

## **Chapter 4**

### **USE STANDARDS**

#### **Section 401. Intent and Purpose.**

Each use listed in this Chapter, whether permitted by right or subject to approval as a special use, shall be subject to the site development standards specified, in addition to applicable standards and requirements for the district in which the use is located. These standards are intended to:

- (1) Alleviate any adverse impacts of a use that is of an area, intensity or type unique or atypical for the district in which the use is allowed.
- (2) Mitigate the impacts of a use that possesses characteristics unique or atypical for the district in which the use is allowed.
- (3) Ensure that such uses will be compatible with surrounding land uses.
- (4) Promote the orderly development of the district and the Township as a whole.

#### **Section 402. Scope of Regulations.**

Conformance with these standards shall be subject to site plan review per Section 1101, Site Plan Review. Unless otherwise specified in this Chapter, all uses shall be subject to all applicable dimensional and use standards for the district in which the use is located. All uses shall comply with the performance standards for noise, odor, and other impacts specified in Section 508, Performance Standards.

##### **(A) Adults-Only Businesses.**

- (1) **Intent.** Uses regulated by this section are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated in a limited area, thereby having deleterious effects on nearby properties. Special regulation of these uses is needed to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood.

Accordingly, it is the intent and purpose of Buena Vista Charter Township to adopt reasonable regulations for adults-only businesses 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. It is the purpose of this Ordinance to regulate sexually oriented businesses to promote and protect the health, safety, morals and general welfare of the citizens of the Charter Township of Buena Vista and to establish reasonable and uniform regulations to prevent a concentration of sexually oriented businesses with the Township. These regulations are intended to control the negative secondary impacts such businesses have been documented to have on the surrounding area and the community. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

- (2) **Locational Requirements.** The following minimum separation distances shall be measured by a straight line between a point on the boundary of a zoning district listed below or a lot occupied by a use listed below nearest to the contemplated structure or contemplated location of the structure containing the adults-only businesses and the nearest point on the contemplated structure or contemplated location of the structure containing the adults-only businesses.
- (a) No adults-only business shall be located within 1,000 feet of any other adults-only business, nor any of the following:
    - (i) All Class "C" establishments licensed by the Michigan Liquor Control Commission.
    - (ii) Pool or billiard halls, amusement centers, or ice or roller skating rinks.
    - (iii) Indoor or outdoor movie theaters.
    - (iv) Any institutional use, as defined in Section 202, Definitions.
    - (v) Any child care facility, nursery or preschool.
    - (vi) The boundary of any residential district or a lot or parcel in residential use.
  - (b) An adults-only business site shall not be located closer than five hundred (500) feet to the right-of-way of Interstate 75 and a state highway.
- (3) **Use Standards.**
- (a) All adults-only businesses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
  - (b) No adults-only business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities 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, window or other opening.
- (4) **Review.** A public hearing shall be required and noticed per the requirements of Section 1103, Public Hearing Procedures.
- (a) **Conditions of Approval.** The Planning Commission may impose such conditions or limitation upon the establishment, location, construction, maintenance, or operation of the regulated use, as shall, in its judgment be necessary for the protection of the public interest, except that any conditions imposed on an adults-only business shall be limited to those conditions necessary to assure compliance with the standards, conditions and requirements in this Section 402 (A) and Section 309, Table of Dimensions.
  - (b) **Time Limits for Review.** The following time limits shall apply to the review of an application by the Township Planning Commission for special approval of an adults-only business.

- (i) The Planning Commission shall public notice and hold a public hearing as required for special approval review within sixty (60) days of receiving a completed special approval and site plan application as required by this Ordinance.
- (ii) The Planning Commission shall render its decision to grant, deny, or grant approval with conditions regarding the special approval application for the adults-only business at the next regularly scheduled meeting of the Planning Commission following the public hearing held to review the application.
- (iii) Failure of the Township to act within the above specified time limits shall be deemed to constitute granting of special approval to the adults-only business.

**(B) Airports, Private or Public.**

The area, height and placement regulations of any airport, landing area, runway, taxiway, aircraft hanger, terminal or tie down area, approach surface, transitional surface or other facility for the operation of aircraft shall be in accordance with current Federal Aviation Agency, Michigan Aeronautics Commission and regulations.

- (1) Private aircraft landing strips, hangers, masts, and related facilities shall comply with the following:
  - (a) The effect of airport traffic on surrounding land uses shall be determined, including the possibly detrimental effect of truck traffic moving through primarily residential areas and if the effect is found to be detrimental to the surrounding properties or the general Township, uses creating such traffic shall not be permitted with the airport.
  - (b) Uses located on airport zoned property must meet the area, height and placement regulations of the zone they are customarily located in as indicated by Chapter 3.
  - (c) Uses located on airport zoned property must meet the parking and loading requirements of Chapter 6.
  - (d) Uses located on airport zoned property must meet the industrial performance standards of Section 508.
  - (e) The aircraft landing strip site and design shall comply with the standards established by the FAA and the Michigan Department of Aeronautics concerning obstruction to air navigation.
  - (f) All required "clear zones" (as defined by the FAA) shall be owned by the aircraft landing strip owner, or set aside as permanent open space by a recorded conservation easement.
  - (g) The number of permitted runways shall not exceed a maximum of 2.
  - (h) Sufficient parking shall be provided for aircraft storage. Additional vehicular parking shall be provided for accessory offices and other uses associated with the landing strip.

- (i) An emergency access road shall be provided and maintained to the landing strip for access by fire and emergency vehicles constructed of either asphalt, concrete, or compacted gravel.
- (j) The plans for such facilities shall be subject to approval by the Federal Aviation Agency (FAA) and the Michigan Department of Aeronautics, where required by these agencies. Use of the landing strip shall be limited to aircraft classified as airplane design group (ADG) Group 1 and 2 by Federal Standards.

(2) **Public Airports.**

If the airport is owned by a public governmental agency, that agency shall have control of the location and design of the permitted uses on the property zone AP, Airport. The public agency shall meet the following requirements:

- (a) Uses located on airport zoned property shall meet the area, height and placement regulations of the district they are customarily located in as indicated by Chapter 3.
- (b) Uses located on airport zoned property shall meet the parking and loading requirements of Chapter 6.
- (c) Uses located on airport zoned property shall meet the industrial performance standards of Section 508.

(C) **Automobile Dealerships, Automobile Rental Establishments, and Similar Uses.**

Automobile or vehicle dealers, including those establishments with repair facilities and/or outdoor sales space, shall be subject to the requirements of this section. These requirements shall apply to operations involved in the sale, lease or rental of new or used vehicles, house trailers, recreational vehicles, boats, trucks, and other vehicles. All such dealers shall be further subject to the requirements of Section 402 (Y), Outdoor Sales or Display Areas.

- (1) **Ingress and Egress.** All access shall be provided from a public road classified as a county primary road or State highway by the Township's Master Plan or Saginaw County Road Commission.
- (2) **Setbacks.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the location requirements for parking lots, as specified in Chapter 5, Parking and Loading.
- (3) **Grading, Surfacing, and Drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material, and shall be graded and drained so as to dispose of surface waters.
- (4) **Driveway Location.** The nearest edge of any driveway serving an outdoor vehicle sales area shall be located at least 50 feet from any street or road intersection (as measured from the nearest intersection right-of-way line).
- (5) **Outdoor Display.** Outdoor display of all uses shall comply with the provisions of Section 402 (Y).
- (6) **Servicing of Vehicles.** The servicing of all uses shall be subject to the following requirements:

- (a) Service activities shall be clearly incidental to the sales operation.
- (b) Service activities shall occur within a completely enclosed building.
- (c) Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
- (d) A building containing service operations shall be located a minimum of 50 feet from any property line.
- (e) There shall be no external evidence of the service operations, in the form of dust, odors, or noise, beyond the service building.

(7) **Additional Use Standards.**

- (a) **Broadcasting Devices Prohibited.** Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any building.
- (b) **Permanent Building Required.** There shall be provided on the site a permanent building within which records of the dealership shall be stored.
- (c) No flashing or oscillating lights, or turning or rotating signs or banners, shall be permitted in connection with any automobile dealership.

(D) **Automobile Gas and Service Stations.**

The following regulations shall apply to gas stations or automotive service stations, including tire, battery, muffler, and undercoating shops:

- (1) **Minimum Setbacks.** All buildings shall comply with the setback requirements for the district in which the use is located. However, a minimum setback of 40 feet shall be maintained on all sides that abut property that is zoned or used for residential purposes.
- (2) **Pump island canopy.** Pump islands and canopies shall comply with the following requirements:
  - (a) **Location.** The minimum setback for the right-of-way line shall be:
    - (i) 30 feet to the nearest edge of the pump island.
    - (ii) 20 feet to the nearest edge of the unenclosed canopy.
  - (b) **Lighting.** All lighting shall be fully recessed into the canopy structure.
  - (c) **Dimensional Requirements.** The underside of the canopy shall be no higher than 16 feet from grade and so noted on the site plan.
- (3) **Signage.** All signs, logos, or identifying paint schemes shall be shown on the site plan for review by the Planning Commission.
- (4) **Ingress and Egress.** Ingress and egress drives shall be a minimum 30 feet and a maximum of 40 feet in width. No more than one (1) such drive or curb opening shall be permitted for every 75 feet of frontage (or fraction thereof) along any

street. The nearest edge of any such drive shall be located at least 25 feet from the nearest point of any property zoned or used for residential purposes.

Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other buildings or uses or its location near a vehicular or pedestrian entrances or crossings.

- (5) **Curbs.** A curb of at least six (6) inches in height shall be installed to prevent vehicles from being driven onto or parked with any part of the vehicle extending within two (2) feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property.
  - (6) **Layout.** All lubrication equipment, automobile wash equipment, hoists, and pits shall be enclosed entirely within a building. Gasoline pumps shall be located so that motor vehicles do not park on or extend over abutting landscaped areas, sidewalks, streets, buildings, or adjoining property while being served.
  - (7) **Outside Storage.** Inoperable, wrecked or partially dismantled vehicles shall not be stored or parked outside for a period exceeding two (2) days, provided such vehicles are stored in the rear yard within a masonry screening wall that is not less than six (6) feet in height.
  - (8) **Vehicle Sales and Storage.** The storage, sale, or rental of new or used cars, trucks, trailers, and any other vehicles on the premises are prohibited.
- (E) **Bed and Breakfast Inns.**  
Bed and breakfast inns shall comply with the following:
- (1) **Primary Residence.** The structure shall be the primary and permanent residence of the bed and breakfast inn operator. Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the establishment.
  - (2) **Guests.** Guests may stay no longer than 14 days in succession or a total of 60 days in any 12-month period. Off-street parking areas shall be provided for all guests and shall not be located in any required front yard. Stacking of more than two vehicles in a driveway is prohibited.
  - (3) **Screening.** Screening shall be provided between adjacent residences and parking areas or any outdoor eating area, in accordance with Section 705, Methods of Screening.
  - (4) **Limitations.** A bed and breakfast inn shall have direct access to a public road. Bed and breakfast inns shall be prohibited on lots abutting and with primary access to private roads, and on lots located in a platted subdivision or a site condominium project.
  - (5) **Use Standards.** The following additional use standards shall apply to all bed and breakfast inns:
    - (a) There shall be no separate kitchen facilities for the use of bed and breakfast guests.

- (b) Food may be served only to those persons who rent a room in the bed and breakfast facility.
  - (c) Bed and breakfast inns shall be limited to a maximum of four sleeping rooms.
  - (d) A bed and breakfast operation shall provide a minimum of one full bathroom facility for the owner, plus one separate full bathroom facility for each two permitted sleeping rooms.
  - (e) The location of exits, emergency exit routes, and tornado protection locations should be clearly posted on the interior of each guest room door.
- (6) **Approval.** Bed and breakfast inns shall be subject to Planning Commission Approval. The site plan application shall include floor plans with the following additional information:
- (a) Dimensions and floor areas of all rooms and areas to be used by guests (sleeping rooms, bathrooms, dining areas, etc.).
  - (b) Locations of required exits, emergency exit routes, tornado protection locations, smoke detectors, and carbon monoxide detectors.
  - (c) Fire Department review and approval is required.

(F) **Car Washes.**

Automobile, truck, and recreational vehicle wash facilities shall be subject to the following:

- (1) Use Standards.
  - (a) All washing facilities shall be completely within an enclosed-building, and exit lanes shall be sloped to drain water back to the wash building or to drainage grates.
  - (b) Steam used in the cleaning process shall be contained within an enclosed building.
  - (c) Vacuuming facilities shall be prohibited between the road right-of-way and the building, and shall be set back a minimum of 50 feet from any residential use.
- (2) **Setbacks.** All building shall have a front yard setback of not less than 40 feet from the road right-of-way.
- (3) **Ingress/Egress.** Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives or traffic generated by other buildings or uses.
  - (a) Ingress and egress points shall be located no closer than 60 feet from the intersection of any two public roads.
  - (b) Public roads shall not be used for maneuvering or parking by vehicles to be serviced by the car wash. Sufficient space shall be provided on the lot

so that vehicles do not enter or exit the wash building directly from an adjacent public road.

- (c) All maneuvering areas, stacking lanes, and exit aprons shall be located within the car wash lot.

- (4) **Screening.** The use shall be screened from adjacent residential districts or uses per Section 705, Methods of Screening, including screening for all loading facilities, trash dumpsters, and mechanical equipment.

(G) **Cemeteries.**

Cemeteries and similar uses shall be subject to the following:

- (1) **Ingress and Egress.** All access shall be provided from a public road classified as a county primary road or State highway by the Township's Master Plan or Saginaw County Road Commission.
- (2) **Screening.** All sides of the cemetery shall be secured by a continuous fence or wall, and screened from abutting residential districts or existing residential uses per Section 705, Methods of Screening.
- (3) **Setback.** All crypts, mausoleums, and other buildings containing bodies or remains, other than a subterranean grave, shall be located at least 100 feet from the nearest lot boundary.
- (4) **Continuity.** The location shall not disrupt the convenient provision of utilities to adjacent properties, nor disrupt the continuity of the public road system.
- (5) **Compliance.** An approved cemetery shall comply with all federal, state and local laws, and applicable regulations of the State of Michigan.

(H) **Child Day Care Centers (not including Family Day Care Homes), Group Day Care Homes, and Adult Foster Care Large Group Homes.**

The following regulations shall apply to child day care centers, group child day care homes, and adult foster care large group homes:

- (1) **Licensing.** In accordance with applicable state laws, all facilities shall be registered with or licensed by the State of Michigan, and shall comply with the minimum standards outlined for such facilities.
- (2) **Outdoor Recreation Area.** A minimum of 150 square feet of outdoor recreation area shall be provided and maintained per person at the licensed capacity of the facility, provided that child day care centers shall provide a minimum 5,000 square foot outdoor fenced recreation area.
- (3) **Pick-up and Drop-off.** Adequate areas shall be provided for employee and resident parking, and pick-up and drop-off of children or adults, in a manner that minimizes pedestrian-vehicle conflicts, and allows maneuvers without affecting traffic flow on the public road.
- (4) **Frontage.** Such uses shall have frontage on, and direct vehicle access to a public road classified as a county primary road or State highway by the Township's Master Plan or Saginaw County Road Commission.



- (5) **Separation Requirements.** New group day care homes shall be located a minimum of 1,500 feet from any other state licensed residential facility, as measured between the nearest points on the property lines of the lots in question. The Planning Commission may permit a smaller separation upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or the Township overall.
- (6) **Hours of Operation.** Day care facilities shall not exceed 16 hours of operation during a 24 hour period.
- (I) **Composting Centers.**

Composting centers and support facilities shall be subject to the following:

  - (1) **Location.**
    - (a) A Level I Environmental Assessment of the site shall be conducted prior to site plan review in accordance with the standards established by the DNR, that include:
      - (i) Walking the site in a systematic grid pattern to visually inspect for signs of adverse environmental activity. This includes a search for stressed vegetation, strained geologic structures, obvious placement of fill/debris, or the excavation of earth.
      - (ii) Aerial photographs are reviewed from a historical perspective over the last few decades.
      - (iii) Property ownership records and permit activities from the regulating agencies are researched and reviewed. Also, selected neighboring landowners are interviewed for their knowledge of any activity on the site.
      - (iv) Based upon the site inspection and data review, a chronological description of activity on the site can be established.
    - (b) A composting facility shall not be allowed in any protected wetlands.
  - (2) **Site Plan Requirements for Composting Facilities.** This section establishes the requirements and procedures for operation of composting facilities for all facilities to be operated in Buena Vista Charter Township. All composting facilities shall submit a site plan to the Township for approval, containing the following:
    - (a) Access route traffic on-site patterns.
    - (b) Maintenance plan for all outdoor areas where compost materials are received, processed, cured or stored to prevent rutting that would allow on-site ponding or puddling of water in places other than a retention basin.
    - (c) Written documentation addressing the following:
      - (i) Hours of operation.
      - (ii) Methods of controlling fugitive dust, noxious odors, noise, vibration, light, and blowing debris.

- (iii) Method of receiving compost materials.
- (iv) Method of sorting and handling composting materials.
- (v) Measures to be taken should anaerobic conditions arise.
- (vi) Expected frequency of removal of composted materials.
- (vii) Fire protection.
- (viii) Description of daily cleanup procedures.
- (ix) Measures to be taken should surface or groundwater contamination take place.

(3) **Use Standards.**

- (a) All facilities covered under this section must notify the Buena Vista Charter Township Building Official and Saginaw County Health Department that actual operations have begun.
- (b) Compost materials shall not be accepted on site in anaerobic condition.
- (c) Such facilities shall be closed when anaerobic conditions arise, with operations limited to correcting the condition. Determination of anaerobic conditions may be made by the Township Building Official. If anaerobic conditions arise more than two (2) times in a 30 calendar day period, the facility shall pay a fine set by Township Board and close for 30 calendar days. After three (3) such closures within one (1) calendar year, the Township may order the site to be closed permanently.

(4) **Screening and Separation Standards.** To ensure proper buffering of the composting facility from nearby land uses that may be adversely affected by the facility, the following requirements shall apply:

- (a) An isolation distance of 100 feet shall be maintained between the beginning of the program area designated to the composting facility and any residential district.
- (b) The site shall be screened from all road rights-of-way and abutting uses in accordance with Section xxxx, Methods of Screening. A landscaped berm, minimum six (6) feet in height planted with evergreen trees and deciduous shall be provided around the perimeter of the site.

(5) **Fugitive Dust, Noxious Odors, Noise, Vibration, Light and Blowing Debris.**

The operation of a composting facility shall not result in unreasonable off-site deterioration of air quality, cause unreasonable interference with the comfortable enjoyment of life and property, or cause injurious effects to human health, safety, and welfare. All composting facilities shall be designed, constructed and operated so that fugitive dust, noxious odors, noise, vibration, light, and blowing debris are controlled and do not cause off-site problems or nuisances.

The applicant shall submit with the site plan an operations plan to minimize the off-site occurrences of fugitive dust, noxious odors, vibrations, light, and blowing debris. This plan may include such measures as: restricting the daily work area, refusing to accept certain compost materials, or other appropriate measures. The Planning Commission shall approve this plan.

If there is evidence that performance standards have not been met and/or that a problem or nuisance condition exists as determined by the Building Official, despite compliance with the operation plan, then a contingency plan shall be developed by the operator. This contingency plan shall be submitted within ten working days from the date that the Building Official notifies the operator. This plan shall demonstrate to the satisfaction of the Building Official that the problem will be abated within two weeks.

- (6) **Compost Storage.** The height of compost material shall not exceed eight (8) feet, and storage of any material, other than compost, shall not be allowed on-site. No sludge of any kind shall be stored or deposited on composting facility property, and no bagged materials containing grass shall be accepted at a composting facility. Grass contained in bags shall be de-bagged at the original point of collection before hauled to the composting facility.
- (7) **Closure Plan.** A closure plan shall be submitted which shall detail the final end use of the property should use of the facility be discontinued for more than 365 consecutive days.
  - (a) The plan shall describe:
    - (i) How the existing site will be cleaned up.
    - (ii) How and where the existing surface debris will be disposed.
    - (iii) What the final disposition of the land will be.
  - (b) The petitioner shall, prior to commencement of operations, deposit with the Township an amount sufficient to ensure site clean up should operations cease. The deposit shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount to be determined acceptable by the Township Board.
  - (c) Violation of any of the provisions of this Section shall result in the Township having the right to close or cleanup the composting facility and operation at the expense of the owner/operator or lessee of the composting facility.
  - (d) The Township may, at such time, direct the owner/operator or lessee to close or clean up the composting facility at the owner/operator or lessee's expense.

(J) **Drive-through Facilities.**

- (1) **Screening.** Screening shall be required from adjacent residential uses per Section 705, Methods of Screening, along with adequate screening for all loading facilities, trash dumpsters, and mechanical equipment.
- (2) **Stacking.** All vehicle stacking lanes and spaces shall be contained on the lot.
- (3) **Location.** All drive-through facilities shall be attached to and located at the rear or side of the principal building.
- (4) **Noise Abatement.** Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the lot boundaries in conformance with Section 508, Performance Standards.

- (5) **Menu Boards.** Menu boards may be erected as an accessory use to a drive-through lane for a business, subject to the following:

- (a) Such signs shall be located on the interior of the lot and shall be shielded so that they are not visible from street rights-of-way and residential districts or uses.
- (b) The location, size, content, coloring or manner of illumination of a menu board shall not constitute a traffic or pedestrian hazard, or impair vehicular or pedestrian traffic flow in any manner.
- (c) A menu board shall not exceed six (6) feet in height and 48 square feet in area.

(K) **Essential Public Services Structures, Storage Yards and Substations.**

Essential public services structures, substations, and similar uses shall comply with the following regulations:

- (1) **Location.** Where feasible, utility structures and public service buildings shall be located so as to not hinder the development of the area or detract from the value of existing development.
- (2) **Design.** All such buildings shall be architecturally compatible with buildings in the vicinity and shall be screened in accordance with Articles 7.00 and 8.00. Electric or gas regulator equipment and apparatus shall be setback a minimum of thirty (30) feet from all lot lines or equal to district setbacks, whichever is greater. Such facilities can not be located in the required front yard.
- (3) **Off-site Impact.** Such uses shall not create a health or safety hazard, a nuisance, or have deleterious impact on the surrounding area either due to appearance or operation. Essential public service storage yards shall be screened from any adjacent residential district in accordance with Articles 7.00 and 8.00.
- (4) **Security Fencing.** Security fencing may be permitted, subject to the requirements in Article 8.00. Adjacent to a residential district, such fencing shall be decorative masonry and eight (8) feet high, subject to modification by the Planning Commission.

(L) **Extraction, Soil Resource.**

- (1) **Scope of Regulations.** This section regulates extraction, filling or repositioning of soil, sand, gravel, clay or other geologic deposit involving disturbance of more than 1,000 cubic yards of material. These regulations, however, shall not affect the excavations of residential dwellings, commercial or industrial buildings, roads, wells, parking lots, sewer or water lines, or similar uses pursuant to the State Construction Code enforced by the Township. This section also applies to artificial ponds created by soil excavation or intervention in watercourses, surface drainage or groundwater aquifers, regardless of size and whether the creation of the pond is an end in itself or merely a byproduct of soil extraction activity. Ponds created by embankments or dams across streams or watercourses are not permitted in Buena Vista Charter Township.

Such regulations shall consider the conduct of the extractive operation and the reuse of the extractive operation site upon termination of the activity. It is the intent of this Section that parcels subject to the extractive operations upon termination of such operations, be reclaimed and rendered fully useful for one or

more of the uses permitted as principal uses within the various districts included in this ordinance. Extractive operations shall be subject to the following:

- (2) **Application Procedures and Review Process.** All extractive operation activities shall be carried out under the conditions of a Special Use Permit. At the time of application for a Special Use Permit for an extractive operation, the applicant shall submit an extractive and reclamation plan to the Township Planning Commission. The site plan for any activity regulated by this section must include the following additional information:
  - (a) A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five-foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.
  - (b) A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.
  - (c) The specifications for any spillway or drain for a proposed pond, including the proposed methods of foundation preparation or fill placement.
  - (d) The applicant shall file an extractive and reclamation site plan in accordance with the requirements of this Subsection. This plan may be in the form of a plat or map, and shall carry evidence of review and approval if required by any county or state agency of competent jurisdiction. On the basis of this plan, the operating company shall file a statement of the area to be excavated.
- (3) **Excavation Site Requirements.**
  - (a) Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a state permit may be required.
  - (b) Excavations that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals or septic tanks.
  - (c) Excavations may be no closer than 50 feet to a power line.
  - (d) No digging, stockpiling, excavating or equipment storage and repair shall take place closer than 100 feet from any lot line, and 300 feet from an existing residential zoning district. If inactive for more than one (1) year, stockpiles of surface overburden shall be seeded with grass or other materials so to prevent erosion onto other premises.
- (4) **Construction and Operation Requirements.**
  - (a) An excavation should not change surface drainage or underwater aquifers so as to adversely impact neighboring uses.
  - (b) Minimum designed water depth of a pond must be 15 feet to insure proper aeration and circulation of the water.
- (5) **Reclamation Activities.** The following design requirements shall apply to all reclamation activities:

- (a) Any pond banks shall have a maximum slope of one foot vertical to four feet horizontal that extends below the projected low water surface elevation to a depth of at least eight feet.
  - (b) Any excavated material not removed from the site shall be graded to a continuous slope that does not exceed one foot vertical to three feet horizontal and arranged to prevent runoff from impacting adjacent properties. Said fill shall blend visually with the surrounding landscape.
  - (c) Topsoil, of a quality similar to the area, shall be applied in a thickness of no less than six (6) inches over the surface overburden.
  - (d) Vegetation common to the area shall be restored by the seeding of grasses and subsequent planting of trees and shrubs to establish a self-sustaining vegetative cover on the land surface, to minimize erosion.
  - (e) By October 15 of each year, the completed portion of an excavation, and any disturbed area around it, shall be graded and seeded.
- (6) **Extractive Operations.** The extractive process, loading process, and public loading process shall be permitted only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 noon on Saturdays. Extractive operations shall not be permitted on Sundays or legal holidays, except under exceptional circumstances (i.e., shutting down of kilns or furnaces).
- (a) Each permittee shall be held responsible for the clean up of any spillage of materials, such as: dirt, rock, mud, sand, or any debris hauled by vehicles over the designated travel route(s). Any such material shall be removed within 24 hours of receipt of notice from the Township. Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a site is being excavated.
  - (b) During the site plan review process, the Planning Commission shall determine whether a fence will be required. If required, the location of the fence, type of fence and any posting requirements shall also be determined as part of the site plan review process.
- (7) **Additional Requirements.** The Township Board may require such other requirements as may be deemed necessary in the interest of public health, safety, and general welfare of the residents of Buena Vista Charter Township.
- (8) **Financial Guarantees.** The applicant shall provide the Township with a financial security, in the form and amount acceptable to the Township Board, to guarantee the reclamation and rehabilitation of the site according to the approved plan.
- (a) The applicant shall provide the appropriate permitting information regarding financial guarantees, if required, from the Saginaw County Road Commission, for the maintenance of the approved haul routes traversed by their vehicles, in accordance with the provisions of the Saginaw County Road Commission Haul Route Policy.
  - (b) Proof of liability insurance with Buena Vista Charter Township listed.

(M) **Funeral Homes and Mortuaries.**

- (1) **Assembly Area.** An adequate off-street assembly area shall be provided for funeral processions and activities. All maneuvering areas and exit aprons shall be located within the site and may be incorporated into the required off-street parking. Streets and alleys shall not be used for maneuvering or parking of vehicles.
- (2) **Screening.** The service and loading area shall be screened from adjacent residential districts or existing residential uses per Section 705, Methods of Screening.
- (3) **Crematories.** Crematories in conjunction with funeral homes or mortuaries are not permitted.

(N) **Greenhouses, Nurseries, and Garden Centers.**

The following shall apply to greenhouses, nurseries, and garden centers:

- (1) **Setbacks.** Plant storage and display areas shall comply with the minimum setback requirements for the district in which the establishment is located.
- (2) **Storage.** The storage of soil, wood chips, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties and from access by small animals.

(O) **Hazardous Materials Storage.**

Such uses shall comply with all standards of this Ordinance, and all standards established by the U.S. Environmental Protection Agency, U.S. Department of Agriculture, Michigan Department of Environmental Quality, Michigan State Police, Saginaw County Health Department, and other agencies with jurisdiction. The applicant must supply the following documentation with any plan submitted for review:

- (1) Description of all planned or potential discharges of any type of wastewater to a storm sewer, drain, river, stream, wetland, other surface water body or into the groundwater.
- (2) Description of storage area for any salt, oil or other potentially hazardous materials including common name, name of chemical components, location, maximum quantity expected on hand at any time, type of storage containers or base material, and anticipated procedure for use and handling.
- (3) Description of any transportation, on-site treatment, cleaning of equipment, and storage or disposal of hazardous waste or related containers.
- (4) Description of all secondary containment measures, including design, construction materials and specifications, and security measures.
- (5) Description of the process for maintaining and recording of all shipping manifests.

(P) **Home Occupations.**

Home occupations shall be subject to the following:

- (1) **Use Standards.**
  - (a) **Intensity of Use.** Home occupations must be clearly incidental and secondary to the use of the dwelling as a residence.
  - (b) **Employment.** Only residents of the dwelling may be engaged in the home occupation as employees.
  - (c) **Customer or Client Visits.** A home occupation shall not generate more than 10 customer or client visits per day, or more than 30 customer or client visits per week. No more than two (2) customers or clients may be present at any given time.
  - (d) **Commercial Vehicle Parking and Deliveries.** Home occupations shall be limited to the parking or storage of one (1) commercial vehicle on the premises not exceeding a one (1) ton capacity, provided such vehicle is directly related the home occupation. Delivery vehicles used to deliver goods to a home occupation are limited to automobiles, passenger vehicles, mail carriers and express package carriers.
  - (e) **Hours of Operation.** Customer or client visits, and deliveries associated with the home occupation shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.
- (2) **Permitted Home Occupations.** The following uses shall be permitted as home occupations:
  - (a) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, realtors, accountants, writers, salespersons and similar occupations.
  - (b) Personal services, including hair or nail care, grooming, catering, and chauffeuring services.
  - (c) Home office for massage therapists.
  - (d) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians and photographers.
  - (e) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and wood-working.
  - (f) Repair services, limited to watches and clocks, small appliances, computers, electronic devices, and similar small devices.
  - (g) Any home occupation not specifically listed may be permitted as a special use, subject to the provisions of this Section and Section 1102, Permitted Uses after Special Approval.
- (3) **Prohibited Uses.** The following uses are expressly prohibited as a home occupation:
  - (a) Motor vehicle, recreational vehicle or boat repair, bump and paint shops, and salvage or storage yards.



- (b) Kennels and veterinary clinics.
- (c) Medical or dental clinics.
- (d) Retail sales of merchandise, and eating or drinking establishments.
- (e) Undertaking and funeral homes.
- (f) Adult uses and sexually oriented businesses
- (g) Uses similar to the above listed uses, or any use which would, in the determination of the Zoning Administrator, result in nuisance factors as defined by this Ordinance.

(4) **Prohibited Activities.** Home occupations shall not include:

- (a) Outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation.
- (b) The use of machinery, equipment or facilities not commonly incidental or accessory to a residential dwelling.
- (c) Changes or alterations to the character or appearance of the residence.
- (d) Use of any signs or outside displays on the premises, except as permitted for residential dwellings in Chapter 8, Signs.
- (e) Parking that cannot be accommodated on the site.

(Q) **Hospitals.**

- (1) **Frontage and Access.** Hospitals shall have frontage on, and direct vehicle access to a major thoroughfare. In no case shall access to a hospital be off of a residential street.
- (2) **Setbacks.** The principal building and all accessory buildings shall be set back a minimum of 50 feet from all property lines. The minimum setback shall be increased 20 feet for each story in excess of two stories.
- (3) **Accessory Uses.** Accessory uses, such as a pharmacy, gift shop, cafeteria, place of worship, and similar uses, shall be allowed within the principal building to serve the needs of patients, employees, and visitors.
- (4) **Screening.** Ambulance parking, emergency room and urgent care entrances, and loading areas shall be effectively screened from adjacent residential districts or existing residential uses per Section 705, Methods of Screening.
- (5) **State and Federal Regulations.** Hospitals shall be constructed, maintained, and operated in conformance with applicable state and federal laws.

(R) **Hotel, Motel.**

Hotels and motels, inns and motor lodges shall be subject to the following:

- (1) **Setbacks.** Any hotel or motel building shall be at least 50 feet from any residential zoning district, with adequate screening and/or buffering from an adjacent residential use.
  - (2) **Units.**
    - (a) Each rental unit shall contain at least a sleeping area and bathroom. The minimum gross floor area of each unit shall be 250 square feet.
    - (b) The number of sleeping rooms shall not exceed the number obtained by dividing the total square footage of the site by 1,500
  - (3) **Services.** A hotel or motel shall provide services customary to such facilities, including maid service, linen service, telephone and/or desk service, and the use of furniture.
- (S) **Incinerators.**
- (1) **General. Incinerators.** General incinerators shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in said statutes, the state requirements shall prevail. All installations shall be maintained in a neat, orderly condition.
  - (2) **Permits.** Any permits required for the subject use under Michigan law must be obtained before a zoning permit is issued. The planning commission may hold a public hearing and approve a special use permit, conditioned upon receipt of the state permit(s). The zoning administrator may communicate said action, if needed for any state permit process.
  - (3) **Remote from Residential Subdivisions.** No dwelling in a subdivision with an officially filed plat shall exist within 2,000 feet of any building or active use area of the facility, regardless of which zoning district the dwelling is in.
  - (4) **Tree Buffer.** Buffers of natural tree cover or planted evergreens no less than 100 feetwide shall be provided on the periphery of the property.
  - (5) **No Hazardous or Toxic Waste.** No hazardous or toxic wastes, as defined by the department of natural resources, may be deposited or stored at any time.
  - (6) **Truck Access.** Routes for truck movement to and from the site shall be identified by the Saginaw County Road Commission. Wear on public roads, traffic hazards, and encroachment of noise, dust, and other nuisances upon adjacent uses must be considered.
  - (7) **Hours of Operation.** No machinery or equipment shall operate, and no trucks shall arrive at the site before 7:00 a.m. or after 8:00 p.m.
  - (8) **Activity Restrictions.** No open burning is permitted, and all processes using equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted in an enclosed building.
  - (9) **Fence Requirements.** Berms and fences shall be constructed around any landfill or incinerator as required by the Act 641 regulations. These shall be placed on the interior of the tree buffers mentioned above and shall not decrease their width. Fences shall have a gate entrance that is to be locked during hours when no operation is taking place.

(T) **Institutional Uses.**

The following shall apply to all educational, social and religious institutions, public and private elementary and secondary schools, institutions for higher education, auditoriums, and other places for assembly, and centers for cultural activities.

- (1) **Height of Structure.** The maximum height of the principal building shall be permitted to exceed the maximum height requirements of the district up to a maximum height of 50 feet, provided that the minimum required front, side and rear yard setbacks shall be increased to equal the height of the building wall abutting each yard.

The highest point of chimneys, stage towers of scenery lofts, church spires, cupolas, and domes may be erected to a height not exceeding twice the height of the building, provided that no such structure shall occupy more than 20 percent of the roof area of the building.

- (2) **Frontage and Access.** Institutional uses shall have frontage on, and direct vehicle access to a public road classified as a county primary road by the Township's Comprehensive Development Plan or Saginaw County Road Commission.

- (3) **Large Scale Institutional Uses.** A public, parochial and private schools including nursery schools, churches, libraries, community buildings, hospitals, convalescent homes, municipal facilities or mortuaries, which have either one or both of the following characteristics are considered a large scale use:

- (a) 500 or more parking spaces are required based on the parking requirements in the Zoning Ordinance.

- (b) The seating capacity of the main area of assembly is 1,500 seats or more. Each large-scale use shall meet the following conditions in addition to all other provisions of this Ordinance. These standards are intended to restrict large-scale uses to suitable locations, and to mitigate any adverse impacts of the uses on the community.

- (c) **Location.**

- (i) The site shall have at least 150 feet of frontage on a major thoroughfare with an existing or planned right-of-way of not less than 120 feet. All ingress and egress to the site shall be directly onto such major thoroughfares.

- (ii) All buildings, structures, and parking and loading areas shall be set back a minimum of 100 feet from any abutting residential zoning district. Such setback area shall be heavily landscaped so as to create a complete visual and physical separation between the two unlike land uses, forming an effective screen in compliance with the provisions of Section 705, Methods of Screening.

- (d) **Traffic.** Traffic from events (including church worship services) and other large assemblies shall be controlled by the institution or church, or by its agents, so as to not create congestion or unreasonable delays on the public street. A schedule of expected frequency of events (including church worship services) and assemblies, a description of the method(s)

of traffic control and a traffic impact study shall be presented to the Planning Commission for approval after review and comment on the plan by the Township Police Department.

- (e) **Associated Uses.** Associated uses on the site such as recreation centers, retreat facilities, conference centers, schools (if not the primary use), convents, and others shall meet all requirements of this Ordinance for such uses.
- (f) **Parking.** All parking spaces and aisles shall be screened from off-site view by any one (1) or a combination of the following, in accordance with Section 705, Methods of Screening:
  - (i) Screening mound or berm.
  - (ii) Dense evergreen screen.
  - (iii) Solid wall with planting strip.
  - (iv) Changes in grade through the use of retaining walls, topographic features.
- (g) **Additional Use Standards.** Storage of buses, trucks, and maintenance equipment shall be entirely within a totally enclosed building.

**(U) Junk Yard and/or Salvage Yard.**

Junkyards, salvage yards, and similar outdoor vehicle storage, dismantling or recycling facilities shall be subject to the following:

- (1) The storage area shall be enclosed within a solid wall or fence at least six (6) feet and no more than eight (8) feet in height, per Section 705 (B), Fences. Strips of metal, plastic or other materials inserted into wire fences shall not be permitted.
- (2) The site shall be screened from all road rights-of-way and abutting uses in accordance with Section 705, Methods of Screening. Such uses shall have frontage on and direct vehicle access to a public road classified as a county primary road by the Township's Master Plan or the Saginaw County Road Commission.
- (3) Junk materials shall not be stored in piles higher than the top of the fence surrounding the junkyard. Automobiles, trucks, and other vehicles shall not be stacked so as to prohibit fire protection or to interfere with or threaten the safety of visitors.
- (4) Junk materials shall be stored in organized rows with open intervals at least 20 feet wide between rows for purposes of fire protection access and visitor safety. The junkyard shall be maintained in such a manner as to prevent the breeding or harboring of rats, insects or other vermin.
- (5) The junk yard, when established and located within 1,000 feet of any existing residential district or residential use, as measured on a straight-line distance, shall not be operated at any time other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays; between 7:00 a.m. and 12:00 noon on Saturdays. In addition, sale activities only are allowed on Saturdays between 12:00 noon and

8:00 p.m. Sundays from 9:00 a.m. to 6:00 p.m., and weekdays from 6:00 p.m. to 8:00 p.m.

- (6) Burning shall be prohibited except within an enclosed incinerator approved by the Township Fire Chief, the Township Building Official, and the Saginaw County Health Department.
- (7) All flammable liquids contained in automobiles and other vehicles shall be drained immediately after such vehicles are brought to the junkyard. Such liquids shall be stored in containers approved by the Township Fire Chief.
- (8) There shall be not more than one (1) entryway from each public street that adjoins the junkyard. All drives, parking areas, and loading/unloading areas shall be paved, or chemically treated to limit windborne dust.

(V) **Kennels and Animal Shelters.**

Kennels and animal shelters shall conform to all applicable permit and operational requirements established by appropriate regulatory agencies, and shall further be subject to the following:

- (1) **Minimum Number of Animals.** If more than four) animals are housed on a parcel, six months of age or older, the subject site will be considered a kennel for the purpose of this ordinance.
- (2) **Setbacks.** Structures or pens where animals are kept, outdoor runs, and exercise areas shall not be located in any required front yard setback areas. Such facilities shall be set back at least 100 feet from all road rights-of-way, and 100 feet from all side and rear lot lines.
- (3) **Screening.** Structures where animals are kept, outdoor runs, and exercise areas shall be screened in accordance with Section 705, Methods of Screening.
- (4) **Use Standards.** Structures where animals are kept, outdoor runs, and exercise areas shall have impervious surfaces and an approved system for runoff, waste collection, and disposal. Kennels and animal shelters shall be established and maintained in accordance with all applicable County and Township sanitation and animal control regulations.
- (5) **Additional Conditions.** The Planning Commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor.

(W) **Mobile Home Park.**

- (1) **State Permit Coordination.** The Michigan Manufactured Housing Commission has issued comprehensive rules regulating safety, licensing, construction, business practices and other aspects of mobile home parks under the authority of section 11(2) of the Mobile Home Commission Act (Public Act 96 of 1987). Site plan approval for a mobile home park constitutes "preliminary local zoning approval" as provided by said act. A construction permit and license for operation of the mobile home park must be obtained from the Michigan Mobile Home Commission after site plan approval.

- (2) **Compliance with State Standards.** The Michigan Mobile Home Commission's rules establish basic standards to be met in any Michigan community when constructing a mobile home park. Overall, these standards are hereby adopted, by this reference, as the standards for local zoning approval
- (a) **Dimensional Requirements Referenced.** Such items, including but not limited to, as setbacks, open space, and the square footage of mobile home spaces are addressed by the Michigan Mobile Home Commission's rules. These must be met before preliminary site plan approval can be granted.
  - (b) **Interior Roadways.** Roadways within a mobile home park must meet the Mobile Home Commission standards (rules 920 through 923).
  - (c) **Pedestrian Circulation.** Sidewalks, when provided, shall comprise a coordinated pedestrian circulation system and shall meet the requirements of the Michigan Mobile Home Commission rule 928.
  - (d) **Sewage Collection.** Sewage collection and disposal or treatment facilities for a mobile home park must be approved by the Michigan Department of Environmental Quality (MDEQ). Note that sewage retention or treatment facilities are accessory uses for mobile home parks, and must be screened in conformance with the requirements of the Michigan Manufactured Housing Commission, rule 945.

(X) **Motor Vehicle Repair Garages.**

The following regulations shall apply to automobile, truck and other motor vehicle major and minor repair garages and service centers. See Section 202, Definitions, for Minor and Major Repair Service.

(1) **Use Standards**

- (a) **Repair and Service Use Limitations.** All equipment and service bays, hoists, pits, and other facilities shall be entirely within an enclosed building, and all repair work shall be conducted completely within an enclosed building. Repair stations shall not be permitted on sites immediately adjacent to any adjacent residential use.
- (b) **Noise and Odors.** There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of the service building. Buildings containing service and repair activities shall have appropriate filtering systems to prevent emission of odors. Building walls facing any residential districts or uses shall be of masonry construction with soundproofing.
- (c) **Traffic Impacts and Pollution Prevention.** The applicant shall submit a Pollution Incidence Protection Plan (PIPP) describing measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins and automatic shut off valves.
- (d) **Storage.** The storage, sale, rental or display of new, used, inoperable, wrecked or partially dismantled automobiles, trucks, trailers, and any other vehicles, vehicle components and parts, materials, commodities, supplies or equipment on the premises is prohibited except in

conformance with the requirements of this Section and Ordinance:

- (i) Suitable containers shall be provided and utilized for the disposal of used parts or materials, which shall be stored at least 18 inches above the ground and such containers shall be screened from public view.
  - (ii) Storage of vehicles rendered inoperative, either through damage or disrepair or any other cause, and vehicles without current license plates, shall be limited to a period of not more than 60 days. Such storage shall not occur in front of the front building line. Such inoperative vehicles shall not be sold or advertised for sale on the premises.
- (2) **Minimum Setbacks.** Buildings shall comply with the setback requirements for the district in which the use is located. However, a minimum setback of 40 feet shall be maintained on all sides that abut a residential district or residential use.
- (3) **Ingress and Egress.** Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance for other ingress and egress drives or traffic generated by other buildings or uses. The maximum widths of all driveways at the right-of-way line shall be 30 feet, and all driveways shall be located no closer than 60 feet from the intersection of any two (2) public roads.
- (4) **Screening.** All wrecked or damaged vehicles shall be screened from public view, and shall not be parked or stored within any front yard area. Outdoor storage of parts or materials shall be screened in accordance with Section 705, Methods of Screening.

(Y) **Multiple-Family Housing.**

All multiple-family dwellings and developments including two-family (duplex) dwellings, apartment buildings, townhouses, stacked flats, senior and independent elderly housing, nursing homes, assisted living facilities, and dependent elderly housing shall comply with the following:

- (1) **General Standards.**
  - (a) **Frontage, Access and Vehicle Circulation.** Multiple family developments shall have frontage on and direct vehicle access to a public road classified as a county primary road by the Township's Master Plan or the Saginaw County Road Commission.
    - (i) All interior roads, drives, and parking areas within a multi-family development shall be hard surfaced with asphalt, concrete or other paving materials approved by the Township. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto adjacent lots or across road rights-of-way.
    - (ii) Ingress-egress to parking facilities shall be arranged to minimize curb cuts directly onto the public road.

- (iii) Such uses shall be screened from abutting single-family residential districts or uses in accordance with Section 705, Methods of Screening.
  - (b) **Pedestrian Circulation.** Concrete sidewalks with a minimum width of five (5) feet shall be provided from all building entrances to adjacent parking areas, public sidewalks and recreation areas, along with barrier-free access ramps.
  - (c) **Recreation Areas.** Passive or active recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths and other recreational elements in accordance with the intended character of the neighborhood) shall be provided at a ratio of at least 15 percent of the gross area of the development.
    - (i) The minimum size of each recreation area shall be 5,000 contiguous square feet, and the length to width ratio of each area, as measured along the perimeter, shall not exceed four to one (4:1).
    - (ii) Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.
    - (iii) Off-street parking areas, driveways, basins, ponds, and accessory uses or areas shall not be counted as required open space.
  - (d) **Other Requirements.** Parking or storage of recreational vehicles, boats, utility trailers or similar items shall be prohibited, except in areas designated on an approved final site plan.
- (2) **Senior Housing and Independent Elderly Housing.** The following additional standards shall apply to senior and independent elderly housing:
- (a) **Minimum Floor Area.** Dwelling units shall be a minimum 400 square feet in floor area (not including kitchen and sanitary facilities). A one bedroom unit shall be 600 square feet and a two bedroom unit shall be 800 square feet.
  - (b) **Accessory Uses.** Accessory retail, restaurant, office, and service uses may be permitted within the principal building(s) for the exclusive use of residents, employees and their guests. No exterior signs of any type are permitted for these accessory uses.
- (3) **Nursing Homes, Assisted Living Facilities, and Dependent Elderly Housing.** The following additional standards shall apply to nursing homes, assisted living facilities, and dependent elderly housing:
- (a) **Minimum Floor Area.** The minimum floor area per sleeping room shall be 300 square feet not including sanitation facilities.
  - (b) **Setbacks.** The principal building and all accessory buildings shall be set back a minimum distance of 40 feet from all lot boundaries.



- (c) **State and Federal Regulations.** Nursing homes, convalescent homes, rest homes, orphanages and halfway houses shall be constructed, maintained, and operated in conformance with applicable local, state, and federal laws.
- (d) **Accessory Uses.** Accessory retail, restaurant, office, and service uses may be permitted within the principal building(s) for the exclusive use of residents, employees and their guests. No exterior signs of any type are permitted for these accessory uses.

(Z) **Outdoor Sales or Display Areas.**

Outdoor sales or display areas for sales or rentals of motor vehicles, recreational vehicles, building supplies, equipment, boats, merchandise or similar items shall be subject to the following:

(1) Use Standards.

- (a) **Broadcasting Devices Prohibited.** Devices for the broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited outside of any building.
- (b) **Location.** The location of all sales activity and the display of all merchandise shall be maintained in the area specified on an approved plan. No sales activity or display of merchandise shall be permitted in the public right-of-way or any required setback.
- (c) **Hours of Operation.** Operational hours for open-air businesses, outdoor display area, and exterior lighting may be restricted by the Planning Commission to protect nearby residential districts.
- (d) **Storage.** The storage of any soil, fertilizer, or other loose, unpacked materials shall be contained so as to prevent any effect on adjacent uses.

(2) Site Standards.

- (a) **Setbacks.** Outdoor sales or display areas shall be set back a minimum of 10 feet from any parking area, driveway or access drive, and 20 feet from any road right-of-way. No outdoor sales area shall be located within 50 feet of any residential district or use.
- (b) **Exterior Lighting of Outdoor Sales or Display Area.** The Planning Commission may permit a maximum intensity of 20.0 footcandles for lighting within the outdoor sales or display area, provided that site lighting is otherwise in compliance with Section 712, Exterior Lighting.
- (c) **Signs.** Additional signs shall not be permitted beyond those permitted for the principal use.
- (d) **Sidewalk Standards.** The proposed activity shall be located so as to ensure safe vehicular and pedestrian circulation.
- (e) **Grading, Surfacing, and Drainage.** Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete.

or bituminous material, and shall be graded and drained so as to effectively dispose of or retain surface waters.

- (f) **Screening.** Outdoor sales or display area shall be screened from adjacent residential districts in accordance with Section 705, Methods of Screening.
- (g) **Outdoor Display of Vehicles.** Outdoor sales space for the sale of new or used motor vehicles, house trailers, boats, boat trailers and/or recreational vehicles may be permitted only if carried on in conjunction with a regularly authorized automobile or recreational vehicle dealership that is housed in a permanent building on the same parcel of land or on contiguous parcels of land. This provision shall not prohibit a private individual, on his/her own property, from offering for sale not more than one of his/her personally owned motor vehicles or boats at any one time; but he/she shall not so offer for sale more than three motor vehicles or boats per year without complying with the zoning requirements for the sale of used motor vehicles or boats.

(AA) **Outdoor Storage, General.**

Outdoor storage of equipment, products, machinery, lumber, landscaping and building supplies or similar items shall be subject to the following:

- (1) **Screening.** The storage area shall be enclosed within a decorative brick or brick pattern, split scored or similar decorative blocks, solid wall or decorative solid fence at least six (6) feet and no more than eight (8) feet in height, per Section 3.304, Fences. The storage area shall be screened from all road rights-of-way and abutting uses in accordance with Section 705, Methods of Screening.
- (2) **Setbacks.** Any storage area shall comply with the minimum setback requirements for the district in which the facility is located, and no storage shall be permitted in any required setback areas.
- (3) **Use standards.**
  - (a) No junk or junk vehicles shall be stored.
  - (b) The storage of soil, fertilizer and similar loosely packaged materials shall be contained and covered to prevent them from blowing into adjacent properties.
  - (c) No trailer, manufactured home or truck trailer shall be stored or used for storage.
  - (d) No materials shall be stored above the height of the required wall or fence.
  - (e) In no case shall used oil or other petrochemicals be dumped or stored, except at an authorized waste oil recovery facility.

(BB) **Private Riding Arenas and Boarding Stables.**

All stables and facilities for the private rearing, schooling and housing of horses, mules, ponies and similar riding animals shall be subject to the following:

- (1) The lot area shall not be less than five (5) contiguous acres under single ownership or control.

- (2) Any building, pen, run, corral or other structure or permanent facilities or areas where horses are kept or confined shall be set back a minimum of 200 feet from any dwelling on an adjacent lot and 100 feet from all adjacent lot boundaries.
- (3) Such facilities or areas shall not be located within any required front yard setback, and shall be located no closer to any road rights-of-way than rear building line of the dwelling on the subject lot.
- (4) A fenced area where the horse or horses are allowed to feed, exercise, or be ridden or under harness may extend to the front, rear or side lot lines. All horses shall be kept confined within a fenced area when not being ridden, under harness, or in hand or when not in their building, pen, run, corral or other structure or permanent area.
- (5) There shall be no commercial activity, other than an isolated sale not unusual for a residential use
- (6) No formal site plan shall be necessary unless otherwise required by this Ordinance. A plot plan shall be submitted to the Zoning Administrator with the following:
  - (a) Lot identification, (address and property card number), size of lot, and dimensions of lot boundaries.
  - (b) The location and names of abutting roads, streets, and alleys.
  - (c) Existing site improvements and proposed modifications, and location of any structures on adjacent lots within 100 feet of the subject lot.

**(CC) Private and Public Recreational Facilities.**

Private and public parks and recreational facilities shall be subject to the following:

- (1) **General Requirements.** Structures associated with such uses as parks, country clubs, golf courses, golf driving ranges, and other similar recreational facilities shall be located at least 250 feet from a lot line or any adjacent residence or residential district and all ingress and egress from said parcel shall be directly onto a major thoroughfare.

All primary activities associated with such operations and conducted out-of-doors or fashion that would create significant or undue disturbance to adjacent uses shall be limited to hours of operation that shall not exceed 7:00 a.m. to 10:00 p.m., unless approval for an extension of that period is obtained from the Buena Vista Charter Township Planning Commission. Outdoor lighting shall not be permitted where such lighting would negatively impact neighboring residential uses.

Construction, expansion, and alteration of recreational facilities shall be subject to site plan approval per Section 1101, Site Plan Review.

- (2) **Gun Clubs and Shooting Range Regulations.** The following additional standards shall apply to all gun clubs and shooting ranges:
  - (a) All such facilities must be situated on a parcel of land not less than 10 acres in area.

- (b) Such parcel of land must be adequately fenced, that being a fence of at least four (4) feet in height, and posted through both symbols and written statement so as to inform the public of the nature of the facility at frequent intervals not to be greater than 50 feet apart.
- (c) Design and operation of such facility shall also be in accordance with specifications and practices outlined in the "Current National Rifle Association Standards".

**(DD) Public or Commercial Riding Stables.**

Public or commercial riding stables and academies for the rearing, schooling and housing of horses, mules, ponies and similar riding animals available or intended for use by the public or for compensation shall be subject to the following:

- (1) Any paddock, building, pen, run, or corral shall be set back a minimum of 200 feet from any dwelling or principal building on an adjacent lot, and 100 feet from any adjacent lot boundary or road right-of-way. Fenced areas where the animals are allowed to feed, exercise or be ridden, in hand or under harness may extend to the lot boundaries and road right-of-way.
- (2) Sufficient off-street parking shall be provided, as determined by the Planning Commission.
- (2) Public or Commercial riding stables and academies shall be subject to site plan approval per Section 1101, Site Plan Review.

**(EE) Recreational Vehicle (RV) Park or Campground.**

Recreational vehicle parks and campgrounds shall be subject to special land use review and approval by the Planning Commission and the following:

- (1) **Regulatory Compliance Required.** RV parks or campgrounds must maintain compliance with all applicable regulations of the state and county health departments, the Michigan mobile home commission and the Michigan department of natural resources. Failure to maintain compliance with such regulations, as documented by (a) certificate(s) of compliance from the applicable agency(ies) is a violation of special use permit conditions, subject to enforcement per Section 1102).
- (2) **Screening and Security.** The Planning Commission may require a fence up to six (6) feet in height around the perimeter of the site, and may require screening from road rights-of-way and abutting residential uses in accordance with Section 705, Methods of Screening.
- (3) **Setbacks.** Structures and areas designated for camping shall be located a minimum of 100 feet from all lot boundaries. The storage of vehicles not set up for occupancy shall be located a minimum of 200 feet from all lot boundaries, and shall be screened in accordance with Section 705, Methods of Screening.
- (4) **Additional Standards.** Campgrounds shall comply with all applicable county and state regulations. Each campsite shall either be provided with individual water and sewer hookups approved by the Saginaw County Health Department, or shall have convenient access to approved bathrooms, toilets, and shower facilities.

- (5) **Access.** Recreational vehicle parks shall have direct frontage on, and direct vehicle access to a public road classified as a state highway or county primary road by the Township's Master Plan or Saginaw County Road Commission.
    - (a) Each individual camp-site for a recreational vehicle or tent shall be a minimum of 1,500 square feet.
    - (b) A common use area shall be provided based on the number of camp-sites at a ratio of 250 square feet per site. The common area may be improved to include passive and/or active recreational equipment for the use of all occupants of the campground.
  - (6) **Parking.** The site shall include adequate vehicle access and parking facilities. All parking for campgrounds and recreational vehicle parks shall be set back a minimum of 40 feet from any residential district and meet the standards of Chapter 6, Parking and Loading.
  - (7) **Resident Manager.** Each RV park or campground shall be directly supervised by a resident manager and his or her family. Management shall be accessible to park tenants at all times (24 hours every day) when park spaces are rented. The manager's residence must be a permanent structure containing the park's business office, plus at least 1,000 square feet of living area.
  - (8) **Use Standards.**
    - (a) **Temporary Residency.** Campgrounds and recreational vehicle parks shall be for seasonal recreation use only. Spaces shall be rented by the day or week only, and no occupant of such spaces shall remain in the same park or campground for more than 60 days each year. This provision shall not apply to the manager or caretaker.
    - (b) **Impact on Surrounding Uses.** The location, layout, design, or operation of campgrounds and recreational vehicle parks shall not impair the continued enjoyment, use, and future orderly development of adjacent and nearby lots. Such uses shall not generate excessive noise, odors, dust, or other impacts that impair the continued use and enjoyment of adjacent lots.
    - (c) **Accessory Retail Facilities.** Limited retail uses shall be permitted accessory to a campground or recreational vehicle park, provided that such uses are designed to serve only campground or park patrons.
- (FF) **Roadside Stands.**
- Roadside stands up to 400 square feet in gross floor area shall be permitted accessory to any agricultural use, subject to the following:
- (1) A minimum of one parking space shall be provided outside of the road right-of-way for each 100 square feet of gross floor area in the stand.
  - (2) All signs used in connection with the use shall be temporary, and shall be removed when the stand is not in use. All signs shall comply with the requirements of Chapter 8, Signs.
  - (3) The stand shall be located a minimum of 50 feet from the nearest road pavement or improved surface. Such stands shall be portable, and shall be removed from its roadside location during seasons when it will not be in use.

- (4) All produce or products for sale shall be grown, produced, or made from produce grown or material produced on the property where the stand is located.

**(GG) Self-Storage Warehouses.**

The following regulations shall apply to self-storage warehouses:

- (1) **Permitted Use.** Self-storage warehouse establishments shall be limited to storage of household goods and non-hazardous commercial goods. Storage of recreational vehicles and recreational equipment shall be subject to the following:
  - (a) Such storage shall be incidental to the main use of enclosed storage.
  - (b) Such storage shall be located to the rear of the lot and subject to any additional screening as determined by the Planning Commission at site plan review.
  - (c) All such recreational vehicle and equipment must be operable and licensed to operate on the highways of the State of Michigan.
  - (d) **Screening.** Sites shall be visually screened from all road rights-of-way and abutting uses in accordance with Section 705, Methods of Screening.
- (2) **On-Site Circulation.** All internal circulation routes shall be at least 25 feet wide.
- (3) **Storage Units.**
  - (a) The maximum length of any self-storage building shall be 250 feet.
  - (c) No single self-storage building shall exceed 15 feet in height.
  - (c) All buildings shall have a pitched roof with gables. However, other roof styles may be approved by the Planning Commission subject to incorporation of sufficient architectural design and details.
- (4) **Retail Sales.** Limited retail sales to tenants of products and supplies incidental to the principal use, such as packing materials, labels, tape, protective covers, etc. shall be permitted on site.

**(HH) Sewage Treatment Plant.**

- (1) **General.** The treatment plant shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in said statutes, the state requirements shall prevail. All installations shall be maintained in a neat, orderly condition.
- (2) **Permits.** Any permits required for the subject use under Michigan law must be obtained before a zoning permit is issued. The planning commission may hold a public hearing and approve a special use permit, conditioned upon receipt of the state permit(s). The zoning administrator may communicate said action, if needed for any state permit process.
- (3) **Distance from Residential Subdivisions.** No dwelling in a subdivision with an officially filed plat shall exist within 2,000 feet of any building or active use area of the facility, regardless of which zoning district the dwelling is in.

- (4) **Tree Buffer.** Buffers of natural tree cover or planted evergreens no less than 100 feet wide shall be provided on the periphery of the property.
- (5) **No Hazardous or Toxic Waste.** No hazardous or toxic wastes, as defined by the department of natural resources, may be deposited or stored at any time.
- (6) **Truck Access.** Routes for truck movement to and from the site shall be identified by the Saginaw County Road Commission. Wear on public roads, traffic hazards, and encroachment of noise, dust, and other nuisances upon adjacent uses must be considered.
- (7) **Hours of Operation.** No machinery or equipment shall operate, and no trucks shall arrive at the site, before 7:00 a.m. or after 8:00 p.m.
- (8) **Activity Restrictions.** No open burning is permitted, and all processes using equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted in an enclosed building.
- (9) **Fence Requirements.** All operations shall be completely enclosed by a fence not less than six feet high.

(II) **Single-Family Dwellings, Detached.**

Detached single-family dwellings, except manufactured housing units located in approved and licensed manufactured housing parks, shall comply with the following standards:

- (1) All dwellings shall have a minimum width across all front, side, or rear elevations of 24 feet, and shall comply with the minimum floor area requirements of the zoning districts in which they are located.
- (2) Dwellings units shall be permanently attached to a perimeter foundation, which shall have the same perimeter dimensions as the dwelling and which complies with the applicable provisions of the State Construction Code. A manufactured home may be installed and anchored pursuant to the manufacturer's setup instructions and the applicable Michigan Manufactured Housing Commission General Rules, provided that its wheels and towing mechanism have been removed and the undercarriage has been secured and screened from view with permanent skirting or similar measures.
- (3) Permanent steps, porches or barrier free access ramps shall be provided where there is a difference in elevation between a doorway and grade level.
- (4) All dwellings shall contain an indoor storage area within the dwelling or a separate accessory structure, which shall be equal to 10 percent of the total residential floor area or 100 square feet, whichever is less.
- (5) All dwellings shall be connected to a privately owned and operated well and septic system approved by the Saginaw County Health Department, or to a publicly owned and operated water supply and sanitary sewer system.
- (6) New construction and additions to existing dwellings shall conform to all requirements of this Ordinance.
- (7) A minimum roof pitch of 3 feet rise to 12 feet of run for 60 percent to the roof surface is required.

**(JJ) Small Wind Energy Systems.**

The following standards are applicable to small wind energy systems:

- (1) **Minimum Site Area.** A small wind energy system may only be located on a lot with a minimum area of 1/2 acre.
- (2) **Height.** The maximum height for the fixed portion of the tower, excluding the blades or blade system, for small wind energy systems shall be based on the area of the parcel in question. In no case shall a wind energy system exceed height limits imposed by FAA regulations.

<u>Parcel Area</u>	<u>Maximum Tower Height</u>
½ - 1 acre	45 feet
1.01 – 5 acres	65 feet
5.01 – 10 acres	100 feet
Greater than 10 acres	No maximum

**(3) Setbacks.**

- (a) The minimum setback for any tower-mounted small wind energy system from any property line shall be equal to the height of the wind turbine plus 5 feet.
- (b) The minimum setback for any tower-mounted small wind energy system from a road right of way or overhead utility line shall be equal to the height of the wind turbine unless written permission is granted by the governmental agency with jurisdiction over the road or the affected utility.
- (c) Roof-mounted wind energy systems shall be set back a minimum of 15 feet from any property line.
- (d) Tower-mounted small wind energy systems may not be located in the front yard of any lot. **EXCEPTION:** if the principal building is set back 200 feet or more from the street, tower-mounted systems may be located in the front yard provided that a minimum 150-foot front yard setback is provided.

**(KK) Utility Wind Energy Systems.**

The following standards are applicable to large wind energy systems:

- (1) **Minimum Site Area.** Utility wind energy systems may only be developed on a zoning lot with an area of 20 acres or greater.
- (2) **Setbacks.** Any utility wind energy system shall be set back a distance equal to the height of the tower plus 5 feet from any property line, road right of way, or overhead utility line.
- (3) **Towers.** Utility wind energy systems shall use tubular monopole towers, and shall not contain lettering, company insignia, advertising, or graphics on the tower or turbine that are visible beyond the property boundaries.



- (4) **Environmental Impact.** The applicant shall submit an environmental impact analysis prepared by a qualified third party assessing any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, wildlife, and antiquities. The applicant shall take appropriate measures, if possible, to minimize, eliminate or mitigate adverse impacts identified in the analysis. If the adverse impacts cannot be sufficiently mitigated or eliminated, the Township Board shall deny the request for a conditional use permit for the utility wind energy system.
- (5) **Community Impact.** The applicant shall be responsible for repairing any public roads or other public infrastructure damaged or otherwise worn beyond typical usage by the construction of the utility wind energy system.
- (6) **Decommissioning.** The applicant shall submit a decommissioning plan, including the following items of information:
  - (a) The anticipated life of the project.
  - (b) The estimated decommissioning costs and net salvage value in present dollars.
  - (c) The method of ensuring funds will be available for decommissioning and removal of towers, and restoration of the site to a pre-construction condition.
  - (d) Anticipated manner in which the project will be decommissioned and the site restored.
- (7) **Complaint Resolution.** The applicant shall develop a process to resolve any potential complaints from nearby residents concerning the construction and operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon a complaint. The process shall not preclude any governmental body from acting on a complaint. The applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

(LL) **Veterinary Clinics and Hospitals.**

Veterinary clinics and hospitals shall comply with the following:

- (1) **Enclosure.** Other than outdoor runs, all other activities shall be conducted within a completely enclosed building constructed to ensure that noise and odors shall not be perceptible beyond the lot boundaries.
- (2) **Setbacks.** All buildings and outdoor pens or enclosures shall be set back at least 100 feet from all road rights-of-way and residential districts.
- (3) **Treatment Facilities.** All boarding shall be limited to animals brought in for treatment or surgery, unless the site has been approved as a kennel, per Section 402 (U), Kennels and Animal Shelters.
- (4) **Use Standards.** The clinic or hospital shall be operated by a licensed or registered veterinarian, and shall be subject to the following:

- (a) Operation shall include proper control of animal waste, odor, and noise.
- (b) A six foot high solid fence, per Section 705 (B), Fences, shall enclose outdoor exercise areas.
- (c) Animals shall not be kept or quartered outside of a building between 8 pm and 8 am.

**(MM) Warehouses, Other Storage Facilities, and Truck Terminals.**

- (1) **Access.** Vehicle access to local streets shall be prohibited.
- (2) **Setbacks.** Truck terminals and any loading dock area shall be set back a minimum of 500 feet from any residential district or use.
- (3) **Parking and Loading.** All parking, loading, and maneuvering space shall be contained within the site. Special consideration shall be given to any potential loading and unloading nuisances on surrounding properties.
- (4) **Screening.** Truck and trailer parking areas shall be screened from all street rights-of-way and abutting uses, and screening shall be required on side or rear lot lines abutting a residential district or use, in accordance with Section 705, Methods of Screening.

**(NN) Wireless Communication Facilities**

- (1) **Purpose.** The purpose of this Article is to:
  - (a) Carry out the will of the United States Congress by permitting facilities within the Township that are necessary for the operation of wireless communications systems, facilitating adequate and efficient provisions for wireless communications facility sites, and encouraging co-location of multiple antennas on a single tower.
  - (b) Consider public health and safety in the location and operation of wireless communications facilities, and protect residential areas, community facilities, historic sites and landmarks from potential adverse impacts of towers and antennas.
  - (c) Limit visual impacts by promoting the use of screening and innovative designs for such facilities, prevent potential damage to adjacent properties from tower failure, and promote the timely removal of facilities upon the discontinuance of use.
- (2) **Application.** The following information shall be provided with any application for approval of a wireless communications facility:
  - (a) **Applicant Information.** The name, address and telephone numbers for the applicant, property owner, tower operator and installation contractor; and the address, parcel identification number or location of the property on which the facility is to be located.
  - (b) **Site Plan.** A site plan that identifies the type of wireless communications facility, as defined in this Ordinance, and includes the following:
    - (i) A parcel survey, with easements, setback dimensions and the location of all existing and proposed structures and facilities on

- the zoning lot upon which the facility will be located, and all existing structures and uses within 300 feet of the boundaries of the zoning lot.
- (ii) A screening plan, with details of proposed fencing and screening materials.
  - (iii) Elevation drawings of all proposed towers and other structures on the site.
  - (iv) A location map for the proposed wireless communications facility, along with the location, height, type and owner or operator of all existing facilities within five (5) miles of the proposed location.
- (c) **Service Area Coverage Maps.** A map of the area served by the provider's existing wireless communications facilities shall be provided, along with a map of the same area showing the additional service area coverage of proposed facilities.
- (d) **Construction Drawings.** Construction drawings shall be provided that include plans, specifications, materials, designs, dimensions, structural supports, heights, electrical components, methods of construction and type of illumination for each wireless communications facility.
- (e) **Permission to Locate.** The applicant shall submit copies of a signed lease or other proof of permission to locate a wireless communications facility on the site.
- (f) **Co-location Agreement.** The applicant for a new or altered tower shall submit a written agreement, transferable to all successors and assigns, stating that the tower operator shall make space available on the tower for co-location. Proposed antenna and equipment locations shall be indicated on the site plan and elevation drawings.
- (g) **Insurance Certificate.** The applicant shall submit a valid certificate of insurance, to be renewed annually, listing Buena Vista Charter Township as the certificate holder and naming the Buena Vista Charter Township, its past, present and future elected officials, representatives, employees, boards, commissions and agents as additional named insured. The certificate shall also state that if any of the described policies are to be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the Township as certificate holder. The Township may require the applicant to supply a \$1,000.00 cash bond to the Township, which shall be used to reimburse administrative expenses in the event the certificate is allowed to lapse.
- (h) **Maintenance Agreement.** The applicant shall submit a plan for the long-term maintenance of the facility that identifies who will be responsible for maintenance of the facility, access, easements and required landscaping. The plan shall include a method of notifying the Township if maintenance responsibilities change.
- (i) **Removal Agreement.** Prior to issuance of a zoning permit, the applicant shall submit a signed removal agreement and a security bond or letter of credit, in a form satisfactory to the Township Attorney, for the removal of

towers or antennas as applicable. The applicant shall demonstrate that adequate funds will be available to the Township for the removal of such towers or antennas, restoration of the site and associated administrative costs incurred by the Township in the event that the applicant, property owner or their successors fail to remove the tower or antenna in a timely manner as required by this Section.

(j) **Tax-related Information.** The applicant shall supply to the Township Assessor all tax-related information as requested for appraisal purposes. Upon receipt of requested information, the Assessor shall provide notice to the Zoning Administrator that this condition has been satisfied.

(k) **Engineering Certification.** Stress sheets and calculations showing that the structure is designed in accordance with applicable dead load and wind pressure standards shall be submitted, along with signed certification by a professional engineer licensed by the State of Michigan specifying the manner in which the tower or antenna structure will fall in the event of accident, damage or failure, and verifying that the setback area would accommodate the structure and provide a reasonable buffer from adjacent parcels in the determination of the Planning Commission.

(3) **Type of Review Required.** The purpose of this Section is to establish consistent review procedures that ensure full compliance with the standards of this Article, and to ensure that the type and intensity of review and amount of required information is in direct proportion to the scale of the project and the intensity of the use. Wireless communications facilities shall be reviewed in accordance with the following table:

SITUATION or USE	Required Review and Approval		
	Planning Commission	Zoning Permit	Exempt
<b>NEW TOWERS AND ANTENNAS</b>			
Construction, alteration or enlargement of wireless communications facilities, including cell towers, AM antennas arrays, television or radio towers, and microwave or public utility transmission towers.	■		
Installation of an antenna on an existing building or structure.	■		
<b>COLOCATION ON EXISTING TOWERS</b>			
Co-location of an antenna on an existing approved tower.	□	■	
<b>SATELLITE DISH ANTENNAS</b>			
Installation of a satellite dish antenna with a diameter of less than 1.5 meters.			■
Installation of a satellite dish antenna with a diameter 1.5 meters or larger.		■	

SITUATION or USE	Required Review and Approval		
	Planning Commission	Zoning Permit	Exempt
<b>AMATEUR RADIO ANTENNAS</b>			
Installation of an amateur radio transmission and reception antenna.		■	
Installation of citizen band radio facilities, short wave facilities, an amateur radio reception-only antenna or governmental facilities subject to federal or state laws or regulations that preempt local regulatory authority.			■
<b>OTHER PROJECTS</b>			
Repair, service or maintenance of an existing approved wireless communications facility, provided that all work is in compliance with approved plans, permits and applicable codes.			■
Telecommunication facilities as defined by the METRO Act (P.A. 48 of 2002, as amended).			■

- (a) **Exempt Facilities.** Activities listed as exempt from review shall be permitted by right, subject to the applicable standards of this Section.
- (b) **Facilities Subject to Zoning Permit Approval.** Such facilities shall be subject to review and approval by the Zoning Administrator in accordance with the applicable standards of this Section.
- (c) **Facilities Subject to Planning Commission Approval.** Such facilities shall be subject to a public hearing, and review and approval by the Planning Commission in accordance with the applicable standards of this Section and the review procedures specified in 1101, Site Plan Review.
- (4) **Review Procedure.** Construction, installation, replacement, co-location, alteration or enlargement of wireless communications facilities shall be reviewed in accordance with the following procedures:
  - (a) **Procedure.** After a complete application has been received and review fees paid, wireless communications facilities subject to Planning Commission review shall be reviewed in accordance with the following procedure:
    - (i) **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to appropriate Township officials and staff for review and comment. The Zoning Administrator may also submit the plans to applicable outside agencies and designated Township consultants for review and comment.
    - (ii) **Public hearing.** A public hearing shall be scheduled and held before the Planning Commission for all wireless communications facilities subject to Planning Commission review, in accordance

with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended and Section 1103, Public Hearing Procedures.

- (iii) **Planning Commission action.** Subsequent to the hearing, the Planning Commission shall review the proposed wireless communications facility, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments.
  - (a) The Planning Commission shall verify whether the facility is in compliance with the requirements of this Section and Ordinance.
  - (b) The Planning Commission shall verify whether the facility satisfies the criteria for approval listed in Section 1101 (D) (3).
  - (c) The Planning Commission shall then consider its findings, shall take action to approve, approve with conditions or deny the wireless communications facility, and shall set forth the reasons for their action.
- (b) **Effect of Action.** Approval of the wireless communications facility by the Planning Commission shall allow the Building Official to review and issue a permit for the work associated with the application. No work may take place on the site except in accordance with an approved permit and the design and plans approved by the Planning Commission. If the Planning Commission denies the wireless communications facility, the applicant may submit a new wireless communications facility application that corrects any deficiencies in the denied application materials, facility design or location.
- (c) **Expiration of Approval.** Approval of a wireless communications facility shall expire 365 days after the date of approval, unless a permit has been issued or construction has commenced. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant an extension of up to 180 days, 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 wireless communications facility plans remains in conformance with the purpose and provisions of this Article.
- (5) **General Requirements.** The following regulations shall apply to all wireless communications facilities:
  - (a) **Federal, State and Local Standards.** Wireless communication facilities shall meet or exceed current standards of the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Michigan Aeronautics Commission and any other agency of the state or federal government with regulatory authority, and shall further comply with applicable building, electrical and fire codes.
  - (b) **Public Safety.** Wireless communication facilities shall comply with applicable federal and state standards relative to radio frequency emissions, and shall be designed, constructed, operated and maintained

in a structurally sound condition, using the best available technology to minimize any threat to public safety.

- (c) **Access.** Unobstructed permanent access to the facility shall be provided for operation, maintenance, repair and inspection purposes. Access may be provided by an easement.
  - (d) **Lighting.** Wireless communications facilities shall not be illuminated, unless required by the FAA or Michigan Aeronautics Commission.
  - (e) **Colors.** Towers, and antennas located on towers, shall be painted white or grey. Antennas on buildings shall be painted to match or blend in with the building façade. The Planning Commission may modify this requirement upon finding that other colors or treatments would be more appropriate for the location.
- (6) **Standards for Wireless Communication Towers.** The following shall apply to all wireless communication towers, microwave, or public utility transmission towers or antenna arrays.
- (a) **Location.** Wireless communication towers shall be limited to lots in the A-1, A-2, Agricultural districts, B-3 Commercial, M-1 and M-2, Industrial districts that have sufficient lot area to accommodate the minimum setback requirements of this Section.
  - (b) **Height.** Towers shall not exceed 200 feet in height as measured from certified grade to the highest point of the tower, including antennas attached to the tower. The Planning Commission may waive this height limitation, subject to the following:
    - (i) Determination that the additional height is necessary to permit reasonable use of the tower and antennas, based upon documentation submitted by the applicant.
    - (ii) Determination that the additional height will not adversely impact abutting lots and uses to an extent greater than a tower that conforms to the maximum height standard of this subsection.
  - (c) **Setbacks.** Towers shall be set back from the boundaries of adjacent lots, districts and uses as follows:
    - (i) **From Lot Boundaries.** A minimum distance equal to 100 percent of the height of the tower unless a lesser setback is demonstrated necessary based on the engineering certification provided with the application. Anchoring cables, equipment enclosures and accessory structures shall satisfy minimum zoning district setback requirements.
    - (ii) **From Adjacent Districts and Uses.** A minimum of 200 feet from an existing residential dwelling unit.
    - (iii) **Between Towers.** New wireless communication towers shall be set back a minimum of one mile from all existing towers. The Planning Commission may approve a lesser separation distance upon determining that the tower location is necessary to satisfy

reasonable operating requirements, as demonstrated by the applicant.

- (d) **Co-location.** Wireless communications facilities shall be designed, constructed and maintained to accommodate co-location of multiple antennas on a single tower.
  - (e) **Ground Equipment Enclosure.** New wireless communication towers, accessory structures and equipment enclosures shall be completely enclosed by an eight foot high fence with a lockable gate to prevent unauthorized access. Screening shall be provided on all sides of the ground equipment enclosure except the gated area in accordance with Section 705, Methods of Screening.
  - (f) **Tower Address.** Each wireless communications tower shall be designated with a specific and unique mailing address.
- (7) **Standards for Antennas Located on Structures.** The following shall apply to antennas located on principal or accessory structures, in addition to the provisions of Section 402 (KK) (5), General Requirements:
- (a) Such antennas shall be limited to structures in the A-1, A-2, Agricultural districts, R-1, Single-family Residential, B-3 Commercial, M-1 and M-2, Industrial districts with a minimum height of 50 feet.
  - (b) The antenna and support structure shall be permanently secured to the structure, and shall not exceed the structure height by more than 10 feet.
- (8) **Standards for Amateur Radio Antennas.** The following shall apply to all amateur radio antennas, in addition to the provisions of Section 402 (KK) (5), General Requirements.
- (a) Amateur radio antennas shall be limited to lots in any zoning district that have sufficient lot area to accommodate the minimum setback requirements of this Section.
  - (b) A maximum of one such antenna shall be permitted per zoning lot, with a maximum height of 60 feet and a minimum setback from all lot boundaries equal to 100 percent of its height.
  - (c) Such antennas shall be accessory to a principal building on the same lot, and shall be located in the rear yard area.
- (9) **Criteria for Approval.** Construction, installation, replacement, co-location, alteration or enlargement of wireless communication facilities shall only be approved upon determination that all of the following conditions have been satisfied:
- (a) **Operating Requirements.** The applicant shall demonstrate that operating requirements necessitate locating within the Township and the general area, and shall provide evidence that existing towers, structures or alternative technologies cannot accommodate these requirements.
  - (b) **Engineering Requirements.** The applicant shall demonstrate that existing towers or structures are not of sufficient height or structural strength to meet engineering requirements, or are not located in a geographic area that meets these requirements.



- (c) **Impact on Adjacent Uses.** Nearby residential districts and uses, community facilities, historic sites and landmarks, natural beauty areas, and road rights-of-way will not be adversely impacted by the location of the wireless communications facility.
  - (d) **Site Characteristics.** Topography, vegetation, surrounding land uses, zoning, adjacent existing structures, and other inherent site characteristics are compatible with the installation of wireless communications facilities.
  - (e) **Site Design.** The design, lighting, color, construction materials, landscaping, fencing, screening, and other design elements are in compliance with applicable provisions of this Section and Ordinance.
- (10) **Existing Towers and Antennas.** Wireless communications facilities for which building permits have been issued prior to the effective date of this Ordinance shall be allowed to continue, provided that such facilities are maintained in accordance with Section 402 (KK) (5), General Requirements and all approved plans, permits, and conditions of approval.
- (11) **Rescinding Approval of Wireless Communications Facilities.** Failure of the owner, operator or leaseholder of an approved wireless communications facility to renew or replace any required bonds or insurance certificates, provide information to the Township about the facility as required by this Section or maintain and operate the facility in compliance with the provisions of this Section shall be grounds for the Township to rescind any previous approval to construct or operate the facility. Such action shall be subject to the following:
  - (a) **Public hearing.** Such action may be taken only after a public hearing has been held by the Planning Commission in accordance with the procedures set forth in Section 1103, Public Hearing Procedures, at which time the operator of the use or owner of an interest in the wireless communications facility for which approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
  - (b) **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescinding of approval shall be made and written notification provided to said owner, operator or designated agent.
- (12) **Removal of Wireless Communications Facilities.** Wireless communications facilities for which approval has been rescinded, or that have ceased operation for more than 365 contiguous days, shall be removed by the owner or operator within 90 days of receipt of notice from the Township requesting such removal. Failure by the owner to remove such facilities upon request shall be grounds for the Township to seek court approval for such removal at the expense of the facility owner or operator.
- (13) **METRO Act Telecommunication Facilities.** Nothing in this Ordinance shall be construed in such a manner to conflict with the regulatory process established for telecommunication facilities as defined and regulated by the METRO Act, P.A. 48 of 2002, as amended.

(OO) **Agricultural Tourism**

- (1) **Intent.** To promote and maintain local farming. The activities that are described have become necessary for the sustainability of farms.
- (2) **The goals of these provisions are:**
  - a. To maintain and promote agriculture and its related activities, such as agricultural tourism.
  - b. To preserve open space and farmland
  - c. To maintain both an agricultural heritage and a rural character.
  - d. To increase community benefits by having fresh, local produce for sale and working classrooms for school children's and urban residents' education
  - e. To increase positive growing businesses that contributes to the general economic conditions and cycle of the area and State.
- (3) **The purposes of these provisions are:**
  - a. To provide standard definitions related to agricultural tourism operations.
  - b. To provide a list of permitted activities under an agricultural tourism operation.
  - c. To provide a list of activities that needs a special permit to guide and regulate agricultural tourism businesses on agriculturally zoned land.
  - d.
  - e. To provide for a clear understanding of the expectations for agricultural tourism businesses for operators, local residents, other businesses and local officials.
- (4) **Parking.**
  - a. For agricultural tourism and seasonal agriculturally related uses one space for each 250 square feet of retail area and one space for every 500 square feet of outdoor related activities such as agricultural mazes, petting farms, outdoor play equipment, etc.
  - b. For uses permitted by right under the agricultural district, parking facilities may be located on a grass or gravel area for seasonal uses such as road side stands, u-pick operations and agricultural mazes. All parking areas shall be defined by either gravel, cut lawn, sand or other visible marking.
  - c. For uses permitted by special use permit parking may be either gravel or paved as determined by the Planning Commission, based on applicant estimates for seasonal parking and the intensity of the use. Overflow parking areas may be required by the Planning Commission to accommodate seasonal peak demand.
  - d. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
  - e. Unpaved parking areas shall not be located in required side and rear parking setback areas. Paved parking areas must meet all design, landscape screening and setback requirements set forth in this zoning ordinance.

(PP) **Solar Energy Facilities**

- (1) **Purpose**
  - a. The purpose of the Ordinance is to facilitate the construction, installation and operation of a Solar Energy Facilities (SEFs) in Buena Vista

Township in a manner that protects public health, safety and welfare and avoids significant impacts to protected resources such as important agricultural lands, endangered species, high value biological habitats and other protected resources. It is the intent of this ordinance to encourage solar facilities that reduce reliance on foreign petroleum supplies, increase local economic development and job creation, reduce greenhouse gas emissions, and/or promote economic development diversification.

**(2) Definitions**

- b. "Applicant" is the Landowner, developer, facility owner, and/or operator with legal control of the project, including heirs, successors and assigns, who has filed an application for development of a Solar Energy Facility under this Ordinance.
- c. "Landowner" means the persons or entities possessing legal title to the Parcel(s) upon which a SEF is located
- d. "Parcel" means all land within a legally established parcel.
- e. "Practicable" means it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
- f. "Protected Lands" means, for the purpose of this section only, lands containing resources that are protected or regulated by established regulatory standards of local, state, and federal agencies, conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.
- g. "Review Authority" means Buena Vista Township.
- h. "Solar Energy Facility (SEF)" means an energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems.
- i. "Solar Electric System (SES)" means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.
- j. "Uses Allowed" means one of the following:
  - i. Direct Use – a SEF designed and installed to provide on-site energy demand for any legally established use of the property.
  - ii. Primary Use – a SEF that uses over 50% of the Parcel(s) and is devoted to solar electric power generation primarily for use off-site.

- iii. Secondary Use – a SEF that is not the Primary Use of the property and uses less than 50% of the Parcel(s) land area.

**(3) Applicability**

- a. This Ordinance applies to the construction of any new SEF within the Township.
- b. A SEF legally established or permitted prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, however:
  - i. Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this Ordinance. Only the modification or alteration is subject to this Ordinance;
  - ii. Substantial conformance review determinations are not major amendments to a project's existing permits; and
  - iii. Routine operation and maintenance or like-kind replacements do not require a permit.

**(4) Permit Required**

The type of permit required for SEFs shall be as shown in Table 1 Permit Requirements

	Direct Use	Primary Use	Secondary Use
A-1, A-2, R-1, R-2, R-3, MH	P	SLU	SLU
TC, B-1, B-2, B-3	P	SLU	SLU
M-1, M-2, AP	P	SLU	P

**(5) Parcel Line Setbacks**

The following setbacks from the Parcel line to the closest part of the SEF shall be established as shown in Table 2. Fencing, roads and landscaping may occur within the setback.

**Table 2. Setbacks**

	Direct Use	Primary Use	Secondary Use
Setback from All Property Lines	Per Zoning for that District	75 feet	75 feet

**(6) Height**

- a. For ground mounted systems, height restrictions will be measured from natural grade below each module in the event the site has topographic changes.
- b. Roof mounted solar energy systems are limited to five (5) feet above roof surface not to exceed the roof ridge and may project above the height limit.
- c. Ground mounted solar energy systems are limited to fifteen (15) feet in height.

**(7) General Requirements (apply to all SEF Uses unless otherwise noted)**

- a. Building Permits Are Required –
  - i. Nothing in this chapter modifies the minimum building standards required to construct a SEF, consistent with applicable building and fire codes. The SEF components and all accessory equipment shall comply with the most recently adopted Building Code as determined by the Building Official and Fire Code as determined by the Fire Official.
  - ii. A site plan shall be provided at the time of the Building Permit application demonstrating compliance with the setbacks in Tables 1 and 2.
  - iii. The Building Permit shall include review by local permitting departments including, but not limited to, the local Fire Authority, for Health and Safety Requirements.
- b. Supplemental Information Required-
  - i. The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.
  - ii. On site power lines between solar panels and inverters shall be placed underground.
  - iii. If the solar energy facility consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor battery storage have been met.
  - iv. A copy of the application to the utility company that will be purchasing electricity from the proposed site shall be provided to the Township.
  - v. An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.
  - vi. A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, number of panels, and angles of orientation.
  - vii. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
  - viii. For ground mounted SEF, a description of the ground covering of native Michigan plantings beneath the solar panels (i.e. grass, plantings) and a plan for maintaining the ground cover.

- c. Off-Site Facilities – When the SEF is located on more than one Parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.
- d. Glare – Any glass, plastic, or metal panels must not produce glare that is visible from the street or any neighboring home.
- e. Septic System Avoidance – The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Health;
- f. Floodplain Avoidance – If located in a floodplain as designated by FEMA, or an area of known localized flooding, all panels, electrical wiring, automatic transfer switches, inverters, etc. shall be located above the base flood elevation; and, shall not otherwise create a fire or other safety hazard as determined by the Building Official.
- g. Conform to Development Standards for Underlying Zone – The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein;
- h. Visibility
  - i. All areas – all ground mounted facilities shall:
    - 1. If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent Parcel or the night sky;
    - 2. Not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, and the facility owner;
    - 3. Be sited behind existing vegetation (which shall be supplemented with landscaping where not adequate to screen the project) or be sited using the natural topography to screen the project; and
- i. Abandonment
  - ii. A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Planning Director or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SEF.
  - iii. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the SEF and restore the site to its condition prior to development of the SEF within three hundred and sixty (360) days of notice by the Planning Director or his designee.
  - iv. If the responsible party (or parties) fails to comply, the Planning Director or his designee may remove the SEF, sell any removed materials, and initiate judicial

- proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a nonhazardous pre-development condition.
- v. Facilities deemed by the Township to be unsafe and facilities erected in violation of this section shall also be subject to this Section. The code enforcement officer or any other employee of the Planning and Building Departments shall have the right to request documentation and/or affidavits from the Applicant regarding the system's usage, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred.
  - vi. Upon a determination of abandonment or other violation(s), the Township shall send a notice hereof to the Applicant and/or Landowner, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within ninety (90) days of notice by the Township, unless the Township determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the Township may advise the Applicant and/or Landowner of such alternative means of resolving the violation(s).
  - vii. If the Applicant and/or Landowner do not comply, the Township may remove the SEF and restore the site and may thereafter (a) draw funds from any bond, security or financial assurance that may have been provided or (b) initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

**(8) Solar Energy Facilities- Direct Use**

- a. **General Requirements.** Direct Use SEFs provide energy for on-site use. In addition to the General Requirements in Section 3.55.07, the following standards shall apply to all Direct Use SEF, notwithstanding the development standards for the underlying zone:
  - i. Lot Coverage – Allowable lot coverage varies by the underlying zoning district.
  - ii. Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 2.
  - iii. Height Limits – Facilities shall conform to the height limits of Table 3.
- b. **Biological Resources.** The protection of high value biological resources is an important consideration. Direct Use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, State, or Federal agencies.

**(9) Solar Energy Facilities- Primary and Secondary Uses**

- a. **General Requirements.** Primary or Secondary Uses that provide energy for on-site or off-site use as shown in Table 1 subject to a special land

use permit. In addition to the General Requirements in Section 3.55.07, the following standards shall apply to all Primary and Secondary SEF, notwithstanding the development standards for the underlying zone:

- i. Lot Coverage – Over 50% lot coverage for a Primary Use, under 50% lot coverage for a Secondary Use;
  - ii. Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 2. The buffer may be reduced if the decision-making body determines that there is a substantial screen such as existing topography or landscaping vegetation and/or an operational management plan and/or an agricultural operation easement is provided;
  - iii. Height Limits – Facilities shall conform to the height limits of Table 3;
  - iv. Grading - Grading within the Township shall be limited to only that necessary to construct access roads and install equipment, unless the areas are determined to be chemically or physically impaired.
- b. Biological Resources – The protection of high value biological resources is an important consideration. Primary or Secondary Use SEF projects shall not be located on lands that support listed, candidate or other fully protected species, species of special concern, or species protected by local, State, or Federal agencies.
- c. No portion of the SEF or their structures shall occupy Protected Lands. Protected Lands that are potentially incompatible locations, requiring Special Land Use permits, include:
  - i. Wetlands, wetland transition areas, riparian corridors, or open water.
  - ii. Habitat of special status, threatened, endangered, candidate, or fully protected species, species of special concern, or species protected local, State, and Federal agencies.
  - iii. Lands within easements where SEF is a prohibited use.
- d. Soil Stabilization, Erosion Control and Ground Water Management – For Primary and Secondary Use SEFs, the following requirements shall apply:
  - i. To the extent feasible and compatible with the climate and pre-project landscaping of the property the site shall be restored with native vegetation. The re-vegetation plans shall be reviewed and approved by the Township and Saginaw County. All areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the Planning Department.
  - ii. A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff shall be provided subject to approval by the review authority.
  - iii. A maintenance plan shall be submitted for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.
  - iv. Prior to issuing a final Building Permit, an as-built grading and drainage plan, prepared by a licensed



professional surveyor or other approved qualified professional shall be submitted to the reviewing agency's engineer for review and approval. The plan shall show that the as-built conditions are substantially the same as those shown on the approved grading and drainage plan.

e. Decommission Plan

- i. The SEF project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment.
- ii. Decommissioning shall include: Removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or facility abandonment.
- iii. The Decommissioning Plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited.
- iv. The Decommissioning Plan shall also include an agreement between the applicant and the Township as part of the Special Land Use Application and prior to the beginning of construction that:
- v. The applicant shall post a performance bond or equivalent financial instrument for decommissioning. The bond shall be in favor of Buena Vista Township and shall be in an amount of at least two hundred fifty thousand dollars (\$250,000.00) and shall contain a replenishment obligation. Evidence of decommissioning bond shall be in the form of an escrow account, surety bond, letter of credit subject to approval of the Buena Vista Township Planning Commission to guaranty decommissioning of an abandoned site. If surety bond is utilized, it must be pursuant to US Treasury bond list.
- vi. The Township shall have access to the escrow account funds, performance bond and/or equivalent financial instrument for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of the project life or facility abandonment as defined.
- vii. The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- viii. The Township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow, performance bond and/or equivalent financial instrument and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- ix. The applicant agrees to all the terms of this Ordinance.

f. Aviation Notification

- i. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official and the Federal Aviation Administration's (FAA) Airport District office (ADO) with oversight of Michigan. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.
- ii. For consideration of potential impacts to civilian flight paths for airport operations located within five (5) nautical miles from an airport not listed in the National Plan of Integrated Airport Systems, notification of intent to construct an SEF shall be sent to the airport manager or designated official. Notification shall include location of SEF (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application. The airport must be given 30 days for review.

(10) Severability

If any section or part of this Ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this Ordinance are severable.

(QQ) Marijuana Facilities

(1) **Purpose and Intent.** This ordinance is adopted for the purpose of promulgating Township land use and zoning requirements for Marijuana Facilities by adopting local land use and zoning application, review and approval criteria for Marijuana Facilities in a manner that promotes and protects the public health, safety and welfare, mitigates potential impacts on surrounding properties and persons, and that conforms with the policies and requirements of the Michigan Medical Marijuana Act, MCL 333.26421, *et seq* as amended (hereinafter "MMMA") and for the further purpose of implementing provisions of Medical Marijuana Facilities Licensing Act, MCL 333.27101, *et. seq.* as amended (hereinafter "MMFLA"), the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. as amended (herinafter "MRTMA") and the State Administrative Rules, as amended, adopted pursuant to the MMFLA and MRTMA. In the event of any conflict between any provision of this Chapter and state law, state law shall be controlling regarding any conflicting provisions.

(2) **Facility Type, Number and Location.** The number and placement of Marijuana Facilities shall comply with zoning district limitations and requirements as follows:

a. Table 1 – Permitted Marijuana Facilities, Licenses and Zoning Districts.

FACILITY	ZONING DISTRICT	<u>MAXIMUM NUMBER OF MEDICAL MARIJUANA FACILITY LICENSES</u>	<u>MAXIMUM NUMBER OF ADULT-USE MARIJUANA FACILITY LICENSES</u>
Grower	M-1, M-2	3	<u>5</u>
Processor	M-1, M-2	3	<u>5</u>
Secure Transporter	M-1, M-2	3	<u>3</u>
Provisioning <u>Center</u>	M-1, M-2, B-2, B-3	3	<u>Not Applicable</u>
Safety Compliance	M-1, M-2	3	1
<u>Retailer</u>	<u>M-1, M-2,</u> <u>B-2, B-3</u>	<u>Not Applicable</u>	<u>3</u>
<u>Microbusiness</u>	<u>M-1, M-2</u>	<u>Not Applicable</u>	<u>1</u>

- b. **Co-Location.** A Marijuana Facility licensee may operate more than one (1) type of medical marijuana and/or adult-use marijuana facility at the same location. The co-location of facilities shall only be permitted when done in compliance with the MMFLA, MRTMA and the rules of the State regulatory agency and the applicant receiving a State and Township license for each facility type. The determination of the maximum number of facilities allowed in the Township will be based on the total number of licenses issued by the Township and not the total number of facility locations or license holders.
- c. **Setback Requirements.** A Marijuana Facility shall not be located less than one thousand feet (1000') from a school, day care center, recreational facility, church, public or private park. The minimum required distance of 1,000 feet shall be measured as the shortest distance between the principal building unit that is occupied by the marijuana facility to the nearest property line of the uses listed in this section. For purposes of this ordinance "School" means any public or private school meeting all requirements of the compulsory education laws of the state.
- d. **Prohibited Facility Types.** No other type of Marijuana Facility as defined within or permitted by the MMFLA, MRTMA or State Administrative Rules shall be permitted except for those marijuana facilities listed in Table 1 above.

(3) **Operating License Requirements.** Any land use, site plan or other zoning approval of a Marijuana Facility granted under any provision of this zoning ordinance shall be deemed conditional upon the timely approval and issuance of both a State and Township Marijuana Facility Operating License. Revocation or denial of a required Marijuana Facility Operating License shall render any approval of a Marijuana Facility granted under any provision of this zoning ordinance null and void.

(4) **Approved Site Plan Required.** Use of any property or structure as a Marijuana Facility requires Site Plan Review and approval of a site plan by the Planning Commission pursuant to Section 1101 (C) of this Chapter. Marijuana Facilities shall be operated and maintained in compliance with the approved site plan for the facility. Any use of property or a structure without, or in violation of, an

approved site plan shall constitute a violation of this zoning ordinance and a nuisance per se subject to abatement by a court of competent jurisdiction.

**(5) Site Plan Application and Review Criteria.** A site plan and site plan approval application for a Marijuana Facility shall generally comply with section 1101 (C) "Site Plan Review". A site plan application for a Marijuana Facility shall be processed in accordance with the Planning Commission Review procedures in Section 1101 (D). by the Planning Commission. In addition to the criteria set forth in Section 1101, the following shall apply to a site plan/application for a Marijuana Facility:

- a. Identification of the type of Marijuana Facility applied for (e.g. grower, provisioning center, etc.) and a detailed description of all services, products, items, uses, operations or merchandise produced, sold, offered, conducted or provided by the proposed Marijuana Facility;
- b. Marijuana Facility uses, operations and activities shall comply with all rules and operating regulations adopted pursuant to Section 206 of the MMFLA and Section 8 of the MRTMA. A description of an operating plan for the proposed Marijuana Facility shall be provided including the following:
  - i. A description of the products and services to be provided by the Marijuana Facility, including retail sales of food and/or beverages, if any, and any related accommodations or facilities;
  - ii. A floor plan, drawn to scale, showing the layout of the Marijuana Facility and the principal uses of the floor area depicted therein, including a detailed depiction of where any uses other than marijuana related uses are proposed to occur on the premises;
  - iii. A detailed description of all marijuana storage facilities and equipment including enclosed, locked facilities, if any, as may be required by the Act. Storage of marijuana shall comply with applicable rules adopted pursuant to Section 206 of the MMFLA and Section 8 of the MRTMA.
- c. A description of waste disposal procedures, methods and facilities for marijuana waste products including, but not limited to, usable and non-usable marijuana. Waste product disposal and storage shall comply with applicable rules adopted pursuant to Section 206 of the MMFLA and Section 8 of the MRTMA;
- d. A description of any proposed signs including a detailed depiction of sign language or displays, dimensions, locations, quantity, configuration and illumination. Signs shall comply with applicable provisions of the Township's Sign Ordinance and any marketing /advertising restrictions for marijuana products and facilities adopted pursuant to Section 206 of the MMFLA and Section 8 of the MRTMA.
- e. Signed and dated verification by the property owner, or his/her duly authorized agent, of the premises where the proposed Marijuana Facility will be located certifying that the property owner has reviewed and been provided with a complete copy of the application and consents to use and occupancy of the premises as a Marijuana Facility as described and referenced in the application.
- f. A detailed description of the proposed security plan for the facility including identification of all proposed security measures, equipment and devices. A security plan shall comply with rules and security regulations adopted pursuant to Section 206 of the MMFLA and Section 8 of the MRTMA. Security plans require review and approval by the Chief of Police. The Chief of Police may require review and recommendation of a proposed



security plan by an independent consultant with credentialed expertise in the field of site/facility security measures. The cost of an independent review by an independent security consultant shall be paid by the applicant. The security plan may be reviewed periodically by the Chief of Police at their discretion to ensure the health, safety and welfare of Buena Vista Township.

- g. — All facility operations, transactions and activities shall be conducted within an enclosed structure. Other than waste disposal, outdoor storage is prohibited.
- h. An area map, drawn to scale, shall be provided indicating, within a radius of one thousand feet (1,000 ft.) from the boundaries of the proposed Dispensary site, the proximity of the site to any school, existing dispensary, day care center, recreational facility, church, public or private park;
- i. Official correspondence from the Marijuana Regulatory Agency of the State of Michigan, or its designated successor, that the applicant has received prequalification status to receive a license from the State as part of the application process.
- j. A signed and notarized statement by all individuals receiving prequalification status from the State to operate the marijuana facility that they are aware of all Township approval and use requirements, including but not limited to, indoor activity requirements, inspection requirements, prohibited activities, and unlawful activities and that the applicant agrees that they shall operate the facility in accordance with all granted approvals and licenses. If at any point in time the individuals licensed by the State to operate the marijuana facilities changes, the subsequent licensees shall be required to provide a revised notarized acknowledgement of operational requirements prior to conducting any activities on site.

- (6) **Action by Planning Commission.** Upon reviewing the application and all findings and recommendations of the Township Department Heads and consultants, the Planning Commission shall take action on the application according to the Planning Commission Review criteria and procedures in Section 1101 (D) and the provisions specific to Marijuana Facilities as set forth in this zoning ordinance. An application for site plan approval of a Marijuana Facility that is materially incomplete or would result in a violation of state or local law shall be denied. Approval of a site plan for a Marijuana Facility does not guarantee, represent or imply approval of a Marijuana Facility Operating License or any other permit or local approval that may be required by Township codes or ordinances for the proposed facility.

## Chapter 11

# PROCEDURES AND STANDARDS

### Section 1101. Site Plan Review.

- (A) **Purpose.** The site plan approval procedures of this Chapter are instituted to provide an opportunity for the Buena Vista Charter Township Planning Commission to review the proposed development, alteration, and use of a site in relation to drainage, pedestrian and vehicular circulation, parking, structural relationships, utilities, screening, accessibility, and other site design elements. The purpose of this Section is to establish procedures and standards that provide a consistent method of review of site plans, and to ensure full compliance with the standards contained in this Ordinance and other applicable Codes and Ordinances.

Flexible review standards have been established to ensure that the type of review and amount of required information is proportionate to the project's scale and use intensity. It is the further purpose of this Article to protect natural resources, minimize adverse impacts on adjoining or nearby uses and land, encourage cooperation and consultation between the Township and the applicant, and facilitate development in accordance with the Township's Master Plan.

(B) **Site Plan Not Required.**

- (1) Farming and active agricultural uses, as defined in Section 202, Definitions.
- (2) One single-family dwelling and its customary accessory structures on a single residential lot of record.
- (3) Family child day care homes, as licensed by the State of Michigan.
- (4) Home occupations listed in Section 202, Definitions, Home Occupations, as a permitted accessory use.

(C) **Site Plan Required.** The following shall require submission and approval of a site plan prior to establishment, construction, expansion or structural alteration of any structure or use.

- (1) All special approval uses, subject to the provisions of Section 1102, Permitted Uses after Special Approval.
- (2) All structures and uses in the A-1, A-2, R-1, R-2 and R-3, Mobile Home Districts, except for those listed in Section 1101(B)
- (3) All structures and uses in the T-C, Town Center District.
- (4) All structures and uses in the B-1, B-2, and B-3, Business districts.
- (5) All structures and uses in the M-1 and M-2, Industrial districts.
- (6) Construction, expansion or alteration of a residential open space development subject to the provisions of Section 1002, Residential Open Space Development Option.
- (7) Construction, expansion or alteration of a condominium development subject to the provisions of Section 1003, Condominiums.
- (8) Construction, expansion or alteration of a Planned Unit Development (PUD) subject to the provisions of Section 1001, Planned Unit Development.

- (9) A building containing three or more dwelling units.
  - (10) Any parking lot or parking lot expansion when not a part of a development or use for which site plan review and approval is required elsewhere in this section.
  - (11) Any mineral extraction operation, excavation, earth removal operation, grading activity, earth-filling activity and any other activity resulting in the removal or addition of earth soil, or other similar material except for such activities as are normal, necessary and integral part of any other activity which is exempted from or not required to undergo site plan review. Excavations necessary for drain fields or septic tanks do not require site plan review.
  - (12) Any mobile home park plan, which is required to be approved by Planning Commission, Township Board, and receive construction approval by the Michigan Department of Labor and Economic Growth.
- (D) **Site Plan Review Procedure.** Site plans shall be reviewed in accordance with the following:
- (1) **Application.** The owner of land for which site plan approval is sought, or the owner's designated agent, shall submit a completed application form and sufficient copies of a site plan to the Township, along with appropriate review fees, as determined by Township Board. Any application or site plan that does not satisfy the information requirements of Section 1101(N) shall be considered incomplete, and shall be returned to the applicant.
  - (2) **Technical Review.** Prior to Planning Commission consideration, the Zoning Administrator shall distribute copies of the site plan and application to designated Township officials and the Township consultants for review and comment. The Zoning Administrator or Planning Commission may also distribute copies of the site plan and application to other local agencies or departments with jurisdiction for comment on any problems the plans might pose.
  - (3) **Planning Commission Consideration of the Site Plan.** The Planning Commission shall review the site plan, together with any reports and recommendations from Township officials, the Township Planner, other Township consultants, and other reviewing agencies. The Planning Commission shall make a determination based on the requirements of this Ordinance and the standards of Section 1101 (L), Standards for Site Plan Approval. The staff's review findings and any public comments shall be taken into consideration by the Planning Commission, but are not binding upon it in any way. The Planning Commission is authorized to table, approve, approve subject to conditions or deny the site plan as follows:
    - (a) **Table.** Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting. (Michigan Mobile Home Commission rules require local governmental review of mobile home parks to be completed within 60 days after the filing of an application for said approval. Otherwise, the application is automatically approved).
    - (b) **Deny.** Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance, or would require extensive revisions to comply with said standards and regulations, the site plan shall be denied.

If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant or agent to attend two or more meetings shall be grounds for the Planning Commission to deny site plan approval.

- (c) **Approve.** Upon determination that a site plan is in compliance with the standards of this Ordinance, the site plan shall be approved.
- (d) **Approve Subject to Conditions.** The Planning Commission may approve a site plan subject to any conditions necessary to address: necessary modifications; ensure that public services and facilities can accommodate the proposed use; protect significant site features; ensure compatibility with adjacent land uses; or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances, or approvals from other agencies.

The conditions become a part of the site plan, just as if they were part of the original submission.

- (4) **Recording of Site Plan Action.** Planning Commission action on the site plan shall be recorded in the Planning Commission meeting minutes, stating the name and location of the project, most recent plan revision date, and conditions or grounds for the Planning Commission's action.
  - (a) After the Planning Commission has taken final action on a site plan, the Zoning Administrator shall clearly mark three copies of the site plans APPROVED or DENIED, as appropriate, with the date that action was taken and any conditions of approval.
  - (b) One marked copy will be returned to the applicant, the second copy will be given to the Building Department, and the third copy shall remain on file at the Township offices per State of Michigan retention guidelines.
- (E) **Outside Agency Permits or Approvals.** The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to the start of development or construction on the site.
- (F) **Site Plan Resubmission.** A site plan that has been denied may be revised by the applicant to address the reasons for the denial and then resubmitted for further consideration. The resubmitted site plan shall be subject to the same requirements, review fees, and approval procedures as a new application for site plan approval.
- (G) **Expiration of Site Plan Approval.** Site plans shall expire 365 days after the date of approval, unless the construction plan for the project has been submitted to the Township for review. Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one extension of final approval for up to one 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 site plan remains in conformance with all applicable provisions of this Ordinance.
- (H) **Rescinding Site Plan Approval.** Site plan approval may be rescinded by the Planning Commission upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of site plan or special use approval. Such action shall be subject to the following:
  - (1) **Public Hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 1103, Public Hearing Procedures, at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.



- (2) **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to the owner or designated agent.
- (I) **Revisions to Approved Site Plans.** The Zoning Administrator may administratively review minor revisions to an approved site plan or forward such plans to the Township consultants for a determination, provided that such changes do not materially alter the approved site design, intensity of use or demand for public services. Revisions to an approved site plan that are not considered by the Zoning Administrator to be minor shall be reviewed by the Planning Commission as an amended site plan.
- (J) **Compliance with an Approved Site Plan.** It shall be the responsibility of the landowner, and the owner or operator of the use(s) for whom site plan approval has been granted, to develop, improve and maintain the site, including the use, structures, and all site elements in accordance with the approved site plan and all conditions of approval, until the property is razed, or a new site plan is approved.
  - (1) To ensure compliance with this Ordinance, the approved site plan, and any conditions of site plan approval, the Planning Commission, Township Engineer, Board of Trustees or Zoning Administrator may require that an irrevocable performance guarantee be deposited with the Township Treasurer, subject to the standards of Section 1202, Fees and Performance Guarantees. The amount of the performance guarantee shall be determined by the Township Engineer.
  - (2) The Zoning Administrator or designee shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall be considered a violation of this Ordinance, and shall constitute grounds for the Planning Commission to rescind site plan approval.
- (K) **Construction Plans.** Where detailed construction or engineering plans are required by the Township, Saginaw County or other agency with jurisdiction, the applicant shall submit a copy of such plans to the Building Official for review. The Building Official or designated Township consultants shall verify that the site design and improvements shown on the construction or engineering plans are consistent with the approved site plan, except for changes that do not materially alter the approved site design, or that address any conditions of site plan approval. Construction or engineering plans that are not consistent with the approved site plan shall be subject to review and approval by the Planning Commission as an amended site plan, prior to the start of development or construction on the site.
- (L) **Standards for Site Plan Approval.** The following criteria shall be used as a basis upon which site plans will be reviewed and approved, approved with conditions, or denied:
  - (1) **Adequacy of Information.** The site plan includes all required information in a complete and understandable form, provides an accurate description of the proposed uses, and complies with all applicable Ordinance requirements.
  - (2) **Site Appearance and Coordination.** The site is designed in a manner that promotes the harmonious and orderly development of surrounding lands, and all site design elements are harmoniously organized in relation to topography, adjacent facilities, traffic circulation, building orientation, and pedestrian access.
  - (3) **Preservation of Site Features.** The site design conserves natural features to the extent feasible. Such features may include wetlands, unique topography, tree rows and hedgerows, wooded areas, and significant individual trees.

- (4) **Access and Circulation.** Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets and promote safe and efficient traffic circulation within the site. In addition, adequate pedestrian access has been provided, which is in compliance with barrier-free access standards.
- (5) **Parking and Loading.** Off-street parking lots and loading areas are arranged and located to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, and promote shared-use of common facilities where feasible.
- (6) **Landscaping and Screening.** Landscaping and screening are provided in a manner that adequately buffers adjacent land uses and screens off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from adjacent residential uses and public rights-of-way.
- (7) **Exterior Lighting.** All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security.
- (8) **Impact upon Public Services.** The impact upon public services (including utilities, streets, police and fire protection, public schools and public sidewalks/pathways) will not exceed the existing or planned capacity of such services.
- (9) **Utilities.** The site plan must show all existing and proposed utilities. Water lines shall include any fire hydrants and valves. Sanitary sewers shall include any pumping stations or manholes.
- (10) **Drainage and Soil Erosion.** Adjoining lakes, rivers, streams, lots, and road rights-of-way will not be adversely impacted by stormwater runoff and sedimentation. Includes information on enclosed drains, flow restrictors, pump stations and manholes.
- (M) **Emergency Access and Vulnerability to Hazards.** All sites and buildings are designed to allow convenient and direct emergency access, and the level of vulnerability to injury or loss from incidents involving hazardous materials or processes will not exceed existing or planned emergency response capabilities.
- (N) **Required Information for Site Plans.** The following information shall be included with all site plan review applications, except where the Planning Commission determines that certain information is not necessary or applicable to the review:

Minimum Required Site Plan Information
<b>SITE PLAN DESCRIPTIVE INFORMATION</b>
Name, address, telephone and facsimile numbers, and email address of the applicant (and landowner, if different from applicant) and firm or individual preparing the site plan; and the property location (address, lot number, tax identification number). <b>Plans must be signed and sealed</b> by a registered engineer, landscape architect, architect, surveyor or community planner.
Existing and proposed use(s) and existing zoning of the land and all surrounding parcels (including across road rights-of-way).
Location and dimensions of buildings and structures within 100 feet of the property lines.
Address, legal description, and tax identification number of the parcel, with the gross and net land area.
<b>SITE PLAN DATA AND NOTES</b>
Site plans shall be drawn to an engineer's scale appropriate for a sheet size of at least 24 by 36 inches. If a large development is shown in sections on multiple sheets, then one overall composite sheet shall be provided.
Location map with north-arrow.
Size and dimensions of proposed and existing structures, including gross and usable floor area, number of stories, and overall height.
Calculations for parking, residential density and similar Ordinance requirements.
<b>EXISTING CONDITIONS</b>
General description of deed restrictions, if any.
Location of soil types and existing drainage courses, floodplains, lakes, streams, drains, and wetlands, with surface drainage flow directions, include significant trees and wooded areas.
Dimensions of all property lines, showing the relationship of the site to abutting properties. If the site is part of a larger parcel, the plan should indicate the boundaries of total land holding.
Existing site features, including significant natural and historical features, structures, driveways, fences, walls, signs, and other improvements with notes regarding their preservation or alteration.
<b>SITE PLAN DETAILS</b>
Location, dimensions, setback distances, and use(s) of all proposed improvements.
Locations and descriptions of all existing and proposed easements and rights-of-way for utilities, access, and drainage.
Identification of areas involved in each separate phase, if applicable.
An exterior lighting plan with all existing and proposed lighting locations, heights from grade, specifications, lamps types, and methods of shielding; include a photometric plan that shows footcandles at the lot lines, and manufacturers' cut sheets.
Locations and methods of screening for any waste receptacles; ground-mounted generators, transformers, and mechanical (HVAC) units; and similar devices.
Outdoor sales, display or storage locations and method of screening, if applicable.
Location, type, size and height of proposed signs.

Minimum Required Site Plan Information	
<b>BUILDING DETAILS</b>	
Building façade elevations for any proposed principal building, drawn to an appropriate scale, dimensioned, and indicating height of building, type and color of building materials.	
Building floor plans.	
<b>ACCESS AND CIRCULATION</b>	
Dimensions and centerlines of existing and proposed rights-of-way, names of abutting streets, and the dimensions and type of paving materials for all roads, parking lots, curbs, sidewalks, and other paved surfaces.	
Locations and dimensions of vehicle access points, and distances between adjacent or opposing driveways and street intersections.	
Parking space and maneuvering aisle dimensions, pavement markings, traffic control signage, designation of fire lanes, and location and dimension of loading areas.	
<b>SCREENING AND LANDSCAPING</b>	
Landscape plan, including location, size, quantity and type of proposed shrubs, trees, ground cover (including grass) and other live plant materials, the location, size and type of any existing plant materials that will be preserved, and methods of irrigation with source of water.	
Plant list for proposed landscape materials, with quantities, sizes, and heights of proposed plant materials; botanical and common names; and methods of installation.	
Landscape maintenance plan, including notes regarding on-going replacement of dead or diseased plant materials.	
Proposed fences, walls or other screening devices, including typical cross-section, materials and height above grade.	
<b>UTILITIES, DRAINAGE, AND ENVIRONMENTAL INFORMATION</b>	
Grading plan, with existing and proposed topography at a minimum of two (2) foot contour levels, drainage patterns and a general description of grades within 100 feet of the site to indicate stormwater runoff.	
All existing and proposed utilities include information on enclosed drains, flow restrictors, pump stations and manholes.	
<b>ADDITIONAL REQUIRED INFORMATION</b>	
Other information as requested by the Zoning Administrator or Planning Commission to verify that the site and use are in accordance with the purpose and intent of this Ordinance and the Township's Master Plan.	

## Section 1102 Permitted Uses after Special Approval

- (A) **Purpose.** This Section provides procedures and standards for special uses of land or structures that because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. Special uses are specified in each zoning district and include those uses that:
- (1) Serve an area, interest or purpose that extends beyond the borders of the Township;
  - (2) Create particular problems of control in relation to adjoining uses or districts;

- (3) Have detrimental effects upon public health, safety or welfare; or
- (4) Possess other unique characteristics that prevent such uses from being appropriate in all locations as a principal use permitted by right in a particular zoning district.

This Section is intended to provide a consistent and uniform method for review of special use applications, ensure full compliance with the standards contained in this Ordinance, achieve efficient use of land, prevent adverse impacts on neighboring properties and districts, and facilitate development in accordance with the objectives of the Comprehensive Development Plan.

(B) **Application Requirements.** Special use applications shall be submitted in accordance with the following:

- (1) **Eligibility.** The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which special use approval is sought, or by the owner's designated agent. The applicant or agent shall be present at all scheduled review meetings. Applications that are found by the Zoning Administrator to be incomplete or inaccurate shall be returned to the applicant.
- (2) **Application.** Special use applications submitted to the Township shall include the following information:
  - (a) Contact information for the applicant and landowner, and proof of ownership. If the applicant leases the property, the owner's signed and dated authorization for the application shall be provided.
  - (b) Address, location and tax identification number of the parcel.
  - (c) A detailed description of the proposed use.
  - (d) A site plan, as required by Section 1101, Site Plan Review.
  - (e) Appropriate review fees, as determined by the Township Board of Trustees.
  - (f) Any other information deemed necessary by the Zoning Administrator or Planning Commission to determine compliance with this Ordinance.

(C) **Special Use Review Procedure.** Special use applications shall be shall be reviewed in accordance with following procedures:

- (1) **Coordination with Site Plan Review.** A site plan associated with a special use shall not be approved unless the special use has first been approved. The Planning Commission may, at its discretion, consider special use and site plan applications at the same meeting.
- (2) **Technical Review.** Prior to Planning Commission consideration, the application materials shall be distributed to appropriate Township officials. The Zoning Administrator may also submit the application materials to designated Township consultants for review and comment.
- (3) **Public Hearing.** A public hearing shall be held for all special uses in accordance with Section 1103, Public Hearing Procedures.
- (4) **Planning Commission Consideration.** Subsequent to the hearing, the Planning Commission shall review the application for special use approval, together with any reports and recommendations from Township officials, Township consultants, and other



reviewing agencies, along with any public comments. The Planning Commission shall then make a determination based on the requirements of this Ordinance and the standards contained in Section 1102(G), Standards for Special Use Approval. The Planning Commission is authorized to table, approve, approve subject to conditions or deny the special use as follows:

- (a) **Table.** Upon determination by the Planning Commission that a special use application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
- (b) **Deny.** Upon determination that a special use application is not in compliance with the provisions of this Ordinance, including Section 1102 (G), Standards for Special Use Approval, or would require extensive modifications to comply with said standards and regulations, the special use shall be denied. If a special use is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant to attend two or more meetings shall be grounds for the Planning Commission to deny the special use.
- (c) **Approve.** The special use may be approved by the Planning Commission upon determination that it is in compliance with the provisions of this Ordinance, including Section 1102(G), Standards for Special Use Approval. Upon approval, the special use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval, and any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.
- (d) **Approve Subject to Conditions.** The Planning Commission may approve a special use subject to reasonable conditions:
  - (1) Designed to protect natural resources, the health, safety, welfare, and social and economic well-being of users or patrons of the use under consideration, residents and landowners immediately adjacent to the proposed use, or the community as a whole; or
  - (2) Related to the valid exercise of the police power, and the impacts of the proposed use; or
  - (3) Necessary to meet the intent and purpose of this Ordinance, related to the standards established in this Ordinance for the special use under consideration, and necessary for compliance with those standards.
- (e) **Recording of Special Use Action.** Planning Commission action on the special use shall be recorded in the Planning Commission meeting minutes, stating the name, description, and location of the proposed use; address and tax identification number of the parcel; and the grounds for the Planning Commission's action. The Zoning Administrator shall keep one copy of the written record on file in the Township, and shall forward one (1) copy to the applicant as evidence of special use approval and also give the effects of the approval.
- (f) **Effect of Approval.** Special use approval runs with the land. As long as the use remains as approved, a change of tenant or owner will not affect the special approval. An expansion of use or change of the use shall require new special use approval.

- (g) **Special Use Approval for Marijuana Facilities.** Subsequent to the hearing, the Planning Commission shall review the proposed application for a marijuana facility, together with any reports and recommendations from staff, the Township Planner, other Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board. The Township Board shall then make a determination based on the requirements of this Ordinance and the standards contained in Section 1102(G), Standards for Special Use Approval. The Township Board is authorized to table, approve, approve subject to conditions or deny the special use outline in Section 1102(C) (4) (a-d).
- (D) **Resubmission after Denial.** A special use application that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.
- (E) **Expiration of Special Use Approval.** Special use approval shall expire 365 days after the date of approval, unless the use has been established on the site, or the construction plan associated with the special use has been submitted for review. Special use approval shall also expire upon expiration of the approved construction plan associated with a special use.
- Upon written request received by the Township prior to the expiration date, the Planning Commission may grant one extension of up to 365 days, provided that the approved special use conforms to current Zoning Ordinance standards.
- (F) **Rescinding Special Use Approval.** Approval of a special use may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans, or conditions of site plan or special use approval. Such action shall be subject to the following:
- (1) **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 1103, Public Hearing Procedures, at which time the operator of the use or owner of an interest in the land or structure(s) for which special use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
- (2) **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.
- (G) **Standards for Special Use Approval.** Approval of a special use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:
- (1) **Documented Need Exists for the Proposed Use.** A documented need exists for the proposed use within the community.
- (2) **Compatibility with Adjacent Uses.** The special use is compatible with adjacent uses and the existing or intended character of the zoning district and area. The use will not have an adverse impact upon or interfere with the development, use or enjoyment of adjacent properties, or the orderly development of the neighborhood.
- (3) **Compatibility with the Master Plan.** The special use location and character is consistent with the general principles, goals, objectives, and policies of the adopted Comprehensive Development Plan.

- (4) **Compliance with Applicable Regulations.** The proposed special use is in compliance with all applicable Ordinance provisions.
- (5) **Impact upon Public Services.** The impact of the special use upon public services will not exceed the existing or planned capacity of such services; including utilities, roads, police and fire protection services, drainage structures, refuse disposal, and availability or capacity of water and sewage facilities.
- (6) **Traffic Impacts.** The special use is designed and located in a manner that minimizes any adverse traffic impacts caused or exacerbated by the use.
- (7) **Environmental and Public Health, Safety, and Welfare Impacts.** The location, design, activities, processes, materials, equipment, and operational conditions of the special use will not be detrimental or injurious to the environment or the public health, safety, and welfare by reason of traffic, noise, vibration, smoke, fumes, odors, dust, glare, light, drainage or other adverse impacts as set by state, federal or other agencies with jurisdiction.
- (8) **Isolation of Existing Uses.** Approval of the special use location will not result in a small residential or non-residential area being substantially surrounded by incompatible uses.
- (H) **Compliance with Special Use Approval.** It shall be the responsibility of the owner of the property and the operator of the use for which special use approval has been granted to develop, improve, operate and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of special use approval until the use is discontinued. Failure to comply with the provisions of this Section shall be a violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

### Section 1103 Public Hearing Procedures

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be held in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the following:

- (A) **Special Use and Variance Requests.**
  - (1) **Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
  - (2) **Personal and Mailed Notice.**
    - (a) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
    - (b) Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property, including the owners or occupants of structures located in adjacent cities or townships. If the name of the occupant is not known, the term "occupant" may be used in making notification.
    - (c) All notice delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed mailed by its postmark.



- (d) **Notice to Other Entities.** Notice of the time and place of the public hearing shall also be given by mail to any electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport that registers its name with the Township Clerk for the purposes of receiving notice of public hearings.
- (B) **Content of Notice.** Any notice published in a newspaper or delivered by mail or personal delivery shall:
  - (1) Indicate of the public body conducting the hearing and deciding on the matter.
  - (2) Nature of the matter to be considered at the public hearing.
  - (3) Indicate the land that is the subject of the request.
  - (4) Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
  - (5) Date, time and place of the public hearing.
  - (6) A statement of where and when written comments will be received concerning the request.
  - (6) Include the places and times at which the proposal subject to the public hearing may be examined.
- (C) **Zoning Ordinance Text and Map Amendments**
  - (1) **Map Amendments Affecting 10 or Fewer Parcels.** If the proposed map amendment is for an individual parcel or 10 or fewer parcels, notice shall be given as specified in Section 1103(A)(1) and (2).
  - (2) **Map Amendments Affecting 11 or More Parcels.** If the proposed map amendment is for 11 or more parcels, notice shall be given as specified in Section 1103(A)(1), with the exception that the notice need not list street addresses of properties that will be included by the map amendment.
  - (3) **Text Amendments.** A text amendment notice shall be given as specified in Section 1103(A)(1).
- (D) **Rights of All Persons.** Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney. Documentary evidence may be submitted for consideration, provided that the hearing body shall exclude such evidence deemed irrelevant, immaterial or unduly repetitious.
- (E) **Adjournment.** The body conducting the hearing may at any time, on its own motion or at the request of the applicant or applicant agent, adjourn the hearing to a reasonable and fixed future date, time, and place for the purpose of giving further notice, accumulating further evidence or information or for such other reasons that the body finds to be sufficient. Notice shall be provided of the adjourned hearing date, time, and place per Section 1103(A)(1) Publication in a Newspaper of General Circulation.

## **Section 1104. Amendments.**

The Township Board may, after recommendation from the Planning Commission, may amend, supplement or change the provisions of this Ordinance or official Zoning Map. Such actions shall be consistent with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the following:

- (A) **Initiation of Amendment.** Amendments to the provisions of this Ordinance may be initiated by the Township Board, Planning Commission, or by petition from one or more residents or landowners of the Township. An amendment to the official Zoning Map (rezoning) may be initiated by the Township Board, Planning Commission, or by the titleholder for the property subject to the proposed amendment. No fee shall be charged for amendments initiated by the Township Board or Planning Commission.
- (B) **Application.** An amendment to this Ordinance (except those initiated by the Township Board or Planning Commission) shall be initiated by submission of a complete and accurate application to the Township, along with the required fee established by Township Board. In the case of an amendment to the official Zoning Map, the following information shall accompany the application and fee:
  - (1) A legal description and street address of the subject land, together with a survey and location map identifying the subject land in relation to surrounding properties.
  - (2) The name and address of the landowner, and a statement of the applicant's interest in the subject land, if not the owner in fee simple title.
  - (3) The existing and proposed zoning district designation of the subject land and surrounding properties.
  - (4) A written description of how the requested amendment meets the criteria stated in this Section.
- (C) **Amendment Review Procedure.** Proposed amendments to this Ordinance or official Zoning Map shall be reviewed in accordance with the following:
  - (1) **Technical Review.** Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Township officials and Township consultants, including the Planner, Engineer, and Attorney, as appropriate, for review and comment.
  - (2) **Public Hearing.** A public hearing shall be held for all proposed amendments in accordance with Section 1103, Public Hearing Procedures.
  - (3) **Amendment to Conform with Court Decree.** An amendment to bring any provision of this ordinance into conformance with a decree of any court of competent jurisdiction may be adopted by the township board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this ordinance.
  - (4) **Planning Commission Consideration and Recommendation.** Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, the Township Planner, other Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board.

In considering an amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the following factors in making its findings and recommendations:

- (a) Consistency with the Comprehensive Development Plan's goals, policies, and Future Land Use Map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
  - (b) Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features.
  - (c) Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
  - (d) Capacity of available utilities and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of Township residents or burdening the Township or Saginaw County with unplanned capital improvement costs or other unplanned public expenses.
  - (e) Capability of the road system to safely and efficiently accommodate the expected traffic generated by uses permitted in the zoning district(s).
  - (f) The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
  - (g) The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.
  - (h) The requested rezoning will not create an isolated or incompatible zone in the area.
  - (i) Other factors deemed appropriate by the Planning Commission and Township Board.
- (4) **County Planning Commission Review.** The Zoning Administrator shall forward a copy of the proposed amendment and the report and recommendation from the Township Planning Commission to the Saginaw County Metropolitan Planning Commission for review and comment. The County Planning Commission shall have 30 days from the date of receipt from the Township to review the proposed amendment.
- (5) **Township Board Action.** The Zoning Administrator shall forward a copy of the proposed amendment, the report and recommendation from the Township Planning Commission, and any recommendation from the County Planning Commission to the Township Board for consideration and final action.
- (1) The Township Board may adopt or reject the proposed amendment, or may refer the amendment back to the Township Planning Commission for revision or further consideration.
  - (2) If the Township Board requests revisions to the proposed amendment, the amendment and requested revisions shall be referred back to the Township Planning Commission for further consideration.

- (3) The Township Board may, at its discretion, hold additional public hearings on the proposed amendment, provided that notice of the hearing shall be published once in a newspaper of general circulation in the Township not less than 15 days before the hearing date.
- (D) **Re-Application.** Whenever an application for an amendment to this Ordinance has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Zoning Administrator determines that one or more of the following conditions has been met:
  - (1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
  - (2) New or additional information is available that was not available at the time of the review.
  - (3) The new application is materially different from the prior application.
  - (4) Affidavit of mailing. An affidavit of mailing, identifying all parties to whom notice has been sent, including railroad and public utility companies, shall be prepared and filed with other material relating to the public hearing prior to the meeting at which it is held.
- (E) **Filing and Notification.** Upon adoption of any amendment to this Ordinance, including any rezoning, the Zoning Administrator shall file a copy of same with the Township Clerk, and arrange for publication of a notice of ordinance amendment in a newspaper circulated in Buena Vista Charter Township.

### **Section 1105. Conditional Rezoning Amendments.**

The Township recognizes that, under certain instances, it may be to the Township's and the landowner's advantage to consider rezoning of certain lands if the application is accompanied by a site plan and subject to certain conditions. Accordingly, it is the intent of this Section to provide a conditional rezoning option to landowners in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

This option is intended to accomplish the objectives of the Zoning Ordinance through a rezoning review process that applies site planning criteria to achieve integration of the development project and the surrounding area. Conditional rezoning represents a legislative amendment to the Zoning Ordinance. Such actions shall be consistent with Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the following:

- (A) **Eligibility.** A landowner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. To be eligible for review as a conditional rezoning, the landowner shall, as part of an application for rezoning of land to a new zoning district classification, voluntarily offer certain site-specific regulations or conditions that are equally or more restrictive than the regulations of this Ordinance for the proposed zoning district.
- (B) **Pre-Application Meeting.** Prior to submitting a conditional rezoning application, the applicant may meet with the Township Zoning Administrator and other appropriate Township personnel that may include the Township Planner and Township Engineer for preliminary review of the proposal and the review process.
- (C) **Application Requirements.** A conditional rezoning amendment shall be initiated by submission of a complete application and site plan to the Township, along with the required fee established

by Township Board. Conditional rezoning applications shall be subject to the following requirements:

- (1) **Timing of Application.** A landowner may submit an application for conditional rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The applicant may, through written notice to the Township, amend the conditional rezoning application at any point during the review process.
- (2) **General Information.** In the case of any amendment to the official Zoning Map, the following information shall accompany the application and fee:
  - (a) A legal description and street address of the subject land, together with a survey and location map identifying the subject land in relation to surrounding properties.
  - (b) The name and address of the landowner, and a statement of the applicant's interest in the subject land, if not the owner in fee simple title.
  - (c) The existing and proposed zoning district designation of the subject land and surrounding properties.
  - (d) A written description of how the requested amendment meets the criteria stated in this Section.
  - (e) The applicant shall, when applicable, provide a conditional rezoning plan, with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section. The conditional rezoning plan shall not replace the requirements for site plan, subdivision or condominium approval under this Ordinance.
- (3) **Rezoning Conditions.** The applicant, subject to the following, shall propose rezoning conditions in writing
  - (a) **Permitted conditions.** Rezoning conditions may include some or all of the following:
    - (i) The location, size, height, and setbacks of buildings, structures, and improvements.
    - (ii) The maximum density or intensity of development (e.g., units per acre, maximum usable floor area, hours of operation, etc.).
    - (iii) Measures to preserve natural resources or features.
    - (iv) Facilities to address stormwater drainage and water quality using best management practices.
    - (v) Facilities to address traffic issues, such as through road paving or other road improvements.
    - (vi) Farmland or open space preservation provisions.
    - (vii) Minimum landscaping, buffering and screening provisions.
    - (viii) Enhanced screening, beyond that required by this Ordinance.

- (ix) Building design, materials, lighting and sign criteria.
    - (x) Permissible and prohibited uses of the land.
    - (xi) Measures to protect the rural viewshed, which is an undeveloped area adjacent to the road right-of-way having a minimum undisturbed depth of 300 feet, where existing wetlands, woodlands, farmlands or scenic vistas are preserved.
    - (xii) Reclamation and reuse of land, where previous use of land causes severe development difficulties or blight.
    - (xiii) Other conditions as deemed important to the development by the applicant.
  - (b) **Prohibited conditions.** Such rezoning conditions shall not:
    - 1. Authorize uses or development of greater intensity or density than are permitted in the district proposed by the rezoning.
    - 2. Authorize uses or development expressly or implicitly prohibited in the district proposed by the rezoning.
- (D) **Review and Approval Procedures.** After the completed application and all required supporting materials have been received and fees paid, the proposed conditional rezoning amendment and application materials shall be reviewed in accordance with the following procedures:
- (1) **Technical Review.** Prior to Planning Commission consideration, the proposed conditional rezoning amendment and application materials shall be distributed to appropriate Township officials and Township consultants for review and comment.
  - (2) **Public Hearing.** A public hearing shall be held for the proposed conditional rezoning amendment in accordance with Section 1103, Public Hearing Procedures.
  - (3) **Planning Commission Review and Recommendation.** Subsequent to the public hearing, the Planning Commission shall review the proposed conditional rezoning amendment, together with any reports and recommendations from staff, the Township Planner, other Township consultants, and any public comments. The Planning Commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation in writing to the Township Board.
  - (4) **County Planning Commission Review.** The Zoning Administrator shall forward a copy of the proposed conditional rezoning amendment and the report and recommendation from the Township Planning Commission to the Saginaw County Planning Commission for review and comment. The County Planning Commission shall have 30 days from the date of receipt from the Township to review the proposed conditional rezoning amendment.
  - (5) **Township Board Action on the Conditional Rezoning Amendment.** The Zoning Administrator shall forward a copy of the proposed conditional rezoning amendment, the report and recommendation from the Township Planning Commission, and any recommendation from the County Planning Commission to the Township Board for consideration and final action:
    - (a) **Additional Hearings.** The Township Board may, at its discretion, hold additional public hearings on the proposed conditional rezoning amendment, provided that

notice of the hearing shall be published once in a newspaper of general circulation in the Township not less than 15 days before the hearing date.

- (b) **Rejection.** The Township Board may reject the proposed conditional rezoning amendment.
- (c) **Adoption.** If the Township Board determines that it may adopt the conditional rezoning, then the Township Board shall direct the Township Attorney to review a conditional rezoning agreement, per Section 1105(E), Conditional Rezoning Agreements. Upon completion of the conditional rezoning agreement, the Township Board may adopt or reject the conditional rezoning amendment, including any conditional rezoning plan and conditional rezoning agreement.

**(E) Conditional Rezoning Agreement**

As directed by the Township Board, the applicant or designee shall prepare a proposed conditional rezoning agreement. The proposed agreement shall incorporate the conditional rezoning plan proposed by the applicant, and shall set forth the rezoning conditions and any other terms mutually agreed upon by the parties relative to the land subject to the proposed conditional rezoning.

- (1) **Contents and Terms.** A conditional rezoning agreement shall include the following terms:
  - (a) Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the conditional rezoning agreement.
  - (b) Agreement and acknowledgement that the conditions and conditional rezoning agreement are authorized by all applicable state and federal laws and constitution, and that the conditional rezoning agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
  - (c) Agreement and understanding that the land in question shall not be developed or used in a manner that is inconsistent with the optional conditional rezoning plan and conditional rezoning agreement.
  - (d) Agreement and understanding that the approval and conditional rezoning agreement shall be binding and upon and inure to the benefit of the landowner and the Township, and their respective heirs, successors, assigns, and transferees.
  - (e) Agreement and understanding that, if a conditional zoning becomes void in the manner provided in this Section, no development shall be undertaken or permits for development issued until the underlying zoning district classification of the land has been re-established by resolution of the Board of Trustees.
  - (f) Agreement and understanding that each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.

- (2) **Effective Date and Recording of Conditional Rezoning Agreement.** A conditional rezoning shall become effective following both publication in the manner provided by law and recording of the conditional rezoning agreement with the Saginaw County Register of Deeds office by the Township Clerk.
  - (3) **Amendment of Conditional Rezoning Agreement.** Amendment of a conditional rezoning agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.
  - (4) **Expiration of Conditional Rezoning Agreement.** The conditional rezoning approval shall expire following a period of two years from the effective date of the rezoning unless:
    - (a) Approved development of the land commences within such two year period and proceeds diligently and in good faith as required by ordinance to completion; or
    - (b) The rezoning is extended for good cause by the Township Board as provided for in Section 1105(J), Extension of Conditional Rezoning Approval.
- (F) **Approval Criteria.** The applicant shall have the burden of demonstrating that the following requirements and standards are met by the conditional rezoning plan, rezoning conditions, and conditional rezoning agreement:
- (1) **Enhancement of the Project Area.** The Township Board shall determine that approval of the conditional rezoning shall:
    - (a) Accomplish the integration of the proposed land development project with the characteristics of the project area; and
    - (b) Result in an enhancement of the project area that would be unlikely to be achieved or would not be assured without the use of conditional rezoning.
  - (2) **In the Public Interest.** The Township Board shall determine that, in considering the site specific land use proposed by the applicant, sufficient conditions have been included in the conditional rezoning plan and conditional rezoning agreement so that the public interest would be served by granting the conditional rezoning.

In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles and factors.
  - (3) **Other Amendment Considerations.** In considering a conditional rezoning amendment, the Planning Commission and Township Board shall also consider the following factors:
    - (a) Consistency with the Master Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
    - (b) Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with the site's physical, geological, hydrological, and other environmental features.



- (c) Compatibility of all potential uses allowed in the zoning district(s) under the proposed conditional rezoning with surrounding uses, densities, and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
  - (d) Capacity of available utilities and public services to accommodate all potential uses allowed in the zoning district(s) under the proposed conditional rezoning without compromising the health, safety, and welfare of Township residents or burdening the Township or Saginaw County with unplanned capital improvement costs or other unplanned public expenses.
  - (e) Capability of the road system to safely and efficiently accommodate the expected traffic generated by all potential uses allowed in the zoning district(s) under the proposed conditional rezoning.
  - (f) The apparent demand for the types of potential uses allowed in the zoning district(s) under the proposed conditional rezoning in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
  - (g) The boundaries of the proposed zoning district(s) in relationship to the surrounding area and the scale of future development on the site.
  - (h) The requested conditional rezoning will not create an isolated or incompatible zone in the area.
  - (i) Other factors deemed appropriate by the Township Board.
- (G) **Zoning District Designation.** If approved, the zoning classification of the rezoned land shall consist of the district to which the land has been rezoned accompanied by a reference to "CR" (Conditional Rezoning). For example, the Official Zoning Map designation for a conditional rezoning to the M-1 Industrial District would be "M-1/CR."
- (H) **Re-Application.** Whenever a conditional rezoning application has been rejected by the Township Board, a new application for the same amendment shall not be accepted by the Township for a period of 365 calendar days unless the Zoning Administrator determines that one or more of the following conditions has been met:
- (1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
  - (2) New or additional information is available that was not available at the time of the review.
  - (3) The new application is materially different from the prior application.
- (I) **Development Subject to Conditional Rezoning Requirements.** The use and future development of land subject to an approved conditional rezoning shall conform to all regulations governing development and use in the zoning district to which the land has been rezoned, and the more restrictive requirements specified on the approved conditional rezoning plan and in the conditional rezoning agreement.

No other development or use shall be permitted, and the requirements of the approved conditional rezoning site plan and conditional rezoning agreement shall supersede all inconsistent regulations otherwise applicable under this Ordinance.

- (J) **Extension of Conditional Rezoning Approval.** In the event that a bona fide development has not commenced within two years from the effective date of the rezoning, the conditional rezoning and conditional rezoning agreement shall be void and of no effect.
- (1) The Township Board may approve one extension of up to 365 calendar days, upon written request by the landowner received by the Township Clerk before the two year time limit expires.
  - (2) The landowner shall show good cause why the extension should be granted.
- (K) **Revert to Former Zoning.** If the conditional zoning becomes void and of no effect, then by automatic reverter as set forth in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, the land shall revert to its former zoning classification, which shall be confirmed by resolution of the Township Board.
- (L) **Violations of the Conditional Rezoning Agreement.** If development or actions are undertaken on or with respect to the land that are in violation of the conditional rezoning agreement, such development or actions shall constitute a nuisance per se.
- (1) In such case, the Township may issue a stop work order relative to the land and seek any other lawful remedies.
  - (2) Until curative action is taken to bring the land into compliance with the conditional rezoning agreement, the Township may withhold or, following notice and an opportunity to be heard, revoke permits and certificates; in addition to or in lieu of such other lawful action to achieve compliance.