance Bonds: To ensure compliance with the approved final plan, the Township may require a deposit, (cash, certified check, irrevocable bank letter of credit, or security bond), to cover the estimated cost of improvements. See **Section 9.06 – Performance Guarantee** in this Ordinance.

D. Fees

Fees for PUD Project Master Plan review shall be established or revised by resolution of the Township Board of Trustees, as per **Section 9.05 Fees**.

13. Public Buildings, Institutions and Places of Worship:

Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting and traffic.

Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.

14. Recreation Camps:

Recreation camps, recreation lodges and resorts for either profit or non-profit shall be subject to the following conditions:

- A. The use is established on a minimum site of twenty (20) acres.
- B. All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100 foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in healthful growing conditions. Planted greenbelts may be required by the Planning Commission as deemed necessary.
- C. The recreational camp use shall not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are deemed by the Planning Commission to be a logical extension of such a platted area.

15. Recreational Areas, Public Lake Access and Facilities:

All recreation lands and/or facilities, subject to findings that the uses are compatible with the surrounding residential area, the uses respect the environmental qualities of the site, noise levels do not exceed those of typical residential areas and no inordinate obstructions to scenic views are established. Recreational uses permitted herein include parks, playgrounds, and public lake access. No such facilities shall have a commercial appearance or be of a commercial character.

16. **Sand and Gravel Extraction**

- A. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership, or any other organization or entity to strip greater than 2,000 cubic yards of topsoil, sand, clay and gravel or similar material, or to use lands for filling within the Township without first submitting a site plan and procuring approval from the Planning Commission.
- B. A separate site plan approval will not be required for excavation or fill activities associated with building construction pursuant to a duly issued building permit. However, where sand, gravel, topsoil, or other substances are removed from the site where found and taken to another site, site plan approval is needed for the receiving site.
- C. Site plan application. A separate site plan shall be required for each separate excavation or fill site. In addition to the site plan requirements listed in **Section 4.03 (B) Site Plan Review (All Districts) - Site Plan Data Required**, a site plan prepared under this section shall also include:
 - 1) Names and addresses of parties interested in said premises setting forth their legal interest in said premises.
 - 2) Full legal description of the premises where operations are proposed.
 - 3) Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
 - 4) Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
 - 5) Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
 - 6) Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether the site plan should be approved or not.
- D. The sand and gravel operations application shall provide information to confirm compliance with the following standards:
 - 1) **Hours of Operation**

The operation of mechanical equipment of any kind shall be limited by the day and/or the hour. Site Specific Hours of Operation for mining, processing and reclamation activities must be approved, but shall not exceed the following schedule Monday through Saturday, excluding legal holidays, during the following times:

 - a) Mining or extracting operations, and processing and stockpiling of aggregates shall occur only between the hours of 7:00 a.m. and 6:00 p.m.
 - b) Loading and hauling operations shall occur only between the hours of 7:00 a.m. and 8:00 p.m.
 - c) Equipment maintenance and repair shall occur only between the hours of 7:00 a.m. and 9:00 p.m.
 - 2) **Screening**

Fences, berms, walls, and visual screening devices may be required, if necessary, in the opinion of the Planning Commission, to protect adjoining properties and/or ensure the health, safety and welfare of persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed

- 3) *Noise, Dust, Debris*
All processing equipment and activities and all storage areas shall be treated, covered, muffled, or otherwise controlled to prevent excessive dust, debris, or other impacts beyond the property line. Noise levels shall not exceed 70 dBA at the property line. Any trucks hauling material to or from the site shall be enclosed or covered to prevent materials from blowing or falling out of the trucks.
- 4) *Groundwater Impact*
Extractive operations shall be managed and designed so as to not cause any negative impact on groundwater and potable water supply, whether as a result of contamination or reduction in the rate and volume of flow.
- 5) *Road Impact*
 - a) Extractive operations shall be managed and designed so as to have minimum negative impact on existing roadways. The truck route to be utilized in the accessing of the extraction site shall be designated and subject to approval by the Planning Commission.
 - b) Dust caused by truck traffic of the entrance drive to be treated as needed with dust suppression material.

E. **Reclamation Plan**

A reclamation plan, which shall include all information required by any State or federal agency having jurisdiction and which includes the following:

- 1) Description and location of each phase, number of acres included in each phase, estimated starting and termination dates for each phase and the amount of time that will be required to complete the entire reclamation operation. All areas shall be reclaimed progressively as the mining in that area is completed. Reclaimed areas shall be reasonably natural and inconspicuous, lacking in hazards and in a condition that the area can be reused for an allowable use in the district in which the site is located. All slopes and banks shall be graded to angles that do not exceed those found in the natural topography of the surrounding areas, and the banks shall be treated to prevent erosion.
- 2) Provisions for grading, drainage (especially agricultural field tiles) revegetation, and stabilization that will minimize soil erosion, sedimentation and public safety problems.
- 3) Description of proposed future land uses.
- 4) Description of plans for disposition of all structures, roads, drains or related facilities after cessation of the extractive operation.
- 5) A plan for disposal or treatment of all harmful or toxic materials found in any formations penetrated by the extractive operation or produced during the processing of minerals on the site and of chemicals or materials used during the extractive, processing or reclamation operations.
- 6) All information required as part of a reclamation plan that is required by state or federal law.

17. **Sanitary Landfill:**

All sanitary landfill operations shall comply with standards prescribed by applicable State and County health regulations.

18. **Sawmills and other Mills:**

Sawmills, planing mills, veneer mills and accessory or incidental mill operations involving logs, "unprocessed timber" and/or rough sawn lumber, are permitted provided:

- A. The use involves the processing of raw timber and/or rough lumber and shall not include retail lumberyard businesses or hardware supplies, paints, and the like. Log and lumber storage uses are permissible accessory uses.
- B. The land area of the mill site shall be at least ten (10) acres with a minimum lot width of six hundred and sixty (660) feet.
- C. Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathers, etc.), shall not be located closer to an off-premises residence than five hundred (500) feet, unless the owner of the residence signs a statement agreeing to a lesser setback.
- D. Log storage and sawn timber or lumber shall not be located nearer than five hundred (500) feet from an off-premises residence unless the owner signs a statement agreeing to a lesser setback.
- E. The location of a proposed mill is determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, and residential environments where applicable and Township Community Master Plan for the area. The mill location shall be determined to be good land use.

In considering applications for forest industries the Planning Commission may permit modifications to the standards in items A through E, where owing to natural or man-made conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, other natural barriers, existing uses, and the like.

Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on property where the timber harvesting involves only those resources found on the same property. No permit shall be required where the operation involves a period of less than six (6) months on the same property or zoning lot.

19. **Sexually Oriented Business**

The purpose and intent of the section of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and

their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

- A. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
- B. No sexually oriented business shall be established on a parcel which is within one thousand (1,000) feet of any parcel zoned RR, R-1, WR or MR.
- C. No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence.
- D. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
- E. The proposed use must meet all applicable written and duly promulgated standards of Burt Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- F. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent roadways.
- G. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- H. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- I. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.

- J. Hours of operation shall be limited to 12:00 PM (noon) to 12:00 AM. (Midnight)
- K. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - 1) Shall be handicap accessible to the extent required by the Americans With Disabilities Act;
 - 2) Shall be unobstructed by any door, lock, or other entrance and exit control device;
 - 3) Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - 4) Is illuminated by a light bulb of wattage of no less than 25 watts;
 - 5) Has no holes or openings in any side or rear walls.

L. Review Procedures for Sexually Oriented Businesses

The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.

- 1) If the Planning Commission determines that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within five (5) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
- 2) If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in **Section 19 (A-K)**. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.
- 3) Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The Township shall have within five (5) business days of the receipt of such written notice to do the following:
 - a) File a petition in the Circuit Court for the County seeking a judicial determination with respect to the validity of such denial, and in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the Township Zoning Ordinance;
 - b) Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within ten (10) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before

the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Township shall be required to waive its application for preliminary injunction and shall join in such request.

In the event that the applicant does not waive notice and/or does not request any early hearing on the Township's application for permanent injunction, it shall never the less be the duty of the Township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.

The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of the Township's petition, a show-cause hearing has not been scheduled.

20. **Stables, Commercial:**

- A. Commercial stables shall be on sites of at least ten (10) acres in size.
- B. Commercial facilities for horseback riding shall be subject to the review and approval of the Planning Commission, who shall find that animal housing facilities are located at least three hundred (300) feet from any off-premises residential structure.

21. **Storage Facilities:**

- A. Storage uses as allowed in Light Industrial (I), including mini-storage, shall meet the following regulations:
 - 1) All proposed storage buildings nearest to the primary access road shall be site planned to be perpendicular to the road; landscape screening may be required by the Planning Commission per subparagraph 3) of this section.
 - 2) Proposed storage buildings are positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings are set back at least one hundred (100) feet from public road right-of-way lines.
 - 3) Effective year-round landscape screening is required to shield storage buildings from bordering public roads upon installation of proposed plant materials.
 - 4) Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal roads within a planned industrial or commercial park.

- 5) Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, shall be within an enclosed building or behind an obscuring wall or fence on those sides abutting any Residential District and on any yard abutting a public thoroughfare.

22. **Towers and Antennae Facilities**

Antenna towers and masts for cellular phone and other personal or business communications services authorized as a special use by the Planning Commission. Antenna towers and masts erected and operated as a residential accessory use, and not more than fifty (50) feet in height as measured between the tower's base at grade and its highest point erected, are exempt from the provisions of this Section.

A. **Application Requirements**

In addition to the application requirements of Article V of this Ordinance, an application for a special use permit for a tower or antennae facility shall include all of the following information, unless expressly indicated otherwise. If the zoning administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the tower or antennae facility shall not proceed until all required information has been supplied.

- 1) Documentation that clearly establishes legal ownership of the tower and a signed commitment that the applicant, its agents, successors, and assigns shall report to the Planning Commission any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.
- 2) An analysis of alternative options, such as co-locations and documentation that a new tower is necessary.
- 3) A visual impact analysis, depicting the anticipated visual appearance of the tower from important vantage points in the surrounding area. Visual impact analysis methods to be approved by the zoning administrator.

B. **Standards for Approval of Tower or Antennae Facilities**

The Planning Commission shall approve, or approve with conditions, an application for a tower or antennae facility only upon a finding that the proposed tower or antennae facility complies with the standards contained in Section 5.02.3 of this Ordinance and all of the following applicable standards:

- 1) A tower or antennae shall not exceed the minimum height necessary to serve its intended functions. Tower height shall not exceed two hundred feet.
- 2) Equivalent service can not be provided by locating the antennae on an existing tower or other tower in the Township or neighboring community.
- 3) The floor area and height of the tower and an ancillary building shall be the minimum necessary for such equipment.
- 4) The size, type, color and exterior materials shall be aesthetically and architecturally compatible with the surrounding area. Landscape screening may be required by the Planning Commission to accomplish screening of ancillary equipment buildings.
- 5) The tower or antennae facility shall not be artificially lighted unless required by the FAA. Where the FAA requires lighting, the lighting shall

be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA. Unless the FAA requires otherwise, the lighting shall be a nonpulsating or nonblinking red light.

- 6) The tower, subject to any applicable standards of the FCC and FAA, shall be painted a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the tower or antennae facility is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.
- 7) All tower and antennae facilities shall meet or exceed any standards and regulations of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and any other agency of the State or Federal government with authority to regulate towers or other tall structures in effect at the time the special use permit is approved.
- 8) The tower shall be available on reasonable terms, for use by others, including personal or business communications service providers, and/or local government agencies, provided such use does not interfere with the owner/operator's reasonable use of the tower.
- 9) A deposit of funds in Escrow or an insurance bond may be required by the Planning Commission to assure the removal of towers and masts as prescribed in this Section. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter (1.25) times the estimated cost of removal of the tower at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.
- 10) The owner of any tower which ceases to operate for its original use, or is abandoned for any reason, shall remove the tower within three months of receipt of notice from the Township. If the cost exceeds the amount held in escrow, the current owner shall be responsible for additional costs.
- 11) No tower or supporting appurtenant structures shall be closer to any dwelling than a distance equal to 1.5 the height of the tower measured from the tower base at grade to the highest point on the structure or antennae.

C. Zoning Board of Appeals Jurisdiction

The Zoning Board of Appeals shall have no jurisdiction over a decision made by the Planning Commission to approve, approve with conditions, or deny an application for special use approval to erect and maintain cellular phone and other personal and business communications antenna towers.

23. Wind Turbine Generators

Commercial wind turbine generators, private wind turbine generators, and anemometer towers shall be permitted in the Rural Residential – Agricultural and Light Industrial districts pursuant to a special use permit obtained following the procedures of Article V of this Ordinance and the requirements of this subsection.

A. Application Requirements

In addition to the application requirements of Article V of this Ordinance, an application for a special use permit for a wind turbine generator (both commercial and private) or for an anemometer tower shall include all of the following

information, unless expressly indicated otherwise. If the zoning administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the wind turbine generator or anemometer tower shall not proceed until all required information has been supplied.

- 1) A site plan meeting all of the requirements of Article IV of this Ordinance.
- 2) A detailed analysis by a qualified registered engineer describing the specific commercial wind turbine generator structure(s) or anemometer tower proposed and all phases for implementing the development, if any. Provided, however, this application requirement shall not apply to a private wind turbine generator.
- 3) A study prepared by a qualified registered engineer documenting that the site of the commercial wind turbine generator has sufficient wind resources for the proposed wind turbine generator equipment. Provided, however, this application requirement shall not apply to a private wind turbine generator and an anemometer tower.
- 4) A resume or other written summary of the education, experience, and other qualifications of all experts providing information concerning the commercial wind turbine generator or anemometer tower project. Provided, however, this application requirement shall not apply to a private wind turbine generator.
- 5) A detailed written statement, with supporting evidence, demonstrating how the proposed wind turbine generator (commercial and private) or anemometer tower will comply with all of the applicable standards for approval specified in this Ordinance.
- 6) Written documentation establishing whether the location of a proposed wind turbine generator (both commercial and private) on the site will create shadow flicker on any existing structures located off the property on which the wind turbine generator will be constructed, and if so, the extent and duration of the shadow flicker on these existing structures and the steps to be taken to minimize the shadow flicker on these existing structures. Provided, however, this application requirement shall not apply to an anemometer tower.
- 7) Written documentation that the applicant has notified the FAA and any other applicable state and federal regulatory agencies of the proposed wind turbine generator (both commercial and private) or anemometer tower.
- 8) Written documentation that the applicant has notified the operators of any microwave or communication link towers or similar facilities of a proposed wind turbine generator (both commercial and private) when the proposed location of the wind turbine generator is within the line of sight between two or more microwave or communication link towers or similar facilities. Provided, however, this application requirement shall not apply to an anemometer tower.

- 9) Elevation drawings, computer generated photographic simulations or other images, or other visual aids that depict how the commercial wind turbine generator tower and all accessory structures or anemometer tower will appear as constructed on the proposed site from vantage points north, south, east, and west of the commercial wind turbine generator tower or anemometer tower. Provided, however, this application requirement shall not apply to a private wind turbine generator and an anemometer tower.
- 10) Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for approving a wind turbine generator (both commercial and private) or an anemometer tower specified in this Ordinance and the impact of the proposed wind turbine generator or anemometer tower on adjacent properties, public infrastructure, and the township as a whole. This information may take the form of, but is not limited to, traffic impact analyses, environmental impact assessments, and/or information from officials representing federal, state, or county departments or regulatory agencies.

B. Standards for Approval of Wind Turbine Generators and Anemometer Towers

The Planning Commission shall approve, or approve with conditions, an application for a wind turbine generator (both commercial and private) or for an anemometer tower only upon a finding that the proposed wind turbine generator or anemometer tower complies with the standards contained in Section 5.02.3 of this Ordinance and all of the following applicable standards:

- 1) Sufficient Wind Resources. The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No commercial wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one year. No private wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one month.
- 2) Minimum Site Area.
 - a) The minimum site area for a commercial wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this ordinance.
 - b) The minimum site area for a private wind turbine generator or an anemometer tower erected prior to a private wind turbine generator shall be three (3) acres.
- 3) Setbacks. Each proposed wind turbine generator (both commercial and private) or anemometer tower shall meet the following applicable setback requirements:

- a) Each commercial wind turbine generator shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to 1,500 feet. The setback shall be measured from the outermost point on the base of the wind turbine generator. The Planning Commission shall reduce this setback to the shortest distance, not less than 735 feet, where the proposed commercial wind turbine generator meets standards f, g, and h below.
 - b) Each anemometer tower shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to the height of the anemometer tower. The setback shall be measured from the outermost point on the base of the anemometer tower.
 - c) Each private wind turbine generator shall be set back from any adjoining lot line and from a public or private road right-of-way or easement a minimum distance equal to one and one-half (1.5) times the height of the private wind turbine generator tower. The setback shall be measured from the outermost point on the base of the wind turbine generator.
 - d) For any newly proposed wind turbine generator (both commercial and private) a wind access buffer equal to a minimum of five (5) rotor diameters shall be observed from any existing off-site wind turbine generator tower.
- 4) Maximum Height.
- a) The maximum commercial wind turbine generator tower height or the height of an anemometer tower erected prior to a commercial wind turbine generator shall be 300 feet.
 - b) The Planning Commission may approve an increased height for a commercial wind turbine generator tower or an anemometer tower, not to exceed 400 feet, if all of the following conditions are met:
 - (i) The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the operation of the commercial wind turbine at the normal height limitation.
 - (ii) The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the commercial wind turbine generator given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the

use of inefficient equipment that does not utilize current commercial technologies.

- (iii) The increased height will not result in increased intensity on lighting of the tower due to FAA requirements.
 - c) The maximum height of a private wind turbine generator tower or the height of an anemometer tower erected prior to a private wind turbine generator shall be 110 feet.
- 5) Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades shall be fifty (50) feet on a commercial wind turbine generator and twenty-five (25) feet on a private wind turbine generator. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.
 - 6) Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are no more than fifty (50) decibels as measured on the dB(A) scale at the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.
 - 7) Maximum Vibrations. Any proposed wind turbine generator shall not produce vibrations beyond the property lines of the site in question of such intensity, duration, frequency or character which annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on any reasonable person of normal sensitiveness. Provided, however, this standard shall not apply to an anemometer tower.
 - 8) Blade Throw. The potential blade and ice throw from any wind turbine generator (both commercial and private) shall not cross the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.
 - 9) Rotational Controls. All wind turbine generators (both commercial and private) shall be equipped with controls to limit the rotational speed of the blades within design limits for the specific wind turbine generator. Provided, however, this standard shall not apply to an anemometer tower.
 - 10) Transmission Lines. The on-site electrical transmission lines connecting the commercial wind turbine generator to a public utility electricity distribution system shall be located underground. Provided, however, this standard shall not apply to a private wind turbine generator or an anemometer tower.
 - 11) Interference with Residential Reception. All wind turbine generators (both commercial and private) and any anemometer tower shall be constructed and operated so that it does not interfere with television, radio, or microwave reception in neighboring areas. If degradation of television, radio, or microwave reception occurs as the result of the wind turbine generator or anemometer tower, the developer shall pay to correct the television, radio, or microwave reception.

- 12) State or Federal Requirements. All wind turbine generators (both commercial and private) and any anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.
- 13) Aesthetics and Lighting. All wind turbine generators (both commercial and private) and any anemometer tower shall meet the following requirements:
- a) The wind turbine generator or anemometer tower shall, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the wind turbine generator or anemometer tower is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.
 - b) A commercial wind turbine generator shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. A private turbine generator or anemometer tower may be a lattice-style tower and may utilize guy wires.
 - c) The wind turbine generator or anemometer tower shall not be artificially lighted unless required by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA. Unless the FAA requires otherwise, the lighting shall be a nonpulsating or nonblinking red light.
 - d) Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
 - e) Each wind turbine generator (both commercial and private) or an anemometer tower shall have no advertising painted on or attached to the tower or any other structure of the wind turbine generator.
 - f) Each wind turbine generator tower shall be designed to aesthetically complement the color and design of any existing wind turbine generator tower within a one-mile radius. The

Planning Commission may require design changes in order to lessen the visual clutter associated with the siting of multiple wind turbines with non-complementary, inconsistent design within sight of each other.

- 14) Sign. A commercial wind turbine generator or anemometer tower shall have posted on the site in a visible, easily accessible location a sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours and on weekends or holidays. Provided, however, this standard shall not apply to a private wind turbine generator.
- 15) Access limitation. The commercial wind turbine generator or anemometer tower shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorize personnel only. Provided, however, this standard shall not apply to a private wind turbine generator.
- 16) Shadow Flicker. All wind turbine generators (both commercial and private) shall be designed and sited in such a manner to minimize shadow flicker expected to fall on a roadway and on any existing structures located off the property on which the wind turbine generator is constructed. Provided, however, this standard shall not apply to an anemometer tower.
- 17) Removal of Abandoned or Unsafe Wind Turbine Generators or Anemometer Towers. Any wind turbine generator or anemometer tower that is not mechanically capable of operating for more than 4,380 hours over any twelve (12) month period or sits idle for more than 12 months shall be considered abandoned. Any tower found to be unsafe or not in compliance with the special land use conditions related to noise or shadow flicker placed upon it by the Planning Commission, shall be found to be in violation of the special land use permit. The owner of any wind turbine generator tower or anemometer tower that is abandoned or in violation of the special land use permit shall remove the same within ninety (90) days of receipt of notice from the Township of such abandonment or violation. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind turbine generator or anemometer tower shall be removed to a minimum depth of three (3) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned wind turbine generator or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.