

Zoning Ordinance*

Township of Benona, Oceana County, Michigan

Effective

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Article 1.

Title, Purpose, and Scope

Section 1.1 Title and Purpose.

- A. This Ordinance shall be known as the Zoning Ordinance of the Township of Benona.
- B. This Ordinance shall, in its application and interpretation, be deemed to establish minimum requirements for the promotion of public health, safety, general welfare, and physical development of the Township of Benona.
- C. This Ordinance shall not supersede any state law, or any private restrictions placed upon property; provided that, where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.
- D. It is the responsibility of the property owner or his/her assigned agent to obtain a valid zoning permit prior to any alteration/addition to any property or structures within Benona Township.

Section 1.2 Scope.

- A. This ordinance applies to all properties within the jurisdiction of Benona Township, including residential, commercial, industrial, agricultural, and recreational lands. It sets forth specific regulations for each zoning district, including permitted uses, conditional uses, lot sizes, setbacks, building heights, and other development standards. The scope also includes provisions for variances, special exceptions, and the process for requesting zoning changes. Additionally, the ordinance outlines enforcement measures and penalties for non-compliance. The regulations and provisions within this ordinance are intended to guide both current and future development to ensure a harmonious, sustainable, and well-organized community.
- B. By providing clear guidelines and procedures, this zoning ordinance establishes a solid foundation for growth and development that is consistent with the goals and values of Benona Township.

Article 2.

Definitions

For the purpose of this Ordinance, certain terms are herewith defined. When not inconsistent with the text, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural number may include the singular; the word "person" may be taken for persons, associations, co-partnerships, or corporations; the word "structure" includes buildings; the word "occupied" includes designed or intended to be used; the word "shall" is always mandatory and not merely directive; and the word "used" includes designed or intended to be used. Other words and terms shall have the following respective meanings:

A

Accessory building: A subordinate structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use.

Accessory dwelling unit: A residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Accessory use: A use naturally and normally incidental and subordinate to the main use of the premises.

Adult foster care facility: A facility defined by the Adult Foster Care Facility licensing act (PA 218 of 1979), as amended, having as its principal function the receiving of adults for foster care. Adult foster care facility is a home or facility that provides foster care for adults. A facility includes facilities and foster care family homes for adults who are aged, mentally ill, have developmental or physical disabilities who require supervision on an ongoing basis, but who do not require continuous nursing care.

- A) **Adult Foster Care Family Home.** A private residence with the approved capacity to receive at least three (3) but not more than six (6) adults to be provided foster care. The adult foster care licensee must be a member of the household and an occupant of the residence.
- B) **Adult Foster Care Small Group Home.** An adult foster care facility with the approved capacity to receive at least three (3) but not more than twelve (12) adults who shall be provided foster care.
- C) **Adult Foster Care Large Group Home.** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided with foster care.

Adult Uses and Sexually Oriented Businesses: Any use of land, whether improved, vacant, or combined with vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a substantial portion of which includes matter or acting depicting, describing, or presenting specified sexual activities or specified anatomical areas.

Agriculture: The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

Agricultural Service Establishment: An establishment engaged in activities directly related to, or in support of, farms and farm operations including, but not limited to, grain elevators and bins; sales of feed, fertilizers, seeds, and similar products; agricultural product processing operations, sawmills, employee housing (but not migrant labor housing), and related uses.

Agritourism establishment: A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products; and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, farm tours, horseback riding, corn mazes, ancillary food service facilities and similar activities.

Agricultural Implement Business: A business that includes the sales, servicing and rental of Agricultural and Excavating Equipment.

Alley: A public way, not more than twenty (20) feet wide, which affords a secondary means of access to abutting property.

Area of special flood hazard: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

B

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

Basement or cellar: A story having more than one-half (1-1/2) of its height or more than one-half (1-1/2) of its circumference below the average grade of the adjoining ground. A basement or cellar shall not be counted as a story for purposes of height measurement.

Billboard or signboard: Any surface or structure or portion thereof, situated on private premises on which lettered, figured or pictorial matter is displayed for advertising purposes. Real estate signs advertising the sale or rent of the property on which the sign is located are not defined as billboards or signboards. Banners shall be considered under this description.

Boarding or lodging houses: A building or part thereof, other than a hotel or restaurant, where meals and/or lodging are provided for compensation for two or more persons not transients.

Building: Any structure having a roof supported by columns or walls designed or intended for the support, enclosure, shelter or protection of persons, animals or property.

Building height: The building height is the average vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between the top plate of the building wall and the ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.

Building permit: A building permit is the written authority as issued by the Building Inspector permitting the construction, moving, alteration or use of a building in conformity with the provisions of this Ordinance and the adopted Building Code.

C

Campground: An outdoor area where people can set up tents, park recreational vehicles, or sometimes rent cabins for overnight recreational stay and can have facilities such as toilets, drinking water, picnic tables, fire pits and occasionally electricity supply.

Conditional uses: Those uses of land which are not essentially incompatible with the uses in a Zoning District but possess characteristics of locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land.

Conditional use project: Any of the following:

- A) A proposed use in a Critical Dune Area for an industrial or commercial purpose regardless of the size of the site.
- B) A multiple-family use of more than three (3) acres.
- C) A multiple-family use of three (3) acres or less if the density of use is greater than two (2) individual residences per acre.
- D) A proposed use in a Critical Dune Area, regardless of sizes of the use, that the Planning Commission determines would damage or destroy features of archaeological or historical significance.

Channel or water course: An elongated depression, either natural or manmade, having a bed and well-defined banks varying in depth, width and length which gives direction to a current of water and is normally described as a creek, stream or riverbed.

Contour changes: This includes any grading, filling, digging or excavating that significantly alters the physical characteristic of a Critical Dune Area, except that which is involved in sand dune mining.

Crest: This means the line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 18% for a distance of at least 20 feet, if the areal extent where this break occurs is greater than 1/10 acre size.

Critical dune area: This means that geographic area designated in the atlas of Critical Dune Areas, dated February 1989, that was prepared by the Department of Natural Resources any other such locally designated sand dune area included on the Benona Township Zoning Map.

Cross-section: A graph showing the shape of the stream bed, banks, and adjacent land on either side made by plotting elevations at measured distances along a line perpendicular to the centerline of the stream.

D

Development: Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District: A section of the Township of Benona, in all parts of which the regulations of this Ordinance governing the height, area, and use of buildings and premises are the same.

Driveway: An improved or unimproved path extending from a public right-of-way or private road easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof.

Dwelling: A building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons, including one family, two family and multiple-family dwellings, apartments, hotels, boarding and lodging houses.

E

EGLE: This refers to the Michigan State Department of Environment, Great Lakes and Energy.

Encroachment lines: Limits of obstruction to flood flows. They are established by assuming that the development of the landward area will permit passage of flood flows. The floodway must be free of encroachment and adequate to convey the regulatory flood without raising the water surface more than one (1) foot.

Existing building: A building existing, or a building for which a legal permit has been issued and the foundations are in place or upon which there has been substantial work done prior to the adoption of this Ordinance.

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

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

- A) Marketing produce at roadside stands or farm markets.
- B) The generation of noise, odors, dust, fumes, and other associated conditions.
- C) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
- D) Field preparation and ground and aerial seeding and spraying.
- E) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- F) Use of alternative pest management techniques.
- G) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- H) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- I) The conversion from a farm operation activity to other farm operation activities.
- J) The employment and use of farm labor.

Farm animals and fowl: Those animals and fowl usually kept on a farm for the production of income, such as horses, cows, pigs, chickens, turkeys, sheep, ducks, and geese.

Fence: Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A) The overflow of inland or tidal waters.
- B) The unusual and rapid accumulation of runoff or surface waters from any source.

Flood Hazard Boundary Map (FHBM): An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

Flood hazard district overlay: The portion of the flood plain flanking the stream channel required to convey and/or store the waters of the intermediate regional flood.

Floodplain: The relatively flat area or lowlands covered by floodwaters originating with either the adjoining channel or a water course, such as a river or stream, or a body of standing water such as an ocean or lake.

Flood profile: A graph showing the relationship of water surface elevation to location along the stream. The latter is generally expressed as distance above the mouth of the stream in miles. While it is drawn to show surfaced elevations for the crest of a specific flood, it may be prepared for conditions at any other given time or stage.

Floor area, gross: The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade. (See Basement.)

Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.

Floor area, usable: That area used for or intended to be used for the sale of merchandise or services, or used to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

Foredune: One or more low linear dune ridges that are parallel and adjacent to the shoreline of Lake Michigan and are rarely more than twenty (20) feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

Frequency: The expected recurrence interval for a given size flood, based upon long-term statistical probability. Large floods occur less frequently, and smaller floods occur more frequently.

G

Garage - private: A detached accessory building or portion of a main building used only for the storage of self-propelled passenger vehicles or trailers of the occupants of the premises and/or not more than one truck of a rated capacity not exceeding one and one-half (1-1/2) tons.

Garage - commercial: A structure or portion thereof other than a private or municipal garage used for the storage, sale, hire or repair of self-propelled vehicles or trailers.

Garage - storage: A garage used exclusively for the storage of motor vehicles.

Grade: The ground elevation established for the purpose of regulating the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. (Grade shall also mean average grade, as defined herein.)

H

Harmful increase: An unnaturally high stage on a river, stream or lake which causes, or may cause, damage to property, threat to life, personal injury, or damage to land or water resources.

Home occupation: Any occupation conducted for profit in a dwelling by a member of a family residing in the dwelling and which meets the following conditions:

- A) No stock in trade is sold from the premises.
- B) No person not a resident of the premises is employed.
- C) No more than three patrons or customers will normally come to the premises daily.
- D) No internal or external alteration of the residence is required to make the premises useable for the occupation.

Hospital: An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

I

Intermediate regional flood: A flood having a one percent (1%) probability of occurring in any one year at a designated location. It is based on statistical analysis of stream flow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.

K

Kenel: Any premises on which three or more dogs four months old or older are kept.

L

Loading space: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

Lot: Land occupied or to be occupied by one building and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required under this Ordinance and having not less than twenty-five (25) feet of immediate frontage either upon a public highway or a perpetual recorded private road or easement.

Lot area: The computed area inside of lot lines.

Lot corner: A lot of which at least two adjacent sides abut for full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135°).

Lot depth: The mean horizontal distance between the front and rear lot lines.

Lot front lines: In the case of a lot abutting upon only one street and not abutting on a lake or river, it shall mean the line separating such lot from such street. In the case of a lot abutting on only one street and abutting upon a lake or river, the front lot line shall be the mean high-water mark as it abuts upon the lot. In case of any other lot, the lower shall, for the purpose of this Ordinance, have the privilege of electing any lot line abutting on any street as the front lot line, provided that such election shall be filed with the Administrator and will not, in the opinion of the Administrator, have an injurious effect on the public health, safety and the development of adjacent properties. Provided anything to the contrary notwithstanding, in the case of a lot with lines on one or more streets, at least one of which is maintained by any governmental entity, then the owner shall not have the privilege of electing a lot line as his front lot line, except to the extent that such front line is adjacent to a governmentally maintained public road.

Lot interior: A lot other than a corner lot.

Lot lines: The property lines bounding the lot exclusive of a public road right-of-way; except in the Agricultural District lot lines shall be figured to the center of the public road. Measurements for setbacks for construction of structures shall remain to the road right-of-way.

Lot, waterfront: A lot having frontage directly upon a lake, river or otherwise formed impoundments of water.

Lot width: The mean horizontal distance across the lot between side lot lines measured at right angles to the depth.

M

Mobile, Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

Manufactured Housing Community: A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

New construction: Structures for which the "start of construction" commenced on or after the effective date of this Ordinance.

Nonconforming use: A use which lawfully occupied a structure or land at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

Nonconforming structure: A structure lawfully existing at the time of adoption of this Ordinance, or any amendment thereto.

N

Nursing home: A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under the Public Health Code, Act 368 of 1978, as amended, or a mental hospital for mental patients licensed under the Mental Health Code, Act 258 of 1974, as amended.

O

Obstruction: Any structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to damage life or property.

Occupied: The word "occupied" includes built, altered, converted to, rented or leased for use by individuals.

Open space: Land used for recreation, resource protection, amenity, and/or buffers, and not containing any main building or structure.

- A) **Open space, dedicated.** Common open space dedicated as a permanent recorded easement.
- B) **Open space, usable.** That portion of the common open space that meets the minimum dimensions as required by this Ordinance and which due to its slope, drainage characteristics and soil conditions can be used for recreation.

Outdoor Recreation: Such uses shall include, but are not limited to the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, commercial riding stables, paint ball facilities, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and band shells, amusement parks and uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms

Parking area - private: An open area, other than a street, for the same use as a private garage.

Parking area - commercial: An open area, other than a street or other public way, used for the parking of automobiles and available for public use, whether for a fee, free or an accommodation for clients or customers.

Parking space: An off-street space of at least nine (9) feet by eighteen (18) feet exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

Person: An individual, partnership, firm, corporation, association, local unit of government, or other political subdivision of the state or state agency.

Personal Storage Building: A building larger than 120 square feet used or intended to be used only for storage, collection, stockpiling or keeping of personal property or vehicles located on a lot parcel with no other principal buildings or dwellings.

Planned Unit Development: A type of real estate development that combines residential, commercial and recreational spaces into one cohesive project and can allow single family homes, multi-family homes, and mixed use structures while promoting a sense of community by integrating amenities such as parks and community centers into the plan.

Planning Commission: Means the body or entity within a local government that is responsible for zoning and land use planning for the local unit of government.

Porch, enclosed: A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

Porch, open: A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

Public utility: Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water services, not including wireless telecommunications providers or wind energy conversion facilities.

Reach: A longitudinal segment of a stream or river, including the portion of flood hazard area of which flood heights are influenced by a natural or man-made obstruction.

Recreational vehicles: A vehicle primarily designed and used as temporary living quarters for recreational, camping or traveling purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Regulatory flood: A flood representative of large floods known to have occurred in the area and reasonably characteristic of a particular stream. The regulatory flood generally has a frequency of occurrence of once in 100 years, determined from an analysis of floods on the particular stream and other streams in the region.

Regulatory flood protection elevation: The elevation to which uses regulated by this Ordinance are required to be elevated or flood-proofed.

Restabilization: Restoration of the natural contours of a Critical Dune to the extent practicable, and the restoration of the protective vegetative cover of a Critical Dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting and slumping sand.

Residence: The act or fact of occupying, residing or dwelling in a place for any period of time.

Roadside stand: A farm building or separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

Setback: The minimum horizontal distance between the front, side, rear line of the building, including steps and unenclosed porches, and the property lines, exclusive of a public road right-of-way.

Solar energy collector: A system (including solar collector surfaces and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems. The following definitions are within this subcategory:

- A) **Ancillary solar equipment:** Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries electric meters, converters, or water heater tanks.
- B) **Property owner or lessor:** Any person, agent, firm, corporation, or partnership that alone, jointly or severally with others: (1) has legal or equitable title to any premises dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling, or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.
- C) **Solar collector surface:** Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.
- D) **Solar energy:** Radiant energy received from the sun that can be collected in the form on heat or light by a solar energy system.
- E) **Building-mounted solar energy collector:** A solar energy collector attached to the roof or wall of a building, or which services as the roof, or other element in whole or in part of a building. Also includes building-integrated photovoltaic systems (BIPV).
- F) **Ground-mounted solar energy collector:** A solar energy collector that is not attached to and is separate from any building on the lot on which the solar energy collector is located.
- G) **Small-scale solar energy collector:** A solar energy collector primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic (BIPV) systems, ground-mounted solar energy collectors, or building-mounted solar energy collectors.
- H) **Photovoltaic system:** A collection of solar panels and related equipment and components used to convert light into electrical power.
- I) **Utility scale solar energy system:** A solar energy system that meets one or more of the following:
 1. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
 2. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
 3. It is not considered an accessory use or structure by the Township Zoning Administrator.

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

Story: That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Street: A public or private way, square or lane, permanently open to common and general use, which affords the principal means of access to abutting property;

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

Structural alterations: Any change in the supporting member of a building or structure, such as bearing walls, columns, beams or girders.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvements" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications, or (2) any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

T

Temporary building or use: A structure or use permitted by the Zoning Administrator in accordance with the requirements of this Ordinance during periods of construction of a main building or for special events.

Township: The term "Township" shall refer to Benona Township, Oceana County.

Township Board: The words, "Township Board" shall mean the Benona Township Board.

Transitional uses: A use of land or building located or permitted to be located on a certain lot in more restricted districts along the boundary between certain districts.

U

Use: A developmental, agricultural or recreational activity done or caused to be done by a person that significantly alters the physical characteristic of a critical dune area, or a contour change done or caused to be done by a person, but does not include sand dune mining. Also use is the purpose for which land or any temporary structure is designed, arranged, or intended, or which it is occupied, maintained or leased.

V

Variance: A modification of the literal provisions of this ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of the provisions would cause practical difficulty or undue hardship applicable to the individual property for which a variance is sought.

W

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

Wireless communication tower: A structure of lattice or monopole framework to which an antenna may be attached for the transmission and /or reception of radio, television, satellite or microwave signals that facilitates wireless communications including cellular, enhanced specialized mobile radio (ESMR), personal communication, or similar services, along with associated equipment necessary to operate these facilities.

Wireless communication antenna: The device for transmitting and/or receiving radio, television, satellite, cellular, enhanced specialized mobile radio, personal communication, microwave, or similar transmissions.

Wind Energy Conversion System (WECS):

- A) **Wind Energy Conversion System (WECS)** - shall mean a combination of:
1. A surface area, either variable or fixed, for utilizing the wind for electrical powers; and
 2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
 4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and
 5. Building or equipment accessory thereto.
- B) **Survival wind speed:** The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- C) **Wind farm:** Clusters (2 or more) of WECS towers placed upon land with the intent to sell or provide electricity to others. The towers may or may not be owned by the owner of the property upon which the towers are placed.
- D) **Single WECS for commercial purposes:** A WECS tower placed upon land with the intent to sell or provide electricity to others. The tower may or may not be owned by the owner of the property upon which the tower is placed.
- E) **Interconnected WECS:** A WECS, which is electrically connected to the local electrical power utility system and can feed power back into the local electrical power utility system.
- F) **WECS:** A structure and equipment used to determine the potential for the placement of a WECS.
- G) **WESC tower height:**
1. **Horizontal axis wind turbine rotors:** The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades;
 2. **Vertical axis wind turbine:** The distance between the ground and the highest point of the WECS.

Y

Yard - front: An open space extending the full width of the lot between a building and front lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

Yard - rear: A space unoccupied except by a building or accessory use as hereinafter permitted, extending for the full width of the lot between rear line of the main building and rear lot line.

Yard - side: An open, unoccupied space between the drip line of the building on such lot and the adjacent sideline of the lot.

Zoning Administrator: The person(s) designated by the Legislative Body to administer the provisions of this Zoning Ordinance.

Zoning Board of Appeals: The Zoning Board of Appeals of Benona Township is a local government body that reviews and decides appeals regarding the interpretation or application of a zoning ordinance.

Article 3.

General Provisions

Section 3.1 Accessory Buildings and Structures.

- A. Unless associated with an agricultural operation, no accessory building shall be permitted on any lot which does not contain a main building unless a permit for a main building has also been secured for that lot.
- B. In all zoning districts other than A and RR, there shall be a maximum of two (2) accessory buildings or structures on a property. However, in all districts, Farm buildings shall not be considered accessory buildings.
- C. When an accessory building or structure is attached to a main building in a substantial manner, such as a common wall or roof, the accessory building or structure shall be considered a part of the main building and shall conform to the setback requirements of the main building.
- D. Detached accessory buildings shall be a minimum of ten (10) feet from any other building or structure.
- E. Detached accessory buildings shall be set back fifty (50) feet from any property line in the A and RR districts.
- F. Accessory building(s) shall not be erected in any required front yard.
- G. Accessory buildings shall be of residential construction and shall be compatible with surrounding residential homes. Accessory buildings under one hundred twenty (120) square feet are exempt.
- H. Manufactured homes, semi-trailers or other vehicles shall not be used as accessory storage structures.
- I. No accessory building shall be rented out to other tenants to live or use.
- J. No accessory building shall occupy any portion of a required greenbelt or buffer in any District.
- K. After the construction of an accessory building upon a parcel of land, no subsequent division of that land shall be made which would cause the building located thereon to be in violation of the terms of this Ordinance.
- L. The maximum height of accessory structures in the Township shall be forty-five (45) feet.

Minimum Lot Size	Maximum Square Footage (GFA)	Maximum Height (ft)
3,000 sq. ft.	384 sq. ft. (e.g. 16 x 24)	14 ft.
5,000 sq. ft.	672 sq. ft. (e.g. 24 x 28)	14 ft.
10,000 sq. ft.	864 sq. ft. (e.g., 24 x 36)	18 ft.
15,000 sq. ft.	1,080 sq. ft. (e.g. 30 x 36)	20 ft.
20,000 sq. ft.	1,200 sq. ft. (e.g., 30 x 40)	24 ft.
35,000 sq. ft.	1,600 sq. ft. (e.g., 40 x 40)	28 ft.
1 acres +	2,000 sq. ft. (e.g., 40 x 50)	45 ft.

Section 3.2 Accessory Use Wind Energy Systems.

The purpose of this section is to promote the safe, effective, and efficient use of accessory use wind energy systems installed to reduce the on-site consumption of utility supplied electricity. Accessory use wind energy systems shall be considered a permitted accessory use in all zoning districts, subject to the following requirements.

- A. Accessory Use Wind Energy Systems may be attached to an existing structure or structure mounted on a tower structure with the following height limitations, measured from the grade directly below the turbine to the uppermost component of the system with its blade in a vertical position.
 - 1. For parcels less than two (2) acres in area, the tower height shall not exceed 35 feet.
 - 2. For parcels at least two (2) acres and not more than five (5) acres in size, the tower height shall not exceed 60 feet.
 - 3. For parcels greater than (5) acres in size, the tower height shall not exceed 80 feet.
- B. The minimum blade tip clearance from grade shall be twenty (20) feet.
- C. The accessory use wind energy system shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the height of the wind energy system, (with the blade in the vertical position), as measured from the lot line to the base of the tower. No portion of the wind energy system, including the guy wire anchors, shall be located within or above a required yard.
- D. Small wind turbines shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. Small wind turbines shall be equipped with an automatic braking, governing or a feathering system to prevent uncontrolled rotation or over-speeding. Small wind turbines and towers shall be equipped with lightning protection.
- F. Accessory use wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations in close proximity to an airport.
- G. No accessory use wind energy system which is proposed to be connected to a public electric utility grid system shall be approved until evidence has been given indicating that the utility company has approved such installation.

Section 3.3 Alterations and Exceptions Permits.

No structure shall hereafter be erected, enlarged, moved, or altered for a change of use or function until a permit has been secured from the Administrator of the Ordinance. No permit shall be issued until the proposed work complies with this Ordinance. Sheds 120 square feet or smaller will not require a Zoning Permit but must meet setbacks as stated in the Ordinance for each District.

Section 3.4 Approvals from State or County Officials Required.

In the event permits to erect, enlarge, or alter a building or if the proposed use of any land shall require approval of any county or state official under a county ordinance or state law, no permit shall be issued until evidence of such approval is presented for examination after review of the Township Zoning Administrator.

Section 3.5 Clear Vision Areas on Public Roadways.

At any intersection of public roads, no fence, structure, walls, shrubs, trees or plants which will obstruct the view of the users of the highways shall be permitted within twenty (20) feet of the right-of-way lines of the public highway.

Section 3.6 Emergency Housing.

The Zoning Administrator may issue temporary housing permits to authorize the occupancy of a mobile home or recreational vehicle for emergency housing under the following conditions:

- A. The permit shall be conditioned upon compliance with the following standards:
 - 1. The permit shall delineate a time duration not to exceed 180 calendar days. Extensions may be granted by the Zoning Administrator.
 - 2. The owner of the damaged structure, or his agent, shall acquire a permit within 90 days for repair, reconstruction, or replacement of the damaged structure prior to occupancy of the mobile home or recreational vehicles.
 - 3. The Emergency Housing permit will be conditioned upon approval from the District 10 Health Department.

Section 3.7 Essential Services and Governmental Offices.

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead, surface or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers poles, electrical substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other ordinances of the Township of Benona in any use district, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this Ordinance.

Section 3.8 Fences and Walls.

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

- A. **Location:**
 - 1. Fences and walls shall not be located outside or beyond the property lines of the lot or parcel.
 - 2. On a waterfront lot, no portion of a wall or fence shall be located closer than 40 feet to the ordinary high-water mark, provided, however, that chain link fencing may extend to within 10 feet of the ordinary high-water mark.
- B. **Height:**
 - 1. Except in the A and RR districts, fences and walls located within the required front yard shall not exceed a height of 4 feet.
 - 2. Except in the A and RR districts, fences and walls located outside the required front yard shall not exceed 6 feet in height.
- C. **Design and Type:**
 - 1. All fences and walls shall be constructed with the finished side exposed, the support posts placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surroundings.
 - 2. Except in the A and RR districts, no fence shall include barbed or razor wire strands or electrification.
 - 3. Except in the A and RR districts, fences and walls shall be constructed of durable materials such as wood planks, brick, cement block, chain link, woven wire or structural resin intended to remain in good condition in the Western Michigan climate.
 - 4. Dense landscaping, such as a continuous hedge or row of evergreens, which has the effect of entirely screening the view from neighboring properties or the public right-of-way all year round, may also be permitted as a fence; provided, however, that such landscaping be entirely on the property and not overhanging or encroaching on adjacent property.

5. The provisions of this Section 307 C. shall not apply to fences associated with active farm operations regardless of the zoning district in which said farm operation is located.

Section 3.9 Grades and Runoff.

- A. No premises shall be filled or graded so as to discharge surface run-off on to abutting premises except as may be permitted by the Oceana County Drain Commissioner.
- B. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.
- C. Leaching ponds, retention or detention basins may be required to appropriately manage stormwater on-site.
- D. Storm water management systems should be designed to:
 1. Incorporate and/or use natural drainage systems existing on the site;
 2. Protect the surrounding natural environment;
 3. Retain the natural retention and storage capacity of any wetland or waterway; and
 4. Not increase flooding or the possibility of polluting surface water or groundwater.

Section 3.10 Keeping of Animals.

- A. The keeping of pets is permitted as an accessory use in all zoning districts provided that the provisions of this Ordinance and other Township or County regulations are not violated.
- B. All farm animals or fowl shall be housed more than 200 feet from any dwelling other than the dwelling occupied by the owner of the farm animals or fowl or any other dwelling on the same parcel as the farm animals or fowl.
- C. All farm animals or fowl shall be penned or housed on a parcel of land containing two and one-half (2 ½) acres of land or more. Farm animals are deemed to include horses, cattle, swine, llama, sheep, chickens, turkeys, ducks, pigeons, rabbits, and other similar animals and fowl; this list being descriptive and not inclusive.
- D. The keeping of dangerous animals shall only be permitted in a zoo, museum, or other similar use.

Section 3.11 Lakefront Channelization Prohibited.

On any developed lake, there shall be no new channelization of lakefront properties, which would increase the numbers of lake users and therefore substantially increase the dangers of polluting or degrading the water quality of the lake.

Section 3.12 Land Divisions.

- A. New lots or parcels created, and existing lots or parcels combined shall conform to this Ordinance and the requirements of the Land Division Act, being Act 288 of the Public Acts of 1976, as amended. Benona Township elects to opt out of Section 108 (6) of PA 58 of 2025 and shall not authorize land divisions beyond those otherwise permitted by the Land Division Act.
 1. All Land Division applications shall be submitted to the Zoning Administrator for review
- B. Except as provided elsewhere in this Ordinance, no lot, parcel, or tract of land shall hereafter be divided, subdivided, platted or included in a site condominium as a unit which results in the creation of any lot, parcel, tract, or unit of land which is less than the minimum area requirements for a building or structure in the zoning district in which it is located. Nonconforming land may be reserved for a future road right-of- way or similar use development provided such nonconforming use is recorded as a restriction upon the document conveying such nonconforming properties. Further, all land divisions must meet the following criteria:

1. The required lot areas and/or frontage requirements, exclusive of easements and rights-of-way.
 2. For parcels less than ten (10) acres, the lot depth shall not be greater than four times the width.
 3. A boundary survey, legal description, driveway or private road permit, and application fee as set by the Benona Twp Board of Trustees must be submitted with the application. Provided that in the case of a parcel or tract of land of forty (40) acres or more in area, in which no more than two divisions are proposed, a legal description and scaled drawing may be submitted in place of the boundary survey.
 4. Land Divisions that comply with the provisions of this Ordinance and State Law shall be approved by the Zoning Administrator.
 5. Properties verified to be in violation of the Land Division Act by the Assessor shall be deemed to be unbuildable until they are in compliance with the requirements of the Land Division Act.
- C. Property Line adjustments shall not be classified as a Land Division; however, all Property Line Adjustments must meet the following criteria:
1. Any property line adjustments shall be submitted to the Zoning Administrator for review via a property line adjustment application.
 2. A boundary survey and application fee shall be submitted with the application.
 3. All properties included in the property line adjustment shall remain in compliance with the requirements of the Land Division Act and the Zoning District.

Section 3.13 Minimum Lot Requirements.

No lot, yard, parking area or other space shall be so divided, altered or reduced so as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided, altered or reduced.

Section 3.14 Mobile and Manufactured Home Regulations.

- A. Mobile/Manufactured homes moved on to a property within the township must not be older than 15 years of age within the current year.
- B. Minimum size of a dwelling shall be seven hundred twenty (720) square feet first floor living area. No building shall be constructed with any side less than fourteen (14) feet.
- C. Mobile structures shall not be used as storage structures

Section 3.15 Open Space Development.

- A. **Purpose.** The purpose of the Open Space Development is to promote the continuation of rural land use character, protection of environmental resources, and preservation of active agricultural lands through clustering dwelling units rather than laying them out along public roads or in a grid or curvilinear pattern found in many traditional subdivisions. The objective is to provide a sense of rural character for the residents of the individual developments affected by these regulations as well as the Township as a whole. These regulations are also intended to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be altered from their natural or undeveloped condition.
 1. Allowed in the Residential District and Rural Residential District only.
 2. Minimum open space shall be fifty (50%).
 3. All dwelling units shall be single-family detached housing.

4. The maximum base density and number of dwelling units permitted in the open space development shall be determined through the submission of a parallel plan showing the number of dwelling units that may be developed under the existing zoning classification. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan. The parallel plan shall meet the following minimum requirements:
 - a) The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each lot.
 - b) All lots or buildings shown on the parallel plan shall be located on buildable lots, which, for the purposes of this Section shall mean lots that are of sufficient size and shape to meet existing zoning requirements and accommodate a principal building, septic and well systems (where no public sanitary sewer or water system is to be used), and required streets and driveways.
 - c) Areas of wetlands, storm water control, water bodies, and other unbuildable areas shall not be included within buildable areas but may be included in the lot area calculations.
 - d) In evaluating the feasibility of the parallel plan, the Planning Commission shall consider whether or not the plan would have been approved under the processes normally used to review site plans or subdivision plans, including such factors as access, lot orientation, street layout, and other considerations the Planning Commission deems appropriate.
 - e) The Planning Commission may authorize a five percent (5%) bonus density for an additional ten (10%) open space.

B. Design Standards.

1. Cluster areas shall be designed to avoid a suburban subdivision appearance. Generally, neighborhood clusters should range from 10-15 units per cluster for smaller developments (up to 50 total units) and 15-20 units for larger developments (50 or more total units).
2. Visual screening of dwellings from off-site street networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.
3. Entryways to open space clusters shall be designed consistent with the rural, natural character of the surrounding area and shall consist of natural vegetation rather than groomed, landscaped areas.

C. Development Setback.

1. Any proposed building lot shall be located at least two hundred (200) feet from any previously existing public street right-of-way.
2. No native or natural vegetation shall be removed from the (200) foot setback, nor may any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the open space development.
3. The Planning Commission may reduce this setback to not less than one hundred (100) feet if existing landscaping or topography provides a natural screen that substantially blocks the view to the proposed development.
4. The Planning Commission may require a landscape plan for the development setback area showing additional landscaping to enhance the screening of the open space development from the adjacent street. This landscaping may consist of existing vegetation, landforms, or landscaped areas using native or natural materials, or a combination thereof.
5. Open space cluster sites abutting more than one (1) public street shall be permitted to reduce the setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. No native or significant vegetation shall be removed from the one hundred (100) foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads or utilities.

D. Open Space. Any open space provided shall meet the following considerations and requirements:

1. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, so that all properties within the entire development may utilize the available open space.
2. The development shall have a minimum of fifty percent (50%) open space. Any area used in the calculation of required open space shall have a minimum dimension of fifty (50) feet.
3. All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s), be converted to open space but shall not be used as land for the construction of additional dwellings, nor used for any other development.
4. All open space shall be in the joint ownership of the property owners within the development. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.

Section 3.16 Outdoor Lighting.

- A. **Intent and Purpose.** To maintain safe nighttime performance on public roadways by minimizing both brightly lit surfaces and lighting glare; to preserve the restful quality of nighttime and to preserve the rural character of the Township, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to 'sky glow,' and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans or other applications submitted for approval under the terms of this Ordinance.
- B. **General Provisions:**
1. **Exempted Lighting.** The following types of outdoor lighting shall not be covered by this Ordinance:
 - a) Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal lights, such as for Christmas decorating.
 - b) Lighting associated with farm operations.
 2. **Regulated Lighting.** The following types of lighting shall be regulated by this Ordinance:
 - a) Parking lot lighting, building-mounted lighting, and site lighting for commercial, industrial, multiple family and institutional developments.
 - b) Publicly and privately owned roadway lighting.
 - c) Other forms of outdoor lighting which, in the judgment of the Planning Commission or Zoning Administrator, is similar in character, luminosity and/or glare to the foregoing.
 3. **Standards:** Lighting shall be designed and constructed in such a manner as to:
 - a) Ensure that direct or directly reflected light is confined to the development site or subject property.
 - b) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
 - c) The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
 - d) Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
 - e) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.

- f) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. The permanent use of beacon and search lights is not permitted.
- g) No colored lights shall be used at any location or in any manner to be confused with or construed as traffic control devices.
- h) The Planning Commission may impose other reasonable standards to ensure that the intent and purpose of this Section would be met.

Section 3.17 Restoration of Unsafe Structures.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the proper governmental officer or agency.

Section 3.18 Road Frontage Minimums.

No building permits shall be issued where the applicant fails to show that the property for which a permit is requested fronts or abuts for a minimum of thirty (30) feet on a public highway or a permanent, recorded, non-obstructed easement of access or right-of-way to a public highway, not less than thirty (30) feet in width, which easement shall grant a right-of-way to public vehicles and utilities.

Section 3.19 Spatial and Physical Requirements.

- A. The continuing maintenance of required spatial relationships and physical requirements of this Ordinance for a use, structure, building, and/or parcel shall be the obligation of the owner of the use, structure, building and parcel.
- B. Required spatial relationships and physical requirements of this Ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following may be located anywhere on a parcel:
 - 1. Structures having a height of 18 inches above ground level, unenclosed and unroofed porches and decks, including steps, which do not exceed 70 square feet in area, balconies, fire escapes, handicapped ramps, terraces, patios and awnings and nonpermanent canopies, may project into any yard, but shall be located a minimum of 6 feet from any property line.
 - 2. All roofed porches and decks and those unroofed porches and decks, including steps, which are larger than 70 square feet, shall be considered an integral part of the structure to which they are attached and shall be governed by the yard requirements of the Zoning District in which the parcel is located.
 - 3. Chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters and similar features may project into any yard a maximum of two (2) feet.
 - 4. Flag poles;
 - 5. Hydrants;
 - 6. Arbors, trellises, trees, plants, shrubs, subject to the provisions of Section 507 pertaining to clear vision areas; and
 - 7. Sidewalks, private driveways and walkways.
- C. Land filling and other contour changes to create a buildable site shall not be undertaken, except in conformance with the requirements of this Ordinance and applicable State and Federal requirements. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires Site Plan Review and approval until the proposed use or structure is authorized by a Zoning Permit.

Section 3.20 Storage (Cargo) Containers.

A. Cargo Containers shall be subject to the following regulations:

1. **All Cargo Containers (permanent or temporary)**

a) **Location**

- 1) Cargo containers shall be located in the rear yard.
- 2) Cargo containers shall not occupy required off street parking, fire lanes, loading/unloading areas nor shall they be located where they may cause hazardous conditions or constitute a threat to public safety.

b) **Setbacks:** Cargo containers shall be subject to the setback limits set forth in this Ordinance that are applicable to principal buildings and structures.

c) **Height:** Cargo containers shall not be stacked above the height of a single container.

d) **Lot Coverage:** The surface area covered by the cargo container(s) shall be included in the lot coverage calculations for the lot.

e) **Utilities:** Cargo containers shall not be provided plumbing service.

f) **Use:** Cargo containers shall not be used as living quarters nor as housing for livestock or pets.

g) **Nonconforming lot/use:** The placement of a cargo container on a nonconforming lot or to serve a nonconforming use shall not be considered an expansion of the nonconformity.

2. **Permanent use of cargo containers:** Cargo containers may be permanently placed on property for storage purposes, subject to the following requirements in addition to those requirements in subsection (A)(1):

a) All applicable building regulations shall apply.

b) Cargo containers shall not be used as signage or for advertising and shall be kept free of all alphanumeric signage and writing.

c) Any writing or graffiti on the container shall be the responsibility of the owner and shall be removed.

d) A Land Use permit shall be obtained from the Township Zoning Administrator.

3. **Temporary use of cargo containers:** Cargo containers may be temporarily placed on property for storage purposes, subject to the following requirements:

a) A land use permit is required and shall be obtained by the Township Zoning Administrator.

b) Cargo containers shall be removed from the property within ninety (90) days from the date of initial placement. One (1) extension of up to ninety (90) days may be approved by the Zoning Administrator.

c) The temporary use of cargo containers associated with construction sites or approved building construction projects shall be permitted to remain on site until either the project's final building inspection or the expiration of the building permit, whichever comes first.

B. **Portable storage containers** shall be allowed as a permitted use in all zoning districts as an accessory use, upon issuance of a temporary land use permit from the Zoning Administrator and shall be subject to the following regulations:

1. **Location:**

a) Portable storage containers used within a residential district or associated with a residential use shall be located on a driveway or paved area. Storage containers placed in association with approved construction projects shall be exempt from this requirement.

b) Portable storage containers used in a non-residential district or associated with a non-residential use shall not occupy required off street parking, fire lanes, loading/unloading areas or landscape areas nor shall they be located where they may cause hazardous conditions or constitute a threat to public safety.

c) Portable storage containers may not be located on a vacant lot, unless the lot is associated with an approved building project.

2. **Height:** Portable storage containers shall not be stacked above the height of a single container.

3. **Utilities:** Portable storage containers shall not be provided electrical or plumbing service.
4. **Use:** Portable storage containers shall not be used as living quarters nor as housing for livestock or pets.
5. **Time limits:** Portable storage containers shall be removed within ninety (90) days of initial placement. One (1) extension of up to ninety (90) days may be approved by the Zoning Administrator.

Section 3.21 Temporary Uses.

The following temporary uses are permitted by special temporary permit in districts as regulated therein, all such uses shall be terminated within thirty (30) days after expiration of said permit:

- A. **Trailers or mobile homes.** An individual trailer or mobile home without permanent foundations, may be used as a temporary living quarters or working quarters for up to one hundred eighty (180) days while a dwelling house is being constructed on the same premises, provided that an approved water supply and an approved sewage disposal system are installed prior to such occupancy. The Zoning Administrator may grant renewals of the permit for an additional one hundred eighty (180) days if construction is progressing on the dwelling house.
 - 1. **Temporary structure removed.** Temporary buildings for uses incidental to construction work shall be removed promptly upon completion or abandonment of work.
- B. **Signs and supplies.** The storage of building supplies and machinery, temporary storage buildings and customary trade, contractor or architect's identification signs in connection with a construction project may be authorized until occupancy permit is issued.
- C. **Subdivision office.** A dwelling in a new subdivision may be used as a sales and management office for a period of twelve (12) months.
- D. **Recreational vehicles, RV's.**
 - 1. The parking or occupancy of a recreational vehicle shall require a Zoning permit and is subject to the following regulations:
 - a) The location of the recreational vehicle shall comply with all setback requirements of this Ordinance.
 - b) The use of the recreational vehicle shall not be contrary to the public health, safety or welfare.
 - c) The recreational vehicle shall be connected to a water supply and sewer disposal system approved by the District 10 Health Department.
 - d) The recreational vehicle shall, at all times, have a clear and unoccupied space of at least seven (7) feet on all sides.
 - e) Use of the recreational vehicle shall be limited to six (6) months for properties where the owner of the property resides on the same parcel or 90 days for non-owner-occupied property, beginning with the issuance of a permit. The permit may be renewed for one (1) additional period of six (6) months for properties where the owner of the property resides on the same parcel or 90 days for non-owner-occupied property, upon approval of the Zoning Administrator for good cause shown. Another application for use of a temporary dwelling on the subject site shall not be approved for a period of at least six (6) months.

Section 3.22 Yard Requirements at Intersections.

Where a lot is bounded by two intersecting streets, the front yard requirement shall be met on one abutting street only and the side yard abutting the other Intersection Street shall not be less than thirty (30) feet or twenty-five feet (25) for lots within special districts.

Article 4.

Standards of Use

Table: Permitted Uses

P – Permitted Use

SU – Special Use

Use	A	RR	Res	Coastal	Dune Ov	MU	Comm
Accessory Buildings/Use	P	P	P	P	P	P	P
Accessory Dwelling Units	SU	SU			SU		
Adult Businesses							SU
Adult Foster Care Facilities		SU				P	
Agriculture	P	P					
Battery Storage Facilities	SU	SU					
Bungalow Court			P			P	
Campground	SU	SU	SU				
Car Wash							P
Cemeteries	SU	SU					
Child Care Center - Commercial						SU	P
Child Care Center - Family	P	P	P	P	P	P	
Child Care Center - Group		SU				SU	
Clinic						P	P
Commercial Lodging		SU				P	P
Contractor's Yard	SU	SU					
Convenience Store						P	
Data Centers	SU	SU					
Dwelling - Single Family	P	P	P	P	P	P	
Dwelling - Two Family			SU			P	
Dwelling - Triplex or Quadplex			SU			P	
Eating and Drinking Establishments		SU				P	P
Educational Facility	P	SU	P				

Use	A	RR	Res	Coastal	Dune Ov	MU	Comm
Farm Product Processing Facilities	SU	SU					
Farm Worker Housing	SU	SU					
Financial Institutions (including drive-through)						P	P
Gas Station						SU	P
Golf Courses		SU					
Government (Public) Buildings	P	P				P	P
Gravel,Sand, Mineral Extraction	SU	SU					
Greenhouse	P	P					
Gun/Archery Club		SU					
Home Occupation (customary)	P	P	P				
Home Occupation (major)	SU	SU	SU				
Junkyards	SU	SU					
Kennels	SU	SU					
Laundromat							P
Library						P	
Manufactured Home Communities		SU					
Mini - Storage Facilities		SU					P
Mortuaries and Funeral Homes							P
Open Space Preservation Developments		P	P				
Outdoor Recreation	SU	SU					
Outdoor Sales and Display Areas	SU	SU					P
Parks	P	P	P	P	P	P	
Personal Service Establishments						P	P
Personal Storage Building	SU	SU					
Place of Public Assembly (Large)	SU	SU				SU	P
Place of Public Assembly (Small)	P	P	P			P	P
Planned Unit Development		SU	SU	SU			
Private Airport or Landing Field	SU	SU					
Professional Offices						P	P
Retail Businesses						P	P
Roadside Stand	P	P					
Sawmills		SU					
Signs	P	P	P	P	P	P	P
Solar Energy Systems	SU	SU					
Stables	P	P					
Veterinary Clinics and Hospitals	P	SU					P
Warehousing Businesses	SU						
Waterfront Access Lot			P	P			
Wind Energy Conversion System	SU	SU					
Wireless Communication Towers	SU	SU		SU			

Article 5.

Nonconforming Uses and Buildings

Section 5.1 Scope and Intent.

It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and uses of land which were lawful before this Ordinance was adopted or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. Such nonconformities, particularly nonconforming uses which are more intense than the uses permitted within the zoning district, are declared by this Ordinance to be incompatible with permitted uses and in conflict with the purposes of this Ordinance. An intent of this Ordinance is to permit such legal nonconforming lots, buildings, structures or uses to remain until they are discontinued or removed, but not to encourage their survival, or where discontinuance or removal is not considered feasible, to gradually upgrade such nonconformities to a more conforming status. A nonconforming use, building, structure or combination thereof, shall not be extended, enlarged, expanded or replaced, except as provided herein, and shall not be used as grounds for adding other nonconforming uses, buildings or structures. Further, this Article is intended to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities may be permitted to continue.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building or structure for which a building permit has been issued and on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Section 5.2 Nonconforming Lots of Record.

The following regulations shall apply to any nonconforming lot of record existing as of the effective date of this Ordinance or amendment thereto.

- A. Any use or development of a nonconforming lot shall comply with all applicable provisions of this Ordinance.
- B. Nonconforming lots may be combined, in whole or in part to create a conforming lot or a lot with a lesser degree or extent of nonconformity, provided the resulting lot is capable of accommodating a structure in compliance with applicable building area and setback requirements
- C. For lake lots with less lot area than required, the front yard setback shall be reduced to the greater of twenty-five (25) feet or the average setback of the residential structures on the adjacent lots.
- D. On nonconforming lots that do not have the applicable lot width requirement, the required side yard setback requirement shall be reduced by three (3) inches for each one foot of reduced lot width, provided that in no instance shall any such reduced side yard be less than six (6) feet.

Section 5.3 Nonconforming Uses of Land.

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

- A. The nonconforming use shall not be enlarged, expanded or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. The nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use except where said relocation results in a decrease in the nonconformity at the effective date of adoption or amendment of this Ordinance.
- C. If such nonconforming use of land ceases for any reason for a period of more than three hundred sixty-five (365) days, such use shall not be re-established. Subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. If a nonconforming use is damaged or destroyed by any means to the extent that fifty (50) percent of its replacement cost at the time of such damage or destruction, it shall not be continued or reestablished except in conformity with the provision of this Ordinance.

Section 5.4 Nonconforming Buildings and Structures.

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

- A. A nonconforming structure shall not be altered by expansion, extension, or enlargement in any way that increases its nonconformity.
- B. No such nonconforming structure shall be moved in whole or in part to any other portion of the lot or parcel except in conformity with the provisions of this Ordinance.
- C. If a nonconforming structure is damaged or destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, exclusive of the foundation, at the time of such damage or destruction, it shall not be repaired or reconstructed except in conformity with the provisions of this Ordinance.

Section 5.5 Nonconforming Uses of Structures and Land.

If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. A nonconforming use may be extended throughout any parts of a structure which were arranged or designed for such use, and which existed on the effective date of this Ordinance, shall not be extended to occupy any (additional) land outside the structure.
- B. A structure occupied by a nonconforming use shall not expand, extend, or enlarge the area, density, and/or manner of operation of a nonconforming use. Any such alteration shall be determined to result in an increase in the nonconformity.
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance.
- D. If a nonconforming structure is damaged or destroyed by any means to the extent of more than fifty (50) percent of its replacement cost, exclusive of the foundation, at the time of such damage or destruction, it shall not be continued or reestablished except in conformity with the provisions of this Ordinance. Removal or destruction of the structure shall eliminate the nonconforming use status of the land.

Section 5.6 Repairs and Maintenance.

A nonconforming structure and/or land devoted in whole or in part to any nonconforming use may be repaired and maintained in keeping with normal routine maintenance, provided that such repair and maintenance shall not extend, expand, or enlarge the nonconforming structure or use. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition and structure and/or use declared to be unsafe by any official charged with protecting the public safety, and upon order by said official.

Section 5.7 Change of Tenancy or Ownership.

A change of tenancy, ownership or management of any existing nonconforming uses of land, nonconforming structures, or nonconforming uses of structures and land in combination, shall be permitted provided that there is no change in the nature or character of any nonconformity.

Section 5.8 Discontinuation of Nonconformities.

- A. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- B. When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months or, for twenty four (24) months during any three (3) year period, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excluded from this provision.

Article 6.

Zoning Districts

Section 6.1 Districts

- A. **Township Districts.** For the purpose of this Ordinance, the Township of Benona is divided into the following districts:
1. Agricultural
 2. Rural Residential
 3. Coastal
 4. Commercial
 5. Mixed Use
 6. Residential
 7. Dunes Overlay
- B. **Zoning Map and District Boundaries.** The map entitled Zoning Map, delineating the above districts, is hereby declared to be a part of this Ordinance, except where references by dimensions are shown on said map, the district boundary lines follow lot lines, municipal boundary lines, section lines, fractional section lines or the center line of highways, streets or alleys as they existed at the time of the adoption of this Ordinance.
- C. **Ambiguous District Boundary Lines.** Where a district boundary line of the Zoning Map divides a lot, the least restricted use shall not extend beyond such line.
- D. **Classification of Unspecified Properties.** In the event any property has not been specifically included within a district, the said property is hereby declared to be in the Rural Residential District unless otherwise changed.

Article 7.

Agricultural District

Section 7.1 Statement of Purpose and Intent.

The regulations of the AG Agricultural District are intended to ensure that land areas within the Township which are well suited for production of food and fiber are retained for such production, unimpeded by the establishment of incompatible uses which would hinder farm operations and irretrievably deplete agricultural lands. This area is designed for uncongested use with a minimum of service, such as water supply, sewerage disposal, police and fire protection, hard-surfaced roads, etc. Conventional Subdivisions or site condominium developments requiring urban services are to be excluded from these areas. Open space developments are encouraged. The district shall also accommodate very low-density residential development and other uses generally associated with agricultural and rural residential uses. As an Agricultural District, certain impacts such as odors, noise, application of chemicals, and other external impacts typically associated with farming operations shall be recognized and reasonably tolerated provided they do not pose a threat to the general health, safety, and welfare of Benona Township residents.

Section 7.2 Principal Permitted Uses.

The following uses shall be permitted in the Agricultural District: (see appendix for additional uses)

- Place of Public Assembly - small.
- Educational Facilities.
- Parks and playgrounds.
- Kennels.
- Dwelling – Single family.
- Accessory Building
- Accessory Uses
- Agricultural uses of land, including the keeping of farm animals or fowl.
- Farm Buildings
- Government or Public Buildings.
- Home occupation - Minor.
- Manufactured Home
- Roadside stands.

Section 7.3 Uses Permitted by Special Use.

- Accessory Dwelling Unit
- Battery Storage Facility
- Campgrounds
- Cemetery
- Contractors Yard
- Dwelling - Two Family
- Farm Product Processing Facility
- Farm Worker Housing
- Golf Course
- Gravel, sand and other mineral extraction
- Home Occupation – Major
- Place of Public Assembly – Large
- Solar Energy System – Large
- Wind Turbine Generator
- Wireless Communication Tower

Section 7.4 District Regulations.

- A. **Minimum Lot Area.** The minimum lot area in the A - Agricultural District shall be twenty (20) acres in area.
- B. **Minimum Lot Width.** The minimum lot width shall be Two Hundred (200) feet wide at the front setback line.
- C. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty (40) feet, except that buildings and structures permitted in this district under this Ordinance for non- dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding forty - five (45) feet.
- D. **Minimum Building Setbacks:**
1. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 2. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 3. **Side.** All lots shall maintain a fifty (50) foot side yard along each side lot line.
 4. **Rear.** Every dwelling or building hereafter erected shall have a rear yard not less than fifty (50) feet in depth.
- E. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area with a minimum core area of 14 x 14 feet.
- F. **Maximum Lot Coverage.** Thirty-five percent (35%).

TABLE 7.1 – Agricultural Residential Dimensional Requirements

Lot Requirements	Minimum Area (sq ft)	871,200 sq ft (20 acres)
	Minimum Width (ft)	200 ft
	Minimum Depth (ft)	-
	Maximum Lot Coverage	35%
	Width to Depth Ratio	1:4 (see also Section 3.12)
Setback Requirements	Minimum Front	50 ft
	Minimum Side	50 ft
	Minimum Rear	50 ft
	Maximum Setback	-
Building Requirements	Maximum Height (ft)	All Dwellings, Buildings, and Structures 40 ft
		Non-Dwellings 45 ft
	Minimum Dwelling Unit Floor Area (sq ft)	720 sq ft
	Minimum Dwelling Core Area Dimensions (ft)	14 x 14 ft

In order to preserve high quality Agricultural land while also providing property owners opportunities to sell or deed land, land division shall be approved based on a sliding scale based on an overall density of one new parcel per every 20 acres of land and is illustrated based on the chart.

Area of Parent Parcel of Record	Maximum Additional Lots Permitted
Less than 20 acres	0
20 to 39.9 acres	1
40 to 59.9 acres	2
60 to 79.9 acres	3
80 to 99.9 acres	4

Article 8.

Rural Residential District

Section 8.1 Description and Purpose.

The purpose of this district is to provide an opportunity for residential and agricultural land uses of rural character. The RR – Rural Residential district serves as a buffer between the more dense neighborhoods along Lake Michigan and Stony Lake and the wide-open farmland of the countryside. Open Space Development regulations are recommended in this district to ensure that the development that does occur does not destroy the character and beauty of the area.

Section 8.2 Permitted Uses.

- Accessory Building
- Accessory Use to a permitted use
- Animal Grooming Facility
- Dwelling, Single Family
- Farm
- Farm Operation
- Government or Public Building
- Greenhouse
- Home Occupation, Minor
- Manufactured Home
- Open Space Conservation Development
- Parks
- Place of Public Assembly, Small
- Roadside Stand
- Stable/Riding Academy

Section 8.3 Special Land Uses.

- Accessory Dwelling
- Accessory Use to a special land use
- Automobile Repair

- Battery Storage Facility
- Campground
- Cemetery
- Child Care Center – Group
- Commercial Lodging
- Contractor's Facility
- Eating and Drinking Establishment
- Educational Facility
- Farm Product Processing Facility
- Golf Course
- Gravel, sand, and other mineral extraction
- Gun/Archery Club
- Home Occupation, Major
- Junkyard/Salvage Operation
- Kennel/Animal Day Care
- Landing Strip
- Mechanical Repair Facility
- Mini/Self-Storage Facility
- Personal Storage Building
- Place of Public Assembly, Large
- Planned Unit Development
- Sawmill
- Solar Energy System - Large
- Veterinary Clinic
- Wind Turbine Generator
- Wireless Communication Tower

Section 8.4 District Regulations.

- A. **Minimum Lot Area.** The minimum lot area in RR-Rural Residential District shall be five (5) acres in area.
- B. **Minimum Lot Width.** The minimum lot width shall be One Hundred Fifty (150) feet wide at the front setback line.
- C. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty (40) feet, except that buildings and structures permitted in this district under this Ordinance for non- dwelling purposes may be erected, altered or moved on any land or premises in this district to a height of not exceeding forty-five (45) feet.
- D. **Minimum Building Setbacks:**
1. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 2. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 3. **Side.** All lots shall maintain a fifty (50) foot side yard along each side lot line.
 4. **Rear.** Every dwelling or building hereafter erected shall have a rear yard not less than fifty (50) feet in depth.
- E. **Minimum Floor Area:** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least fourteen (14) by fourteen (14) feet.
- F. **Maximum Lot Coverage:** Twenty-five (25%) percent

Table 8.1 – Rural Residential Dimensional Requirements

Lot Requirements	Minimum Area (sq ft)	217,800 sq ft (5 acres)
	Minimum Width	150 ft
	Minimum Depth (ft)	-
	Maximum Lot Coverage	25%
	Width to Depth Ratio	1:4 (see also Section 3.12)
Setback Requirements (ft)	Minimum Front	50 ft
	Minimum Side	50 ft
	Minimum Rear	50 ft
	Maximum Setback	-
Building Requirements	Maximum Height	All Dwellings, Buildings, and Structures Non-Dwellings
		40 ft 45 ft
	Minimum Dwelling Unit Floor Area	720 sq ft
	Minimum Dwelling Core Area Dimensions	14 x 14 ft

Article 9.

Commercial District

Section 9.1 Statement of Purpose and Intent.

The Commercial District is intended to support retail uses with shopping needs for the citizens of Benona Township. It includes a variety of retail, office, restaurant, and entertainment activities. The purpose of this District is to encourage and promote the businesses and meet the needs of Benona residents. Screening, landscaping and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses. Efforts will be made to discourage the placement of loading areas, outside storage and other unattractive features in areas clearly visible from the roadway or from neighboring residential uses. This area permits the integration of business activity, governmental functions, service, office and residential uses.

Section 9.2 Principal Permitted Uses.

In the Commercial District, no land or buildings shall be used, and no buildings or structures shall be erected or converted for any use or under any condition other than the following: (see appendix for additional permitted uses)

- Car Wash
- Clinics - dental and medical including laboratory.
- Child Care Center - Commercial
- Eating and Drinking Establishment (take-out and sit-down)
- Financial Institution
- Gas Station
- Government or Public Building
- Offices - professional and business.
- Outdoor Sales and Display Areas
- Personal Service Establishments
- Retail Stores
- Self Storage - Mini

Section 9.3 Uses allowed by Special Use.

A. Single Family Dwelling

1. The area of any dwelling unit shall be a minimum of seven hundred twenty (720) square feet with no one side less than fourteen (14) feet, except an efficiency apartment which is in a portion of a commercial building may have a minimum of four hundred (400) square feet.
2. Only one (1) dwelling unit shall be permitted on each commercial real property parcel.
3. The number of off-street parking space shall be two (2) parking spaces per dwelling in addition to spaces required for commercial use.

B. Adult Uses

Section 9.4 District Regulations.

Table 9.1 – Commercial Dimensional Requirements

Lot Requirements	Minimum Area		15,000 sq ft (.3 acres)
	Minimum Width		100 ft
	Minimum Depth		150 ft
	Maximum Lot Coverage		35%
Setback Requirements	Minimum Front		50 ft
	Minimum Sides	Residential/Agricultural Uses	15 ft
		Non-Residential/Agricultural Uses	10 ft
	Minimum Rear	Main Building	10 ft
		Accessory Building	5 ft
	Corner Lot	Conforming Lot	50 ft
		Non-Conforming Lot of Record	25 ft
Building Requirements	Maximum Setback		-
	Maximum Height		2 ½ stories or 35 ft, whichever is higher
	Minimum Dwelling Unit Floor Area (sq ft)		n/a

Article 10.

Mixed Use District (MU)

Section 10.1 Statement and Purpose of Intent.

The intent of the Mixed Use District is to promote well designed neighborhoods including residential, commercial, and institutional uses, allowing for flexible development of both attached and detached dwellings. The district should offer walkable living and shopping opportunities when residential and commercial uses are safely linked with sidewalks, trails, or pathways. Neighborhoods should be designed to be pedestrian rather than automobile based.

Section 10.2 Permitted Uses.

The following uses shall be permitted in the Mixed Use district.

- Accessory Building.
- Accessory Use to a permitted use.
- Bungalow Court
- Convenience Store.
- Commercial Lodging
- Dwelling – single family
- Dwelling – two family
- Dwelling – Triplex or Quadplex
- Eating and Drinking Establishment
- Financial Institution
- Government or Public Building
- Library
- Office
- Personal Service Establishment
- Place of Public Assembly, small
- Retail Business.

Section 10.3 Special Land Uses – Uses permitted by Special. Use

- Adult Foster Care Facility – Small Group Home
- Child Care Center – Commercial and Group
- Clinic
- Gasoline Station
- Place of Public Assembly, large

Table 10.1 – Dimensional Standards

Use	Lot Width	Lot Area	Front Setback	Side Setback	Rear Setback
Dwelling – Single family	50 ft	6,000 sq ft	20 ft	6 ft	20 ft
Dwelling – two family	75 ft	8,250 sq ft	20 ft	6 ft	20 ft
Dwelling – Triplex or Quadplex	100 ft	9,000 sq ft	20 ft	10 ft	20 ft
Commercial - retail	50 ft	6,000 sq ft	0 ft	6 ft	15 ft
Commercial – institutional	75 ft	9,000 sq ft	0 ft	6 ft	20 ft

Table 10.2 – Mixed Use Dimensional Requirements

Lot Requirements	Minimum Area (sq ft)		15,000 sq ft (.3 acres)
	Minimum Width (ft)		50 ft
	Minimum Depth (ft)		-
	Maximum Lot Coverage		65%
Setback Requirements (ft)	Minimum Front	Residential	20 ft
		Commercial	0 ft
	Minimum Side		6 ft
	Minimum Rear		10 ft
	Maximum Setback		-
Building Requirements	Maximum Height (ft)		2 stories or 35 ft, whichever is higher
	Minimum Dwelling Unit Floor Area (sq ft)	Residential	720 sq ft
		Commercial	10,000 sq ft
	Minimum Core Area Dimensions (ft)		24x24 ft

Article 11.

Residential District

Section 11.01 Statement of Purpose and Intent.

The regulations of these Districts are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses. The intent of the District is to protect residential areas from the encroachment of uses that are not appropriate to a residential environment. This area is designed for urban type single-family residential uses at densities of one unit per forty-three thousand five hundred and sixty (43,560) square feet.

Section 11.02 Permitted Uses.

The following uses shall be permitted in the Residential District: (see appendix use chart for amended uses)

- Place of Public Assembly - small
- Educational Facilities
- Parks
- Dwelling – Single family
- Government or Public Building
- Marinas, canoe liveries, and boat dock facilities, provided, adequate sewer and waste disposal systems shall be established not less than two hundred (200) feet from water's edge.
- Home occupation- minor
- Dwelling – two family
- Bungalow Courts
- Open Space Conservation Development

Section 11.1 Special Uses.

- Accessory Dwelling Units
- Campgrounds,
- Child Care Center - Group
- Dwelling – Triplex or Quadplex

Section 11.2 District Regulations.

- A. **Minimum Lot Area.** The minimum lot area in R - Residential District shall be one (1) acre in area.
- B. **Minimum Lot Width.** The minimum lot width shall be One Hundred Fifty (150) feet wide at the front setback line.
- C. **Maximum Building Height.** No dwellings, buildings, or structures, or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty (40) feet.
- D. **Minimum Building Setbacks:**
1. Measurement. All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 2. Front. Each lot shall have a front yard of not less than thirty (30) feet in depth from the right-of-way line.
 3. Side. All lots shall maintain a ten (10) foot side yard along each side lot line.
 4. Rear. Every dwelling or building hereafter erected shall have a rear yard not less than twenty (20) feet in depth.
 5. Waterfront – No building or structure shall be built closer than 30 feet to the high water mark of any lake stream or watercourse. Stairways and Staircases with landings and pumphouses with a dimension no greater than 3 feet by 3 feet are permitted.
- E. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
- F. **Maximum Lot Coverage –** Forty (40%) percent

Table 11.1 – Residential Dimensional Requirements

Lot Requirements	Minimum Area (sq ft)		43,560 sq ft (1 acres)
	Minimum Width (ft)		150 ft
	Minimum Depth (ft)		-
	Maximum Lot Coverage		40%
	Minimum Front		30 ft
	Minimum Side		10 ft
	Minimum Rear	Principal	20 ft
		Accessory	20 ft
	Waterfront Setback		No building or structure shall be built closer than thirty (30) feet from the ordinary high water mark of any lake, stream or water course, excepting stairways and stairway landings of the same width as the stairway and pump enclosures of no greater size than three (3) feet high, three (3) feet wide and three (3) feet long
	Maximum Setback		-
Building Requirements	Maximum Height (ft)		40 ft
	Minimum Dwelling Unit Floor Area (sq ft)		720 sq ft
	Minimum Core Area Dimensions (ft)		24 x 24 ft

Article 12.

Coastal Zone District

Section 12.1 Statement of Purpose and Intent.

The purpose of the Coastal Zone District is to protect and preserve the unique natural, environmental, and scenic qualities of the coastal areas as well as recognize the unique residential character of the property along and near to Lake Michigan. This district aims to regulate land use and development to prevent coastal degradation, protect habitats, and mitigate risks from erosion and flooding. The intent is to ensure that future development within this zone is compatible with the preservation of the coastal ecosystem, enhances resilience to climate impacts, and maintains the overall health of the shoreline for future generations.

Section 12.2 Glossary of Terms.

DNR	Department of Natural Resources
EGLE	Michigan Department of Environment, Great Lakes and Energy
HRCD	High Risk Critical Dune
MLWM	Michigan Land and Water Management
NREPA	Natural Resources Environmental Protection Agency

Section 12.3 Boundary and Map.

- A. **Maps.** The Coastal Zone District shall be designated on all zoning maps and shall be superimposed on all land use zoning districts.

Section 12.4 Permitted Uses.

The Following uses shall be permitted in the Coastal Zone District

- Accessory Buildings

- Accessory Uses
- Dwelling – Single family
- Parks and Parkland

Section 12.5 Uses Allowed by Special Use.

- Accessory Dwelling
- Planned Unit Development
- Wireless Communication Towers

Section 12.6 District Regulations.

- A. **EGLE Permit Required:** A permit from EGLE is required for the High Risk Critical Dune area prior to processing any zoning permits
- B. **Minimum Lot Area:** The minimum lot area in the Coastal Zone District shall be twenty thousand (20,000) square feet in area.
- C. **Minimum Lot Width:** The minimum lot width shall be eighty (80) feet wide at the front setback line.
- D. **Maximum Building Height:** No dwellings or parts thereof shall be hereafter erected, altered or moved on any land or premises in this district which shall exceed a height of forty (40) feet, except for Wireless Communication Facilities approved by the Planning Commission.
 1. Accessory buildings shall have a maximum height of 30 feet.
- E. **Minimum Building Setbacks:**
 1. **Measurement.** All setbacks shall be measured to the foundation, or to the face of the building if cantilevered.
 2. **Front.** Each lot shall have a front yard of not less than fifty (50) feet in depth from the right-of-way line.
 3. **Side.** All lots shall maintain a five (5) foot side yard along each side lot line.
 4. **Rear.** Every dwelling or building hereafter erected shall have a rear yard not less than ten (10) feet in depth.
 5. **Waterfront.** The minimum setback from Lake Michigan shall be the minimum required per PA 353 as well as any requirements ordered by EGLE pertaining to Coastal Zone frontage
- F. **Minimum Floor Area.** All dwellings shall contain a minimum of seven hundred-twenty (720) square feet of floor area and a minimum core area of living space measuring at least twenty-four (24) by twenty-four (24) feet.
- G. **Maximum Lot Coverage:** Fifty (50%) percent
- H. **Vegetation, Clearance, Building Location and Lot Area.** The following minimum standards shall be met in the Coastal Zone District. All vegetation removal of trees greater than 3 inches shall be reviewed by EGLE.
 1. The property owner shall not clear cut the natural vegetation between the bluff line and the water within the coastal zone. Clear cutting is not permitted anywhere within the Dunes Overlay Zone.
 2. Natural shrubbery shall be preserved as far as practicable; and where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
 3. To protect the dunes, property owners are encouraged, but not required, to build and use stairs down the face of a bluff for access to the beach, rather than using footpaths. Adjoining property owners or groups of owners are encouraged, but not required, to build one set of stairs for joint use rather than each individual owner building separate stairs.
 4. Stairway systems and ramps limited to five (5) feet in width. All decking shall comply with EGLE requirements.
- I. **Parking.** The following standards shall apply to parking in the Coastal Zone District.

1. All parking areas shall conform to the Critical Dune setback requirements.
2. Parking space size shall be a minimum of nine (9) feet wide by eighteen (18) feet long (9 x 18).

J. Sewage Disposal Requirements

1. All sewage disposal systems must comply with the requirements established by the Michigan Department of Health and the District 10 Health Department.
2. Septic systems or waste handling facilities erected, installed, or replaced in a designated high risk critical dune area must meet or exceed the minimum setback requirements established by EGLE for a structure.

K. Drainage. Any new landscaping shall be landscaped so as to provide adequate surface drainage to prevent pollutant run-off into the Great Lakes or onto adjacent property.

L. Slope. Prior to any excavation, EGLE shall review all natural slopes. This also applies to any sand moving activity within the HRCD area.

Table 12.1 – Coastal Zone Dimensional Requirements

Lot Requirements	Minimum Area (sq ft)		20,000 sq ft
	Minimum Width		80 ft
	Minimum Depth		250 ft
	Maximum Lot Coverage		50%
	Minimum Front	Not fronting Lake Michigan*	50 ft
		Non-Conforming	25 ft
	Minimum Side	Existing Plats	5 ft
		New Plats	15 ft
	Minimum Rear	Existing Plats	10 ft
		New Plats	30 ft
Building Requirements	Maximum Setback		-
	Maximum Height		40 ft
	Minimum Dwelling Unit Floor Area (sq ft)		720 sq ft
	Minimum Core Area Dimensions (ft)		24 x 24 ft

* Setbacks are measured to the drip line of the roof edge in relationship to the ground.

Article 13.

Dune Overlay Zone

Section 13.1 Statement of Purpose and Intent.

The purpose of the Dune Overlay Zone is to protect and preserve the integrity of dune ecosystems, which play a critical role in stabilizing coastlines and protecting against erosion and flooding. This zone aims to regulate development and land use in dune areas to prevent disturbance of natural dune formations, safeguard habitats, and maintain their protective function. The intent is to ensure that activities within the overlay zone are compatible with the conservation of dunes, promoting sustainable land use while enhancing the resilience of the coastal environment.

- A. In keeping with the findings of the Michigan Legislature and the authority granted to local governments in Public Act 222 of 1976, as amended, the Township of Benona hereby declares that:
1. The Critical Dune Areas of Benona Township are a unique, irreplaceable and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural and ecological benefits to the people of this community, to the state, and to people from other states and countries who visit this resource.
 2. The benefits derived from alteration, industrial, residential, commercial, agricultural, silvicultural and the recreational use of Critical Dune Areas shall occur only when the protection of the environment and the ecology of the Critical Dune Areas for the benefit of the present and future generations are assured.
 3. The regulations embodied in this article as adopted, are the minimum measures necessary to achieve these ends. As of December 31, 2008, EGLE has taken over the primary review and permitting for HRCD areas.

Section 13.2 Area Affected.

- A. The provisions of this Dune Overlay Zone apply to all the lands so depicted on the map entitled Benona Township Zoning Map, which is a part of this Ordinance. These lands include the entire Critical Dune Area as designated by EGLE pursuant to PA 222 of 1996, the Sand Dunes Protection and Management Acts, as amended, and to such other lands as locally designated and depicted thereon. Per Part 353 as amended by the NREPA, locally designated sand dunes together with dunes designated under PA 222 shall be known as Critical Dune Areas for the purpose of this Ordinance. Lands that are determined by the Planning Commission to be essential to the hydrology, ecology, topography or integrity of a Critical Dune Area shall also receive all the protection afforded to critical dunes in this Overlay Zone even if not shown on the Benona Township Zoning Map. As amended by Part 353, Sand Dunes Protection and Management, of the NREPA.
- B. This Overlay Zone establishes regulations, which apply in addition to those of the underlying district. Lot size, density, and front and side setbacks shall be as established in the underlying district except that lots created after the effective date of this article shall be at least eighty (80) feet in width and shall have a depth of not less than two hundred fifty (250) feet. Where the provisions of this zone conflict with those of the underlying district, the provisions of the Dune Overlay Zone shall supersede.

Section 13.3 Effect on Development.

- A. No subdivision or condominium development shall occur within the Dune Overlay Zone except in compliance with the minimum standards of this Ordinance and after review and approval of a site plan and other documents as required herein by EGLE.
- B. All development within the overlay shall comply with the provisions of the Shorelands Protection and Management Act (PA 451 of 1994) as amended.
- C. No structure shall be constructed, reconstructed, altered or relocated except in strict compliance with the requirements of this Ordinance.
- D. No use, which is in existence as of the effective date of this article, shall be expanded except in strict compliance with the minimum standards of this Ordinance.
- E. Prior to the creation and recording of any new lot, the property owner is required to seek approval by the District Health Department #10 and EGLE to ensure the lot will be usable for a purpose permitted under this Ordinance.
- F. Any lot or parcel, which in whole or part falls within the Dune Overlay Zone, shall not be used except upon receipt of a Zoning Permit from the Zoning Administrator for that part which lies within the Dune Overlay Zone. No Zoning Permit shall be issued for use of lands within this Zone until a site plan meeting the requirements of this section and those of Section 9.8 above have been met. The Zoning Administrator shall make the final determination as to whether or not these standards have been met and shall exercise lawful discretion in all cases in favor of protection of the critical dune area.

Section 13.4 Permitted Uses.

The following uses shall be permitted in the Dune Overlay District

- Dwelling – single family
- Parks or parkland
- Accessory buildings
- Accessory uses

Section 13.5 Uses permitted by Special Use.

- Planned Unit Development

Section 13.6 District Regulations.

All applications for a use in the Dune Overlay District shall be required to include in writing a verification of the following evidence.

- A. **EGLE permit required.** EGLE has reviewed such plans and will give preliminary approval to proceed with the application.
- B. **Soil Erosion Permit Required.** The County Enforcing Agent for Oceana County finds that the project is in compliance with PA 347 of 1972.
- C. **Health Permit Required.** A proposed sewage treatment or disposal system on the site has been approved by the District Health Department #10 and meets all High Risk/Critical Dune guidelines for the systems placement.
- D. **Minimum Lot Width.** The minimum lot width shall be eighty (80) feet wide at the front setback line.
- E. **Minimum Lot Depth.** The minimum lot depth shall be two hundred fifty (250) feet.
- F. **Minimum Lot Size.** The minimum lot size for a new parcel is one (1) acre or 43,560 square feet.
- G. **Site Plan Review Requirements.** The following site plan guidelines shall be included with any application submitted for a permitted or special use in the Dune Overlay District.
 - 1. The name, address and professional qualifications of the proposed professional design team members, including the designation of the person responsible for the preparation of the environmental impact statement.
 - 2. The description and purpose of the proposed use.
 - 3. Six copies of the site plan of the proposed uses showing the general location of the proposed use and major existing physical and natural features on the site, including, but not limited to, watercourses, rock outcroppings, wetlands and wooded areas.
 - 4. The location of the existing utilities and drainage ways.
 - 5. The location and notation of public streets, parks, and railroad and utility rights-of-way within or adjacent to the proposed use.
 - 6. The location and dimensions of proposed streets, driveways, sidewalks, pedestrian ways, trails, off-street parking and loading areas.
 - 7. The location with approximate dimensions of proposed structures.
 - 8. Major proposed change of landforms such as new lakes, terracing, or excavating.
 - 9. Approximate existing and proposed contours and drainage patterns showing at least five (5) foot contour intervals.
 - 10. Sketches showing the scale, character, and relationship of structures, streets, driveways, and open space.
 - 11. Approximate location and type of proposed drainage, water, and sewer treatment and disposal facilities.
 - 12. A legal description of the property.
 - 13. An aerial photo and contour map showing the development site in relation to the surrounding area.
 - 14. A description of the physical site, including its dominant characteristics, its vegetative character, its present use, and other relevant information.
 - 15. A soil review giving a short descriptive summary of the soil types found on the site and whether the soil permits the use of septic tanks or requires central sewer.
 - 16. A natural hazards review consisting of a list of natural hazards such as periodic flooding, poor soil bearing conditions, and other hazards peculiar to the site.
 - 17. A substrata review including a descriptive summary of the various geologic bedrock formation underlying the site, including the identification of known aquifers, the approximate depths of the aquifers, and if being tapped for use, the principal uses to be made of these waters, including irrigation, domestic water supply, and industrial usage.

18. An erosion review showing how erosion control will be achieved and illustrating plans for programs that may be required by any existing soil erosion and sedimentation ordinance.
19. At a minimum, plans for compliance with all of the following standards shall be required for construction and post construction periods:
 - a) Surface drainage designs and structures are erosion proof through control of the direction, volume, and velocities of drainage patterns. These patterns shall promote natural vegetation growth that is included in the design so that drainage waters may be impeded in their flow and percolation is encouraged.
 - b) The design shall include trash collection devices when handling street and parking drainage to contain solid waste and trash.
 - c) Watercourse designs, control volumes, and velocities of water to prevent bottom and bank erosion. In particular, changes of direction shall guard against undercutting of banks.
 - d) If Vegetation has been removed or has not been able to occur on surface areas such as infill zones, it shall be the duty of the developer to stabilize and control the impacted surface areas to prevent wind erosion and the blowing of surface material through the planting of grasses, windbreaks, and other similar barriers.
20. No grading or clearing of a site shall be done prior to issuance of a Zoning Permit as required in this Ordinance.

Section 13.7 Specific PUD Standards.

In addition to those standards set forth in Section 15.3 et seq. of this Ordinance the following required standards of approval shall be adhered to:

- A. **Yield Plan.** If the parcel has frontage on Lake Michigan, the maximum number of dwelling units permitted shall be determined by dividing the net front footage by the minimum width, which is eighty (80) feet in the Critical Dune Area. Net development area is determined by subtracting water, muck and peat areas, and for streets from the gross development area. The area of land set aside for common land, open space, or recreation, except as above indicated, shall be included as a part of the net development area.
- B. The proposed unit is of such size, composition, and arrangement that its construction and operation is a complete development, without dependence on any subsequent addition.
- C. The common open space, and any other common properties, individual properties and all other elements of the planned unit residential development are so planned that they shall achieve a unified environmental scheme, with open spaces and all other elements in appropriate locations, suitably related to each other, the site and surrounding land.
- D. In view of the "Conditional Use" nature of the PUD application procedure, deed restrictions and covenants entered into or proposed to be contracted for by the developer, become an appropriate consideration of the Planning Commission. The Planning Commission shall consider the manner in which the lawful contractual techniques can augment lawful zoning techniques in attaining the objectives of the PUD and may make its recommendations conditional upon contractual relations between private parties.
- E. Compliance with any requirements peculiar to the particular district in which the use is intended. In the Critical Dune Area a PUD of multiple-family use shall require approval from EGLE prior to the submittal of the Special Use Application.
- F. **Required provisions in site plan.** The plan shall contain such proposed covenants, easements and other provisions relating to bulk, location and density of residential units, accessory uses, thereto and public facilities as may be necessary for the welfare of the PUD and not inconsistent with the best interests of the entire Township of Benona. The applicant may be required to dedicate land for street or parking purposes and by appropriate covenants, to restrict areas perpetually (or for the duration of the PUD) as open space for common use. The development as authorized shall be subject to all conditions of this Ordinance only to the extent specified in the authorization.

Section 13.8 Nonconforming Uses.

- A. The lawful use of land or a structure, as existing and lawful within a Critical Dune Area at the time of the adoption of this Overlay Zone, may be continued although the use of that land or structure does not conform to the provisions of this Overlay Zone. The continuance, completion, restoration, reconstruction, extension or substitution of existing nonconforming uses of land or a structure may continue consistent with the nonconforming use requirements of this Ordinance subject to formal approval by EGLE.
- B. A structure or use located in a Critical Dune Area that is destroyed by fire, other than arson for which the owner is found to be responsible, or an act of nature, except erosion, may be rebuilt or replaced if the structure or use was lawful at the time it was constructed or commenced and the structure does not exceed in size or scope that which was destroyed and does not vary from its prior use. Subject to formal approval by EGLE.

Section 13.9 Variance Standards.

In addition to the standards found in Section 22.7 of this Ordinance, any variance request submitted to the Zoning Board of Appeals shall be subject to the following restrictions:

- A. A variance shall not be granted from a setback requirement of this article unless the property for which the variance is requested is one of the following:
 - 1. A nonconforming lot of record that is recorded prior to July 5, 1989, and that becomes nonconforming due to the operation of PA 222 of 1976, as amended NREPA PA 451, Part 353, or by this Zoning Ordinance.
 - 2. A lot legally created after July 5, 1989, and that becomes nonconforming due to natural shoreline erosion.
 - 3. Property on which the base of the first landward Critical Dune of at least twenty (20) feet in height, that is not a foredune, is located at least five hundred (500) feet inland from the first foredune crest or line of vegetation of the property. However, the setback shall be a minimum of two hundred (200) feet measured from the foredune crest or line of vegetation.
- B. In determining whether a practical difficulty will occur if a variance is not granted, primary consideration shall be given to ensuring the human health and safety are protected by the determination and that the determination complies with other applicable provisions of this Ordinance and applicable state and federal laws. See Health Department and MDEQ requirements.

Article 14.

Special Land Use Procedures

Section 14.1 Purpose and Intent.

A Special Use is a use that is permitted within a specified zone district after meeting specific requirements listed in this Article 14. Such uses may not be appropriate in all circumstances, but with certain restrictions or conditions can be made compatible in others. It is the purpose of this Article to name, describe, and list any additional requirements for each individual conditional land use. Due to the nature of the use, Special Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Section 14.2 Procedures.

A. Application for Special Land Use

1. Applications shall be submitted through the Zoning Administrator to the Planning Commission on the form required for Special Land Use
2. Each application shall be accompanied by the payment of a fee and any applicant escrow payments in accordance with the schedule of fees adopted by the Township Board of Trustees to cover the expenses of a public hearing. (No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.
3. **Data Required.** Seven (7) paper copies of an application and one electronic copy of the application for a Special Use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information.
 - a) A Basic Site Plan or a Detailed Site Plan as defined by Article 19, containing all the applicable data required by said Article 19, Site Plans, as may be modified by the provisions of this Article.
 - b) Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Use permit applications as provided in Section 1302.
 - c) Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.

4. The Zoning Administrator may, with the approval of the Planning Commission, waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.
 5. Hearing on Application. Upon receipt in property form of the application and accompanying documents, the Planning Commission shall hold a public hearing on the proposed special land use. Notice for such public hearing shall be processed pursuant to the requirements of Section 23.3.
- B. Decision on Application. After the Public Hearing and upon review of the merits of the Special Use permit application, the Planning Commission shall review the application and any reports of township planning personnel, planning, engineering or other consultants and reach a decision to approve, approve with conditions, or deny the application. The Planning Commission's decision shall be incorporated in a motion containing the findings of fact and the conclusions reached relative to the proposed Special Use which motion shall provide the basis for the decision and any conditions imposed.

Section 14.3 Standards.

- A. No Special Land Use shall be approved by the Planning Commission unless the Commission finds:
1. The Special Use shall be consistent with the goals, objectives, and future land use plan described in the adopted Benona Township Master Plan.
 2. The Special Use shall be designed, constructed, operated, and maintained so as to be safe, harmonious, and appropriate to the existing or intended character of the general vicinity. It will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor shall it substantially diminish and impair property values in the neighborhood. The Planning Commission may require upgrades or alterations to the proposal in order to ensure compatibility with the surroundings.
 3. The Special Use shall not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the district.
 4. Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.
 5. The establishment, operation and maintenance of the Special Land Use shall not be detrimental to or endanger the public health, safety, or general welfare of the community and shall be in compliance with all local ordinances and any state and federal law and regulations.
 6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 7. The Special Land Use will not create excessive additional requirements at public cost for public facilities and services.
 8. The Special Land Use shall be a substantial improvement to property in the general vicinity and an economic, cultural, or environmental asset to the community as a whole.
 9. The Special Land Use shall conform to the applicable regulations of the zoning district and to any additional conditions or procedures as specified in this Ordinance.

Section 14.4 Conditions and Guarantees.

Prior to the granting of any Special Land Use, the Planning Commission shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the Special Land Use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements within this Section. In all in which special land uses are granted, the Planning Commission shall require such evidence and guarantees as deemed necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

Section 14.5 Effect of Denial.

No application for a Special Land Use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one year from the date of said denial.

Section 14.6 Nullification.

In any case where a Special Land Use has not been established within two years after the date of granting such use, or if the Special Land Use becomes discontinued through vacancy, lack of operation, or otherwise for a continuous period of one year or more, the Special Land Use shall be automatically declared null and void.

Section 14.7 Transfers.

Prior to completion of construction related to a special use, the Special Use permit, with any and all associated benefits, conditions and required security may be transferred to a new owner only upon the sale or transfer of the property in question and only upon the approval of the Planning Commission.

Article 15.

Standards for Specific Uses

Section 15.1 General Standards.

- A. All uses shall be subject to the following guidelines and regulations:
1. All signs shall be in compliance with the provisions of Article 18 of this Ordinance.
 2. All parking shall be in compliance with the provisions of Article 16 of this Ordinance.
 3. Landscaping shall be provided in accordance with Article 17 of this Ordinance.
 4. Lighting shall comply with Section 316 of this Ordinance.
 5. Any dumpsters visible from the road right-of-way or from an adjoining parcel shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate.

Section 15.2 Accessory Dwelling Units.

A. **Definition.** An accessory dwelling unit is a detached dwelling unit that is permitted only on properties with a single detached principal dwelling unit. ADUs are a lesser size than the principal dwelling unit and include a kitchen, a sleeping area, and full bathroom facilities.

B. **Conditions of approval.**

1. Accessory dwelling units are only permitted in the Residential and Rural Residential Zoning Districts.
2. Accessory dwelling units are only permitted on properties with a single detached principal dwelling unit.
3. A maximum of one (1) accessory dwelling unit is permitted per property.

4. Accessory dwelling units shall not encroach upon the front yard of the principal structure.

5. Accessory dwelling units are only permitted in the side or rear yard of a property. However, an accessory dwelling unit may be permitted if constructed above an existing detached garage located anywhere on a property.

6. Accessory dwelling units shall comply with all front, side, and rear yard setback requirements for principal structures for the zoning district in which it is located.

7. Accessory Dwelling Units shall not be used as a Short Term Rental.

C. **Height.** Accessory dwelling units shall be a maximum of sixteen (16) feet in height. If located on a second floor of an existing detached garage or accessory structure, the maximum height of the structure shall not exceed twenty-two (22) feet.

D. **Parking.** An accessory dwelling unit shall require one (1) off-street parking space.

E. **Appearance.** The accessory dwelling unit shall consist of building materials that are common within the zoning district and surrounding properties. The accessory dwelling unit shall be consistent with the existing character of the neighborhood in which it is located.

Accessory dwelling units shall comply with all Building Code requirements and shall require a perimeter skirting comprised of brick, masonry, cement, or another similar material.

F. **Size and Occupancy.** In no case shall an accessory dwelling unit exceed seven hundred and twenty (720) square feet in gross floor area. Accessory dwelling units shall have a maximum of four (4) occupants.

Over the Garage



Garage Conversion



Stand-Alone Unit



Attic Conversion



Accessory Dwelling Units

Section 15.3 Accessory Structures and Uses.

The following shall apply to all new accessory structures and uses in the Township (including, but not limited to attached or detached garages, sheds, athletic courts, decks, swimming pools, pole barns and similar structures), and to alterations, renovations, expansions, or other work that includes exterior changes to existing structures:

A. **Attached and Detached Structures.** Authorized accessory buildings may be erected as part of the principal building; may be connected to the principal building by a roofed porch, breezeway, portico, covered colonnade, or similar structure; or may be completely detached from the principal building.

1. When erected as an integral part of the permitted principal building or connected to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. This includes all setback requirements.

2. No portion of an attached accessory structure, or portion of a single family home, shall be given separate title or tax ID number, and shall not be sold separately from the single family home, even if the attached accessory structure or portion of the single family home meets the definition of “dwelling unit” in this ordinance. Properties in Zoning Districts that allow multiple housing units (not including Accessory Dwelling Units) on one parcel shall be exempt from this restriction.
3. The distance between a detached accessory building and any principal building shall not be less than 10 feet.
 - a) **Permit Required.** A Zoning Permit is required for all structures constructed on one’s property with a gross floor area of 120 square feet or greater. In order to receive a permit from the Zoning Administrator, the requirements of this section must be satisfied.
 - b) **Maximum Permitted.** There shall be no more than two (2) detached accessory structures permitted on any lot in the R-1, MU, or Coastal districts, unless otherwise stated herein.
 - c) **Front and Side Yard Setbacks.** All accessory buildings shall meet front and side yard requirements.
 - 1) On these lots, accessory structures that do not require a building permit may be located no closer than 15 feet from the front property line or 24 feet from the edge of pavement, whichever is greater. The structures may be located no closer than six (6) feet from any side lot line to provide access for emergency vehicles to the principal structures.
 - d) **Rear Yard.** No accessory building shall be located nearer than ten (10) feet to any rear lot line or occupy more than 30% of any rear yard area.
 - e) **Waterfront Yards.** Accessory structures in waterfront yards are subject to the following requirements:
 - 1) Accessory buildings in Waterfront yards must satisfy the requirements of Section
 - 2) Docks and boat storage structures in residential districts for the use of the individual residential property owners are permitted as an accessory use and shall not count against the maximum allowable units, except for fully enclosed boathouse structure or storage units that are on shore. Docks and storage structures must not be located nearer than five (5) feet from any lot line unless the lot is less than 25 feet in width.
 - f) **Materials and Design.** The building materials and design of any accessory structure shall be similar to that of the primary building on the lot and shall be in accordance with the purpose of the district where it is located.
 - g) **Accessory Apartments and Efficiency Apartments.** Accessory Apartments and Efficiency Apartments shall be prohibited in most instances. They may be approved by the Zoning Administrator and/or the Planning Commission in the following instance:
 - h) **Timing of Construction.** No accessory structure shall be constructed on a parcel unless there is a primary building, structure, or use being constructed or already constructed on the same parcel of land.
 - i) **Accessory Use.** Detached accessory buildings in the Residential districts (RR, Residential) shall not be used for dwelling units, for any business, profession, trade, occupation, or storage space offered for rent.
 - j) **Same Lot as Primary Use.** Accessory structures are permitted only in conjunction with, incidental to, and on the same lot as a primary structure, which is allowable in the particular zoning district.

Section 15.4 Battery Storage Facilities.

- A. **Definition.** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time.
- B. **Procedures.** A Detailed Site Plan shall be required.
- C. **Regulations.** The Planning Commission may only approve Battery Storage Facilities as a Special Use in the RR, and A zoning districts subject to the procedures and standards for special land uses in this ordinance and all of the following requirements.
 1. **Prime Farmland.** Not more than twenty (20) percent of any Battery Storage Facility may occupy Prime Farmland as designated by the USDA and identified as Prime Farmland Locations Maps in the Township’s Master Plan.

2. **Minimum Lot Size.** A Battery Storage Facility shall not be constructed on parcels less than twenty (20) acres in size in the RR and A zoning districts.
3. **Height.** The height of battery energy storage structures shall not exceed a height of 16 feet measured from the natural grade of the property below the structure. Transmission poles and electrical distribution equipment is exempt from this requirement.
4. **Setbacks.** Setback distance shall be measured from the property line or road right of way to the nearest battery storage facility structure and as follows:
 - a) Three hundred (300) feet from any property line of a non-participating property
 - b) Three hundred (300) feet from any dwelling unit.
 - c) One hundred (100) feet from the road right of way.
5. **Fencing.** A battery storage facility shall be secured with perimeter fencing to restrict unauthorized access. Perimeter fencing shall be eight (8) feet in height. All access points to the battery storage facility shall be locked to prevent entry by unauthorized persons.
6. **Sound.** The system may not generate a maximum sound in excess of 55 average hourly decibels at the property line of an adjoining non-participating parcel or at a right of way line.
7. **Lighting.** The system must implement dark, sky-friendly lighting solutions. Flashing or intermittent lights are prohibited.
8. **Signage.** There must be a sign at the entrance of the facility containing the owner's and operator's names and the emergency contact information.
9. **Access Drives.** The facility must maintain an emergency access drive that is accessible to Fire Department response apparatus. The access shall be permeable unless the existing drive is already paved.
10. **Site Conditions.** The area within which the system is located shall not be paved with asphalt/concrete or any other surface material that is impermeable to water except for the slab foundations for structures and equipment. Further, all surface water runoff shall be managed on site.
11. **Repair and Augmentation.** In addition to repairing and replacing facility components to maintain the system, the facility may at any time be augmented without the need for a new site plan as long as the augmentation is within the same footprint as the original permit. If there is a change in battery chemistry, an updated Emergency Operation Plan shall be provided. Any proposal designed to increase the project footprint shall be considered a new application subject to the ordinance standards at the time of the request.
12. **Decommissioning.** A Decommissioning Plan shall be required at the time of the request and shall include as a minimum
 - a) A written description of the anticipated life of the system.
 - b) The anticipated manner in which the project will be decommissioned.
 - c) The project decommissioning costs in current dollars and provide that this figure will be updated every third year for the life of the project.
 - d) The method of ensuring that funds will be available to cover 100% of the costs of site decommissioning in the form of a surety bond, irrevocable letter of credit or cash deposit.
 - e) Decommissioning shall be completed within eighteen (18) months after abandonment.

Section 15.5 Bungalow Courts.

- A. **Definition.** Bungalow Courts are clusters of detached single-family dwelling units gathered around a communal green space.
 1. Bungalow Courts shall be organized as condominiums with a homeowner's association to maintain common areas.

B. **Location.** All structures within the bungalow court shall comply with setback requirements for the Residential zoning district.

C. **General Standards.**

1. Bungalow courts shall have a minimum of two thousand (2,000) square feet of lot area per unit.
2. A minimum of five (5) units shall be required. There is no maximum number of units.
3. The main entrance to each unit shall face the center landscaped court.
4. Maximum of ten (10) feet between buildings (courtyard excepted).
5. Bungalow courts shall have a site coverage maximum of ninety percent (90%), including parking.
6. The court must be accessible to pedestrians and provide a main entrance on one (1) side, facing the street address.
7. Each unit shall be a maximum two and a half (2 ½) stories, with one (1) story preferred.
8. Sidewalk access to the front of each unit must be included from both the court and the parking access.



D. **Parking.** Each unit shall include at least one (1) off-street parking space.

Section 15.6 Campgrounds.

A. **Definition.** An outdoor area where people can set up tents, park recreational vehicles, or sometimes rent cabins for overnight recreational stay and can have facilities such as toilets, drinking water, picnic tables, fire pits and occasionally electricity supply.

B. In addition to the specific conditions and requirements herein provided shall comply with provisions of Act 368 of the Public Acts of 1978, as amended, and any administrative rules and regulations issued thereunder.

C. **Regulations:**

1. Any such facility, including recreational areas incidental thereto, shall contain a minimum of five (5) acres in area. Provided further that because of the increased traffic and activity which a campground necessarily entails, no campground shall be allowed if any portion thereof is located within three thousand (3,000) feet of any other campground.
2. Management headquarters, recreational facilities, toilets, showers, laundry facilities, picnic areas, and/or picnic pavilions, softball and baseball diamonds and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses, provided that:
 - a) Such establishments and the parking area primarily related to their operation shall not occupy more than ten percent (10%) of the area of the park.
3. Any commercial facility selling goods, foodstuff, or services at retail shall be clearly incidental to the needs of the of the campground patrons while therein. The sale of alcoholic beverages shall be prohibited.
4. Outdoor fire facilities shall be constructed for each site and open fires shall be prohibited except in these facilities.
5. There shall be provisions for garbage disposal facilities for camper's use.
6. All camping sites shall have a central water supply system with potable water under pressure piped to within three hundred (300) feet of each recreational vehicle site, tent site, camper site or cabin.

7. An enclosed toilet and sewage facility, approved by the District 10 Health Department, with hot and cold running water available within, shall be provided for every recreational vehicle, tent, cabin, or campsite.
8. Overnight camping shall be limited to those areas designated and posted for this purpose, and such areas shall be setback 150 feet from adjoining residentially used or zoned property.
9. Activities shall be adequately screened from adjoining residentially used or zoned property by an evergreen planting at least five (5) feet in height at the time of planting.
 - a) Vehicular entrances to and exits from the campground shall be constructed with approach lanes approved by the Oceana County Road Commission. A site in a campground, unless designated on an approved plan as a walk-in-site, shall abut on a roadway, and shall be of such size and so arranged as to provide for a recreational unit and shall have at least fifteen (15) feet of road frontage width for each camping unit.
 - b) A road right-of-way shall be provided having a minimum width of thirty (30) feet. This right-of-way shall be free of obstruction to provide free and easy access to abutting sites. The traveled portion of the right-of-way shall be maintained in a passable and dust-free condition when the campground is in operation.

Section 15.7 Car Wash.

- A. **Setbacks.** All car washes shall have a minimum front yard setback of 30 feet. All buildings shall maintain a 50-foot setback from any residential district or use.
- B. **Screening.** Screening shall be provided on those side and rear lot lines abutting a residential district or use in accordance with Chapter 16, Landscaping and Screening.
- C. **Access.** 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, traffic generated by other buildings or uses, or adjacent or pedestrian crossings. All maneuvering areas and stacking lanes shall be located within the site.
- D. **Traffic Impacts.** A traffic impact study may be required analyzing the projected impact of the proposed use on the level of service of adjacent roadways as well as recommended adjustments or solutions, if necessary.
- E. **Drainage.** All drainage shall be trapped and contained on site. Chemicals, waxes, and cleaning agents used in the wash shall be thoroughly removed from the wastewater before it is passed from the site.

Section 15.8 Cemeteries.

- A. **Definition.** Land used for the burial of the dead, including a columbarium, crematory, and mausoleum.
 1. **Location.** No portion of any cemetery that is located in a wetland or within the 100-year flood boundary shall be developed or platted for gravesites.
 2. **Accessory Building.** A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission approval.
 3. **Setbacks.** No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than 100 feet to the boundary line of any residential or commercial district. A crematorium located with a cemetery shall be setback a minimum of 400 feet from the boundary line of any residential district.

Section 15.9 Child Care Centers.

A. Definitions.

1. **Commercial Child Care Center.** A facility, other than a private home, receiving more than twelve (12) preschool or school age children for group day care for periods less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available for the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks regardless of the number of hours of care per day. The facility can be described as a child care center, day care center, day nursery, nursery school, play group, or drop in center.
2. **Group Care Home.** A Child Care home with the capacity to host seven (7) but not more than twelve (12) children, other than children who are members of the household operating the home.
3. **Family Child Care.** A Child Care Home with the capacity to host no more than six (6) children, other than children who are members of the household operating the child care home.
4. **Regulations.**
 - a) All required state and local licensing shall be maintained at all times
 - b) All required outdoor areas used for care and play shall have appropriate fencing for the safety of those using the facility or be landscaped in such a way to delineate private space
 - c) Play structures and other equipment intended for activity and play shall be enclosed within a fence a minimum of 4 feet tall in the front yard and a minimum of 6 feet tall in the side and rear yards.
 - d) Play areas shall meet the required setbacks for accessory structures.
5. The Planning Commission shall not prohibit evening operations completely but may establish limitations on hours of operation and/or activities between the hours of 10 PM and 6AM.
6. A child care center may be permitted as an accessory use to an institutional or commercial use subject to satisfying all of the applicable necessary requirements of this article.

Section 15.10 Commercial Lodging.

- A. **Purpose and Intent.** The purpose and intent of this Section is to regulate the various types of commercial lodging that exist or may be proposed in the Township, in order to ensure that the Township has a wide variety of accommodation options for visitors who come to enjoy the natural beauty and amenities of Benona Township, while also protecting the public health, safety, and welfare by ensuring that lodging is safe and well-located.

B. Hotel / Motel.

1. **Definition(s):**
 - a) **Hotel.** A building occupied as a more or less temporary abiding place for individuals who are lodged, with or without meals, in rooms connected by interior hallways, consisting of a minimum of one bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and desk service, the use of furniture, a dining room and meeting rooms.
 - b) **Motel:** A building or group of buildings occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of a bedroom and bath, occupied for hire, in which provision is not usually made for cooking within the rooms, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. Motels typically provide exterior entrances and on-site parking for each unit. A motel may also include conference room or banquet facilities, an attached dining room, and/or an unattached standard restaurant.
2. **Permitted by Right:** C, MU
3. **Permitted by Special Use Permit:** RR

4. **Standards:** The following regulations shall apply to motels and hotels:
 - a) **Design.** Each unit shall contain at least a bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
 - b) **Services.** Motels and hotels shall provide customary motel and hotel services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.

C. **Boutique Hotel**

1. **Definition:** A hotel with no more than 10 guest rooms, and which is constructed of high-quality architectural materials that complement the character of the surrounding neighborhood as determined by [Planning Commission](#).
2. **Permitted by Right:** C, MU
3. **Permitted by Special Use Permit:** None.

D. **Bed and Breakfast Establishments.**

1. **Definition:** A dwelling unit where the live-in owners and/or operators provide or offer overnight accommodations, in rooms connected by interior hallways, consisting of a minimum of one bed room and a bath, for temporary guests for compensation, including provisions for a morning meal for overnight guests only, in addition to the rooms occupied by the live-in owners and/or operators.
2. **Permitted by Right:** RR,
3. **Permitted by Special Use Permit:** R
4. **Standards.** The following regulations shall apply to bed and breakfast establishments:
 - a) **Bed and Breakfast.** Establishments as an Accessory Use. A bed and breakfast establishment shall be clearly incidental to the principal residence on the site. Accordingly, the bed and breakfast operations shall be confined to the single-family dwelling unit that is the principal dwelling on the site. Not more than sixty-six percent (66%) of the total floor area of the dwelling unit may be used for bed and breakfast bed rooms.
 - b) **Maximum Number of Bedrooms.** Six (6) bedrooms. Any establishment otherwise meeting the definition of a bed and breakfast, but containing more than six (6) bedrooms shall be considered a hotel under this ordinance.
 - c) **Principal Residence.** The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
 - d) **Kitchen Facilities.** There shall be no separate cooking facilities for the bed and breakfast establishment, other than those which serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast facility.
 - e) Bedrooms used shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
 - f) **Parking.** Adequate off-street parking shall be provided for bed and breakfast patrons, in accordance with Article 16.

E. **Boarding House**

1. **Definition:** A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for five (5) or more persons.
2. **Permitted by Right:** None
3. **Permitted by Special Use Permit:** RR
4. **Standards.** The regulations for bed and breakfast establishments shall apply to boarding houses.

F. **Resort.**

1. **Definition:** A self-contained commercial vacation establishment that tries to provide many of a vacationer's wants, such as food, drink, lodging, and activities on the premises.

2. **Permitted by Right:** C
3. **Permitted by Special Use Permit:** RR, MU
4. **Standards.** The following regulations shall apply to resorts:
 - a) All guest units must have ready access to water and wastewater systems, including restrooms, and must be equipped with electricity.
 - b) Accessory recreational amenities shall be permitted, but must be restricted to use only by guests of the Resort unless the facility has also been approved as a Private Indoor or Outdoor Recreation Facility.

Section 15.11 Contractors Yard.

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

Section 15.12 Data Centers.

- A. **Definition.** Any Facility, structure, or portion thereof, used primarily for the housing of computer servers, telecommunications equipment, data storage systems, or cryptocurrency mining operations, with a connected load of five (5) MW or greater at full build-out. These include Hyperscale, Co-location, Enterprise, and Edge Data Centers. Facilities under five (5) MW used solely for internal business (i.e. farm office servers) are excluded.
- B. **Procedures.** A Detailed Site Plan shall be required
- C. **Standards.**
 1. **Minimum Site requirements.**
 - a) The minimum parcel size for a Data Center shall be 40 acres
 - b) Any Data Center building or accessory use shall be located at least five hundred (500) feet from a residential dwelling, educational facility, religious institution, or residential or coastal zoned property.
 2. **Utility and Infrastructure Standards.**
 - a) All equipment for cooling, ventilation, and otherwise operating the facility, including generators and other power supply equipment, shall be fully enclosed unless it is determined that it is not mechanically feasible.
 - 1) Any equipment not enclosed including any accessory substations shall be screened by a wall or similar barrier.

- 2) A closed loop cooling system shall be required.
- b) The maximum water withdrawal shall be 0.1 gallons per kWh of energy used.
- c) The applicant shall provide a utility impact study showing no adverse effects on local grid stability
- 3. **Design Standards.**
 - a) The Maximum height of a Data Center shall be 45 feet.
 - b) The Buildings shall be screened with evergreen trees or architecturally compatible fencing.
 - c) The maximum noise shall be 55 db at the property line. The applicant may use sound walls or barriers to lessen the noise.
 - d) The parking requirements for a Data Center shall be based on the Ordinance requirements for the office component of the facility.
- 4. **Decommissioning.**
 - a) A fully funded decommissioning and site plan restoration plan shall be submitted and bonded before issuance of the land use permit.

Section 15.13 Eating and Drinking Establishments.

- A. **Definition.** A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.
- B. **Additional Standards.** No additional standards are required for this use

Section 15.14 Educational Facilities.

- A. **Definition.** An educational institution serving students in any combination of grades between Kindergarten and high school graduation. The institution may be public, private, charter, or any other type of school and shall still fall under the definition of "Primary/Secondary School" for the purposes of this Ordinance.
 - 1. The minimum lot size shall be five (5) acres.
 - 2. No buildings shall be located nearer than 100 feet from any property line.
 - 3. Such facilities shall be located on paved roads, as indicated in the Township Master Plan.

Section 15.15 Farm Worker Housing.

- A. **Intent.** The intent of this Section is to permit the establishment of dwellings as a part of an active farm operation. Such dwellings may consist of permanent residences for farmhands or family members as well as dwelling units for use by seasonal or temporary farming workers.
- B. **Farmhand Dwellings.** In the Agricultural district, the Planning Commission may approve the establishment of a single-unit detached residence as a proposed farmhand dwelling, subject to the following requirements.
 - 1. A proposed farmhand dwelling unit may be located on the same parcel with the principal farm and homestead but shall be sited with sufficient separation from such other buildings as to permit its future establishment as a legal and conforming building and parcel in the Agricultural district.
 - 2. Farmhand dwellings shall only be permitted if farming is the principal use on the parcel on which it is located.
 - 3. Farmhand dwellings shall conform to all dimensional, structural and maintenance requirements of this ordinance and any other Township regulations.
 - 4. Farmhand dwellings shall have a minimum of 720 square feet, and not more than 1,500 square feet of living area.

5. At least one off-street parking space shall be provided for a farmhand dwelling.

C. Seasonal Labor Housing.

1. One or more dwellings proposed for use by itinerant or migrant labor may be permitted provided it meets the requirements of the Michigan Department of Public Health, Agricultural Labor Camp Rules and the following standards:
2. Seasonal Labor Housing shall be located on a parcel with not less than 5 acres in area and shall be confined to the interior portions of the active farm at least 200 feet from adjacent right-of-way lines and at least 100 feet from side and rear lot lines. The Planning Commission may require a berm or landscape plantings to screen the Seasonal Labor Housing.
3. The number of Seasonal Labor Housing units provided shall not exceed more than one (1) unit for each five (5) acres of land devoted to active farming operations.
4. Seasonal Labor Housing shall be occupied only by itinerant or migrant farm laborers and shall not be used for any other residential purpose. In no event shall Seasonal Labor Housing be used for more than 9 months in any calendar year.
5. Any structure utilized for temporary immigrant housing shall be subject to all applicable Township building permits and inspection requirements.
6. All temporary immigrant housing units shall comply with the Agricultural Labor Camp Rules of the Michigan Department of Public Health. Evidence of such compliance shall be provided to the Township on an annual basis. Failure to maintain compliance with such standards shall be grounds for revocation of a land use permit for Seasonal Labor Housing.
7. If Seasonal Labor Housing is not used for more than a five (5) year consecutive period, it shall be removed from the site by the property owner.
8. A Basic Site Plan shall be required for farmhand dwellings and for Seasonal Labor Housing.

Section 15.16 Farm Processing Facilities.

- A. Purpose.** It is the intent of this subsection to promote local agricultural production and preservation of rural character by allowing construction and use of a Farm Processing Facility. The Farm Processing Facility use includes retail and wholesale sales of fresh and processed agricultural produce. The majority of the produce sold fresh or processed has to be locally produced. Fifty-one percent (51%) of the produce sold fresh or processed has to be grown in Oceana County. Activities such as weddings, receptions, and other social functions for hire are not allowed, however, participation in approved Township wide events is allowed.
- B. Retail and wholesale sales.** Retail and wholesale sales of fresh or processed agricultural produce is allowed provided
1. Fruit Ciders, Juices, and Wines that are processed, tasted, and sold in a farm processing facility under this section is limited to products bearing a label identifying that 51% of the juice is from fruit grown in Oceana County.
 - a) Tasting of fresh or processed agricultural products at the farm processing facility is allowed. Tasting of cider, juice, or wine is limited to that produced at the farm processing facility and labeled as being Oceana County appellation. Bread, crackers, fruit, and cheese may be served at no charge as part of the tasting of processed products.
- C. Limitations on sources of produce.**
1. Not less than 51% of all of the agricultural produce sold fresh or processed shall be grown in Oceana County. A significant portion must be grown on the land owned or leased for the specific farm operation by the same party owning and operating the specific farm processing facility.

2. If crop conditions or natural disaster result in a shortage of locally grown fruit for a particular year, the Township Board may approve a larger proportion of produce grown off the land owned or leased for the specific farm operation by the same party owning and operating the specific farm processing facility for that particular year, provided that verification of such conditions are presented to the Township Board by a public organization representing the operators that is duly recognized by the Township Board. Processed products produced in such a year shall not exceed the highest volume produced in any of the preceding five years.
 3. Dried fruit, a minimum of 51% by weight of which is growth in Oceana County and a minimum of 30% by weight is grown on the owner's farm, may be dried off premises and sold in the farm processing facility retail room, provided, no more than the amount of fruit sent out for this processing is returned for retail sale.
- D. **Public Events.** Participation in Township Wide Events at the facility, open to the public, shall be allowed.
- E. **Parcel Requirements.**
1. A total of 40 acres of land is required to be devoted to the operation of a farm processing facility.
 2. The 40 acres shall be located within Benona Township and shall be owned or leased for the specific farm operation by the same party owning the specific farm processing facility.
 - a) The 40 acres may be one parcel or two contiguous parcels, and the contiguous parcels may be separated by a road.
 - b) There shall be no more than one house on the 40-acre parcel containing the farm processing facility.
 - c) There shall be a minimum of five (5) acres of crops grown on the same parcels as the farm processing facility.
- F. **Supplementary Setbacks.** The minimum setbacks for the farm processing facility including retail areas and customer parking shall be the following:
1. Side and rear yard setbacks shall be 100 feet.
 2. Front yard setbacks shall be 50 feet.
 3. There shall be a minimum of 200 feet separation from any pre-existing residence on adjoining property.
- G. **Farm processing facility size.** The total floor area above finished grade (one or two stores) of the farm processing facility including retail space, shall be no larger than 6,000 square feet, or 0.5% of the parcel size, whichever is less. The retail space shall be a separate room and may be the greater of 500 square feet in area or 25% of the floor area above finished grade. The facility may consist of more than one building, however all buildings shall be located on the 20 acres minimum parcel that contains the farm processing facility. Underground buildings are not limited to, and may be in addition to, the 6,000 square feet of floor area provided that it is below pre-existing ground level and has no more than one loading dock exposed.
- H. **Pre-existing buildings.** Building built prior to this amendment may be used for a farm processing facility provided that if it is more than 6,000 square feet in size, the retail space room shall not be larger than 1,500 square feet.
- I. **Vested Interest.** There shall be no vested interest in non-agricultural uses of the structures. Structures shall only be used for allowed uses in permitted districts in the event that the farm processing facility use is abandoned.
- J. **Records.** The owner and operator of the farm processing facility shall keep up to date records of land ownership, growth, processing, and sales, and make those records available for Township review in order to ensure that the facility is abiding by all of the standards of this Ordinance.

Section 15.17 Gas Station.

- A. **Definition:** A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Gas Stations may also incorporate a convenience store operation as an Accessory Use provided it is clearly incidental to the gas station use.
- B. **Standards.** The following regulations shall apply to Gas Stations
1. **Minimum Lot Area.** The minimum lot area required for such uses shall be 21,780 sq. ft. (1/2 ac.).

2. **Minimum Lot Width.** The minimum lot width required for such uses shall be 150 ft.
3. **Minimum Setbacks.** Repair garages or other buildings shall comply with the setback requirements for the district in which the use is located. However, a minimum setback of forty (40) feet shall be maintained on all sides which abut property that is zoned for residential purposes. Pump islands and canopies shall comply with the following requirements:

	Minimum Setback from Right-of-Way Line	Minimum Setback from Residential Use or Zone
Nearest Edge of Pump Island	30 ft.	50 ft.
Nearest Edge of Unenclosed Canopy	20 ft.	40 ft.

- a) **Ingress and Egress.** No more than one (1) ingress/egress drive or curb opening shall be permitted for every seventy-five (75) feet of frontage (or fraction thereof) along any street.
- b) **Outside Storage.** Inoperable, wrecked, partially dismantled, or repaired vehicles shall not be stored or parked outside for a period exceeding two (2) days. Such vehicles shall be stored in the rear yard
- c) **Vehicle Sales and Storage.** The storage, sale, or rental of new, used, or repaired cars, trucks, trailers, and any other vehicles on the premises is prohibited.
- d) **Paving Surface.** Fueling areas shall be paved with concrete.

Section 15.18 Golf Course.

- A. **Setbacks.** The principal and accessory buildings shall be set back at least 75 feet from all property lines. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course.
 1. **Golf Courses.** Golf course fairways shall be designed so that existing or future dwelling units are located a minimum of 200 feet from the center of the fairway.
 2. **Driving Ranges.** The minimum length of a driving range shall be 300 yards, measured from the tee to the end of the range. Tees shall be setback at least 25 yards from each side property line, unless the applicant can demonstrate that golfers will be oriented toward the center of the range so that golf balls will not be hit beyond the side property lines. Netting is prohibited unless the Planning Commission determines the netting would be compatible with surrounding uses.
- B. **Access.** Golf courses and Country clubs shall have direct access onto a paved public road.
- C. **Screening.** Any lot line abutting a residential zoning district shall provide a landscaped buffer strip in accordance with Chapter 16, Landscaping and Screening.
- D. **Performance Standards.** Site size shall be sufficient to retain errant balls within the site. The Planning Commission may restrict lighting and hours of operation.
- E. **Site Plan Requirements.** The site plan shall illustrate expected trajectory or ball dispersion patterns along fairways and for driving ranges where adjacent to residential uses, buildings, parking lots or public streets.
- F. **Accessory Uses.** A Golf Course and Country Club is permitted to operate a restaurant, a bar, and a retail facility for the purposes of selling items to be used on the golf course. The Club shall be available for rental for special events. All uses are subject to approval by the Planning Commission and must be identified on the site plan submitted for approval. Additional uses considered after approval must be brought back to the Planning Commission for approval as an amendment to the site plan.

Section 15.19 Government or Public Building.

- A. **Definition.** Principal structures dedicated to the use by the public or government operations. For the purposes of this Ordinance, Government or Public buildings shall include libraries, museums, municipal offices, County, State, or Federal Offices, police and fire stations, and other buildings used by the public or government.
- B. **Procedures.** A Basic Site Plan shall be required, unless in the judgment of the Zoning Administrator, greater detail is required to document compliance with this section, in which case a Detailed Site Plan shall be provided.
- C. **Specific Standards.** The Planning Commission may approve buildings taller than permitted in the applicable zoning district provided that the building complies with all building and fire codes.

Section 15.20 Greenhouse

- A. **Definition.** Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of- season plants for subsequent sale. A Greenhouse may be used to raise flowers, shrubs, and plants for commercial sale.
- B. **Procedures.** A Detailed Site Plan shall be required
- C. **Specific Standards.**
 - 1. All storage of materials shall take place in an enclosed building, bin or other enclosure satisfactory to the Planning Commission to contain blowing dust and debris.
 - 2. Refuse and waste shall be disposed of in a manner which precludes any odors and fumes from being perceptible at any lot line; and any pesticides, fertilizers, or other chemicals shall be handled in a manner which precludes pollution of the environment and the Township's water resources.

Section 15.21 Gravel, Sand and Other Material Extraction and Processing.

- A. **Purpose.** These requirements provide for the use of lands that have significant gravel, sand, or other deposits for mining or extraction purposes in a manner that would not constitute a hazard to the public health, safety, and welfare and would result in reclamation of the land in a suitable manner for other purposes.
- B. **Regulations and conditions.**
 - 1. The minimum site size shall be 10 acres.
 - 2. Additional Site Plan or narrative requirements:
 - a) Name and address of the person, firm, or corporation who will be conducting the actual operation.
 - b) Location of the processing plant or buildings, whether on-site or off-site.
 - c) Type of materials or resources to be removed or to be brought to the site.
 - d) Proposed method of removal or filling, general haul routes, and whether blasting or the use of explosives will be required.
 - e) General description of the equipment to be used
 - f) The estimated time to complete total operations of the site. For larger sites, a phasing schedule shall be required
 - g) The total area proposed to be excavated or mined.
 - h) A Reuse Plan, drawn to a scale of 1" = 50' placed on a standard sheet and containing the following information:
 - 1) A proposed grading plan and landscape plan

- 2) A description of the land use activities proposed to be located on the site upon completion of the mining or extraction operations.
 - 3) A conceptual drawing of the streets and other amenities required to serve the proposed uses.
- C. An impact assessment prepared by a licensed professional that analyzes the potential impacts of the proposed use on the surrounding land uses, the existing environment and natural features, and the traffic and levels of service on adjacent roadways as well as any additional impacts that may be caused by the operation, shall be submitted.
- D. The following minimum setbacks shall apply to all operations:
1. All structures and machinery shall be a minimum of 100 feet from all property lines and 200 feet from any residential zoning districts or uses.
 2. No mining, excavation, stockpiling of material or processing shall take place 100 feet from any property line or street right of way and 200 feet from any residential use.
 3. The site shall be enclosed with a six (6) foot security fence with a locking access gate. The owner or operator shall place appropriate "KEEP OUT – DANGER" signs around the premises not more than 200 feet apart.
 4. Reclamation and rehabilitation of mining and areas in accordance with the approved Reuse Plan shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such reclamation shall be accomplished concurrently with the mining or excavation operations. Substantial completion of the reclamation and rehabilitation shall be affected within two (2) years after the termination of the mining or excavation activity.
 5. No topsoil shall be removed from the site. All topsoil shall be redistributed properly upon the completion of the extraction activities or phase thereof.
 6. The slopes of the banks of the excavation shall not exceed four (4) feet horizontal to one (1) foot vertical.

E. Very Serious Consequences Review

The Planning Commission shall not approve an application for a material extraction permit unless the applicant sufficiently demonstrates that the proposed extraction operations and activities will not create any very serious adverse consequences or serious environmental impact on adjacent or nearby lands or other lands elsewhere in the area.

1) The Planning Commission, in considering whether any such very serious adverse consequences or serious environmental impact would result from the proposed extraction operations and activities, shall determine the degree and extent of public interest in the removal of the minerals from the applicant's land, considering the type of resource involved, the market demand and availability of supply, and other relevant factors and conditions which determine the relative benefit to the public from the proposed removal operations and activities.

2) The Planning Commission shall approve a material extraction permit only if the proposed removal operations and activities do not, considering the nature and extent of public benefit from the resource removal, result in very serious adverse consequences or serious environmental impact.

3) In determining whether very serious adverse consequences or serious environmental impact would result from the removal operations and activities, the Planning Commission may consider, but is not limited to, the following:

- a) The relationship of extraction and associated activities with existing land uses
- b) The impact on existing land uses in the vicinity of the property.
- c) The impact on property values in the vicinity of the property and along with the proposed hauling route serving the property, based on credible evidence.
- d) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

- e) The impact on other identifiable health, safety, and welfare interests in Benona Township.
- f) The overall public interest in the extraction of the specific natural resources on the property.
- g) Decrease in residential or other development in the area;
- h) Loss of property tax revenues; and,
- i) Other relevant factors

Section 15.22 Gun and/or Archery Club.

- A. **Definition.** A property, location or land use established as a business or organized club and used for recreational shooting, including target practice with firearms, bow and arrow or other means; and similar activities for recreational shooting purposes. A gun and archery club may include improvements such as buildings used for permitted purposes.
- B. **Regulations and Conditions**
 - 1. Gun and/or Archery Clubs may include the following activities or elements:
 - a) Sales and rental of firearms, archery equipment, ammunition, clays, targets, gun and archery accessories or other hunting and shooting accessory equipment; provided, however, such sales and rental shall comply with the following conditions:
 - b) No more than 20%, but in any event not more than 2,000 square feet, of the total floor area of the principal building may be used for the sales and rental of firearms, archery equipment, ammunition, clays, targets, gun and archery accessories or other hunting and shooting accessory equipment. Access during regular business hours shall be granted to the Township for inspections to ensure compliance with this section. Such access shall be a condition to the special land use.
 - c) No firearms, ammunition or other hunting and shooting equipment and accessories shall be sold, used or stored on the premises, except in full compliance with all federal, state and local requirements.
 - d) Meetings of gun clubs, sport-shooting clubs and other clubs established for recreational shooting or archery purposes are considered a customary and permitted part of the activities associated with this land use.
 - e) Provision of light or convenience foods for the persons engaged in the permitted hunting and shooting and other permitted uses on the premises. Gun and/or, Archery Clubs that include facilities of an eating and drinking establishment shall also meet the requirements of Section 14.11, provided however, that consumption or sale of alcoholic beverages of any kind on the premises shall be prohibited.
 - f) Buildings and outdoor shooting or archery areas shall be designed and constructed to prevent projectiles of any kind from carrying off the premises.
 - 2. The Planning Commission may establish hours of operations to assure compatibility with surrounding land uses.
 - 3. The Planning Commission may establish additional setback, lighting, landscaping/screening and building requirements for the property to ensure that the agricultural, rural character of the area is preserved in a manner consistent with the other agricultural district uses in the area.
 - 4. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
 - 5. The regulations of this Section shall not place any additional restrictions on hunting, provided that any hunting which may take place in conjunction with a gun and/or archery range shall comply with all local, state and federal laws, as applicable

Section 15.23 Home Occupations.

- A. **Definitions.**

1. **Home Occupation.** Minor as defined herein is a home occupation that would be conducted with the primary home and would not be noticeable to the neighbors.
 2. **Home Occupation.** Major as defined herein is a Home Occupation that may be apparent to neighbors by virtue of activities on-site, on-site sales, signage, outdoor storage or modifications to structures or grounds.
- B. **Provisions.** A Major Home Occupation shall be subject to the following additional standards:
1. In addition to the occupants of the residence and not more than two non-resident employees on site, a Major Home Occupation may employ other persons, provided their work activities are generally undertaken at locations other than the location of the dwelling.
 2. The applicant shall disclose the nature, size, and number of any vehicles or other equipment associated with the Major Home Occupation and the Planning Commission may establish limits on the outdoor storage and parking of such equipment or vehicles to preserve the essential character of the neighborhood. Any outdoor storage of materials or scrap shall be effectively screened from view from neighboring properties.
 3. The operator of a proposed Major Home Occupation shall attach an operational plan for the Major Home Occupation to the application for a special use permit for the Major Home Occupation. The operational plan shall provide the following information:
 - a) The hours the Major Home Occupation will operate.
 - b) A description of employee parking and workforce staging plans.
 - c) A site plan in accord with Article indicating the location of any storage of materials, vehicles and equipment as well as any employee or customer parking.
 - d) A description of the shipping and delivery requirements of the Major Home Occupation.
 - e) A description of any material used in the Major Home Occupation which will be stored on the premises.

Section 15.24 Junkyards/Salvage Yards.

- A. **Definition.** Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk; and including any premises upon which 2 or more inoperable or junk motor vehicles are kept, parked or stored outside a building for a period of 15 days or more within any 12-month period.
1. **Supplementary Setbacks.** A minimum setback of 150 feet shall be maintained between the front property line and the portion of the lot on which junk materials are placed or stored. All buildings, fencing, and junk materials shall be set back at least 150 feet from any road or highway right-of-way line, and at least 200 feet from any property line.
 2. **Surfacing.** All roads, driveways, parking lots, and loading and unloading areas shall be paved or treated in a manner approved by the Zoning Administrator so as to confine any wind-borne dust within the boundaries of the site.
 3. **Regulated Activities.** Open burning shall be prohibited. All fluids shall be drained from vehicles and disposed of in a proper manner prior to the vehicles being stored on the site.
 4. **Stacking.** Junk, automobiles, or other debris shall not be stacked in a manner such that the material could be visible outside the site. Junkyards shall not be located in areas where it would be impossible to screen them from view from adjacent properties or public roads.

Section 15.25 Kennels.

- A. **Definition.** Any lot or premise on which four (4) dogs, cats, or more domesticated animals more than three (3) months in age, are either permanently or temporarily boarded or trained for remuneration.
- B. **Standards:**
1. **Minimum Site Size.** Sites shall have a minimum lot area of two (2) acres.

2. **Performance Standards.** The Planning Commission may impose other conditions and limitations deemed necessary to prevent or mitigate possible nuisances related to noise or odor.
3. **Supplementary Setbacks.** Structures where animals are kept, outdoor runs and exercise areas shall not be located in any required yard setback areas and shall also be set back at least 100 feet from dwellings on adjacent lots.

Section 15.26 Outdoor Recreation.

- A. **Definition.** Such uses shall include, but are not limited to the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, commercial riding stables, paint ball facilities, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and band shells, amusement parks and uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.
- B. **Procedure.** A detailed site plan shall be submitted
- C. **Standards.**
 1. The site shall be adequate to accommodate the intended use(s), parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the Planning Commission. The applicant shall provide documentation that the site area is adequate using national facility standards.
 2. The site shall be located on a paved road.
 3. No building or spectator seating facility shall be located within one hundred (100) feet of a property line, and five hundred (500) feet from residential district or use.
 4. The site shall be periodically cleared of debris.

Section 15.27 Outdoor Sales or Display Areas for Sales or Rentals of Goods, Products, Farm Equipment, Machinery, Automobiles, and Other Motor Vehicles, Recreational Vehicles, Boats, Building Supplies, Hardware, Landscaping, and Other Items.

- A. **Setback Requirements.** 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 street right-of-way. No outdoor sales area shall be located within 50 feet of any residential district or use.
- B. **Sidewalk Standards.** A minimum of six (6) feet of sidewalk width to the entrance of the establishment shall be maintained free for pedestrian circulation.
- C. **Performance Standards.** Outdoor sales and display areas must be kept clean, litter-free, and outdoor waste receptacles shall be provided. Written procedures for cleaning and waste containment and removal responsibilities shall be included with all applications and approved as part of site plan review. Vending machines and devices for the outdoor broadcasting of voice, telephone monitoring, music or any other amplified sound shall be prohibited.
- D. **Signs.** Additional signs shall not be permitted beyond those permitted for the primary use.
- E. **Surface.** Sales and display areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained to dispose of all surface water. All areas for displaying automobiles, trucks, recreational vehicles, boats and similar items shall be paved.

- F. **Landscaping and Screening.** Such sales or display area shall be separated from the parking area by landscaping, a decorative wall or other architectural feature in accordance with Chapter 16, Landscaping and Screening. A six (6) foot fence or wall, greenbelt or buffer strip may be required along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises

Section 15.28 Personal Storage Building.

- A. **Definition.** A building larger than 120 square feet used or intended to be used only for storage, collection, stockpiling or keeping of personal property or vehicles located on a lot parcel with no other principal buildings or dwellings.
- B. **Specific Standards.**
1. The owner of the property a personal storage building is being proposed for shall be a resident of Oceana County.
 2. A personal storage building shall be located on a legal lot of record meeting all dimensional standards for the applicable zoning district including setbacks, height, and lot coverage. Driveways serving a personal storage building shall be sited in accord with the requirements of the Oceana County Road Commission, MDOT, or a private road association.
 3. The personal storage building shall be considered the principal use on the property and no other improvements shall be permitted, except in conformance with the requirements of this Ordinance. Provided, however, that in the event a dwelling or commercial building is proposed for construction on the same lot with a personal storage building, the personal storage building may be treated as an accessory building under the terms of this Ordinance.
 4. The applicant shall disclose the general nature of items to be stored in the personal storage building. The storage of hazardous, flammable or toxic materials, other than in vehicle fuel tanks or approved containers of not more than ten (10) gallon capacity, shall be prohibited.
 5. A personal storage building shall not be used as a dwelling nor shall any commercial or manufacturing activity be conducted in a personal storage building or on the lot.
 6. Personal storage facilities shall not be served by plumbing facilities; however, electricity may be provided.

Section 15.29 Place of Public Assembly.

- A. **Definitions.**
1. **Place of Public Assembly.** Buildings, structures and grounds, including churches, auditoriums, sports arenas, stadiums, lecture or reception halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering thirty (30) or more. A family gathering, reunion or similar event shall not be considered a place of public assembly.
 2. **Place of Public Assembly, Small.** A place of public assembly shall be considered a small facility if it has either less than two thousand (2,000) square feet in gross floor area or a total seating capacity of no more than one hundred (100) in the largest room intended for public assembly.
 3. **Place of Public Assembly, Large.** A place of public assembly shall be considered a large facility if it has either two thousand (2000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future.
- B. **Regulations and Conditions.**
1. The Zoning Administrator may require the completion of a traffic impact study under the terms of this Ordinance.
 2. A Detailed Site Plan shall be submitted per this Ordinance.

Section 15.30 Planned Unit Development (PUD).

- A. **Definition.** A type of real estate development that combines residential, commercial and recreational spaces into one cohesive project and can allow single family homes, multi-family homes, and mixed use structures while promoting a sense of community by integrating amenities such as parks and community centers into the plan.
- B. **Regulations and Conditions.**
1. The minimum lot size for a Planned Unit Development shall not be less than 10 acres.
 2. The development shall have access to a publicly maintained road.
 3. The Site shall be planned and developed as an integrated unit. Phasing may be permitted as long as the phasing schedule is submitted with the application.
 4. The principal permitted use in a Planned Unit Development shall be residential development. Other uses may be considered pursuant to the following conditions:
 - a) Attached two-family dwellings, townhouses, and multi-family dwellings may be permitted.
 - 1) The maximum number of these types of dwellings shall not exceed thirty percent (30%) of the total number of dwelling units of the project.
 - b) Commercial land uses shall be limited to the development of not more than ten percent (10%) of the total project area. Examples of appropriate commercial uses may include: retail stores, personal service establishments, offices, restaurants, bed and breakfast inns, and child care centers.
 5. All water and sewer facilities for the development shall be approved by the District 10 Health Department.
 6. The Development shall be provided with adequate storm drainage. Any drainage courses and retention ponds shall be reviewed and approved by the Oceana County Drain Commissioner.
 7. Setback modifications based on sound planning and design principles may be approved as part of the PUD plan.
 8. The vehicular and pedestrian circulation systems with the development shall accommodate the movement of vehicles, bicycles and pedestrians throughout the proposed development and to and from surrounding areas.
 9. All utilities, including electric, telephone, and cable shall be located underground.
 10. PUD developments shall include a centrally located usable open space/recreational component that is accessible to all residents within the development.
 - a) The dedicated open space shall be permanently set aside and conserved through an irrevocable conveyance acceptable by the Township.

Section 15.31 Roadside Stand.

- A. **Definition:** A building or structure exceeding a floor area of 200 square feet from which agricultural products produced on the premises are sold and are operated for six (6) weeks or more in any twelve (12) month period.
- B. **Regulations and Conditions:**
1. Products sold in a roadside stand shall be limited to fresh fruit, cut flowers, shrubbery, vegetables, and similar horticultural products produced on the premises or another farm location. At least 51% of the products sold at a roadside stand must be grown or produced in Oceana County.
 2. The maximum size of a building used in conjunction with a roadside stand shall be five hundred (500) square feet.
 3. All permanent structures shall abide with the setback requirements for the zoning district.
 4. Only one roadside stand shall be permitted on any one parcel.

Section 15.32 Sawmill.

- A. **Definition.** A facility where logs or partially processed logs are sawn, split, shaved, stripped, dried, or chipped. For the purposes of this ordinance, this shall not include the processing of timber for use on the same lot by the owner or resident of that lot.
- B. **Regulations and Conditions.**
1. The Planning Commission may require that the outside storage area shall be screened from view on all sides by a six (6) foot or greater solid, decorative fence or wall, or landscaped equivalent.
 2. The Planning Commission may stipulate hours of operation.
 3. Appropriate measures shall be incorporated in the proposed site plan to mitigate fugitive saw dust.
 4. The applicant will consult with the Oceana County Road Commission to establish shipping and transport routes for trucks serving the facility so to limit truck traffic on surrounding roads to those best suited to accommodate such traffic.
 5. All parking areas and truck maneuvering areas shall be treated to minimize dust, and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
 6. Activities shall not generate noise exceeding 60 decibels for more than 4 hours in a 24-hour period at any property line.
 7. Surface water protection shall be contemplated in the design and operation of a sawmill and applicable requirements of Section 3.9 shall be met.

Section 15.33 Solar Energy Systems.

- A. **Definition.** A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- B. **Solar Energy Systems – Small.** A Solar Energy System used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
- C. **Permitted by Right:** In all districts.
- D. **Permitted by Special Use Permit:** N/A
- E. **Standards.**
1. **Small Solar Energy System Build Integrated Photovoltaic (BIVP).** Small Solar Energy System BIVPs shall be permitted in all [zoning districts](#), provided such BIVPs conform to applicable County, State and Federal regulations and safety requirements, including the Michigan Building Code. A [building](#) permit shall be required for the installation of any BIVPs.
 2. **Roof or Building Mounted Small Solar Energy System.** [Roof or building mounted Small Solar Energy Systems](#) shall be considered an [accessory use](#) in all [zoning districts](#), subject to the following requirements:
 - a) No part of a Solar Energy System mounted on a roof shall be installed closer than three (3) feet from the edges of the roof, the peak, or eave or valley in order to maintain pathways of accessibility.
 - b) In the event that a roof or building mounted Small Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), it shall be removed by the property owner within six (6) months from the date of abandonment
 - c) A building permit shall be required for installation of roof or building mounted Small Solar Energy System.
 3. **Ground Mounted Small Solar Energy Systems.** Ground mounted Small Solar Energy Systems shall be considered an accessory use in all zoning districts, subject to the following requirement

- a) Prior to the installation of a ground mounted Solar Energy System, the property owner shall submit a site plan to the Zoning Administrator. The site plan shall include setback, panel size, and the location of property line, building, fences, greenbelt, and road right of ways
- b) A ground mounted Solar Energy System shall not exceed the maximum building height for adjacent accessory building, but in no case shall the maximum height of any ground mounted Solar Energy System exceed fifteen (15) feet above the ground when oriented at maximum tilt.
- c) A ground mounted Small Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements applicable in the zoning district in which the Solar Energy System will be located
- d) All power transmission or other lines, wires or conduits from a ground mounted Small Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Solar Energy System, they must be placed in a secured container or enclosure.
- e) A ground mounted Small Solar Energy System shall be considered a structure, and shall be included in lot coverage calculations.
- f) In the event that a ground mounted Small Solar Energy System has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner shall notify the Township and shall remove the system within six (6) months from the date of abandonment.
- g) A building permit shall be required for installation of a [ground mounted Small Solar Energy System](#).

F. Solar Energy System - Large

- 1. **Permitted by Right:** None.
- 2. **Permitted by Special Use Permit:** Agricultural and Rural Residential Zoning Districts
- 3. **Standards.** In addition to any other requirements for [special use](#) approval, [Large Solar Energy Systems](#) shall be ground mounted and are subject to the following requirements:
 - a) The property owner or applicant for a Large Solar Energy System shall provide the Planning Commission with proof of ownership of the subject property, a copy of any lease agreement for a Large Solar Energy System, together with an operations agreement, which shall set forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation.
 - b) An escrow account shall be set up when the applicant applies for special use approval for the Large Solar Energy System. The amount of the required escrow shall be a good faith estimate by the Township Board to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs and expenses may include, but are not limited to, fees of the Township Attorney or other consultant as the Township deems necessary, including, but not limited to, any reports or studies which the Township anticipates are reasonably necessary for reviewing the application. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the applicant.
 - c) Large Solar Energy Systems shall be located on parcels of land no less than twenty (20) acres in size.
 - d) The Large Solar Energy System shall meet the minimum front, side and rear yard setbacks of the zoning district.
 - e) The height of the Large Solar Energy System and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt.
 - f) Prior to installation, the applicant shall submit a descriptive site plan to the Planning Commission which includes where and how the Large Solar Energy System will connect to the power grid.
 - g) No Large Solar Energy System shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to an interconnection with the electrical grid or a power purchase agreement. Any such agreement shall be furnished to the Planning Commission.

- h) A condition of every approval of a Large Solar Energy System shall be adequate provision for the removal of the system whenever it ceases to be used for one (1) year or more. In the event that a system has been abandoned (meaning not having been in operation for a period of one (1) year), the property owner and developer/applicant shall notify the Township and shall remove the system within six (6) months from the date of abandonment. Removal includes the proper receipt of a demolition permit from the Building Official and proper restoration of the site to the satisfaction of the Zoning Administrator. The site shall then be filled and covered with top soil and restored to a state compatible with the surrounding vegetation.
- i) To ensure proper removal of a Large Solar Energy System upon discontinued use or abandonment, applications shall include a description of the financial security guaranteeing removal of the system which must be posted with the Township within fifteen (15) days after approval or before a construction permit is issued for the facility. The financial security shall be: 1) a cash bond; or 2) an irrevocable bank letter of credit or a performance bond, in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the developer and shall be approved by the Township. The applicant shall be responsible for the payment of any costs or attorney fees incurred by the Township in securing removal.
- j) If the owner of the facility or the property owner fails to remove or repair the defective or abandoned Large Solar Energy System, the Township, in addition to any other remedy under this Ordinance, may pursue legal action to abate the violation by seeking to remove the Solar Energy System and recover any and all costs, including attorney fees.

A building permit shall be required for installation of a Large Solar Energy System..

Section 15.34 Self Storage - Mini

- A. Definition. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time
- B. Procedures. A Detailed Site Plan shall be required
- C. Specific Standards
 - 1. The area of the proposed site shall be at least three (3) acres.
 - 2. The use shall be limited to storage of household and non-hazardous commercial goods. However, no commercial business shall be conducted out of an individual storage unit.
 - 3. Individual storage units shall not be used for any residential purpose.
 - 4. All outdoor storage areas shall be fenced and screened from view from adjoining roadways and residential properties.
 - 5. All parking, maneuvering and drive lanes areas shall be provided with a paved surface, and all drive aisles shall be 30 feet in width. All outdoor storage areas shall be provided with a smooth and dust-free surface.

Section 15.35 Wind Turbine Generators.

Subject to the approval of the Planning Commission, and subject to the standards and conditions provided for Special Uses as set forth in Section 14.3, Wind Turbine Generators (herein called "WTGs") shall be authorized in as follows:

- A. **Purpose.** The regulation of wind energy conversion systems (WECS), including the height, minimum lot area, and required setbacks, is intended to provide for an alternative source of power generation while protecting the health, safety and welfare of Township residents. The system, its construction, and its operation shall comply with all applicable local, state, and federal regulations.

- B. **Definitions.** A wind energy conversion system is a system for the conversion of wind energy into electricity. A common type of wind energy system includes the use of a wind turbine generator, which includes a turbine, blades, tower and related equipment, although other technology may be used to convert wind energy into electricity.
1. A “small turbine/on-site” system is intended to primarily serve the needs of the customer, with a single tower that may or may not be connected to the utility grid.
 2. A “large turbine/utility grid system” is designed to generate electricity from one or more towers (within an array) and is intended to serve institutions, residential communities, or larger cooperative organizations.
- C. **General Requirements.** WTGs shall be subject to all of the “General Requirements”, including sub-paragraphs (A) through (I), which General Requirements are otherwise applicable to towers and antennas, as set forth in Section 15.35 of the Benona Township Zoning Ordinance.
- D. **Applications.** In addition to the information ordinarily required for a Special Use permit, the following additional information shall be required by any applicants seeking a Special Use permit for a WTG:
1. A scaled plan showing: the location, type and height of the proposed WTG; on-site land use and zoning; and adjacent uses (including buildings and structures thereon) within on/quarter mile, regardless of municipality.
 2. Legal description of property and the leased portion of the property, if applicable, together with a copy of the applicant’s deed or lease pertaining to said parcel.
 3. The separation distance from other WTG sites presently within the jurisdiction of the Township and within 1/2 mile of the Township boundaries including the names of present owners/operators of these WTGs.
 4. A landscape plan showing proposed materials and existing if applicable.
 5. Fencing plan to insure safety and protection.
 6. Construction plans for WTGs. (7 printed sets and one electronic copy).
 7. Compliance certificates if applicable for federal, state or county agencies.
 8. All information of an engineering nature submitted by the applicant and/or required by this Ordinance, whether civil, mechanical or electrical, shall be certified by a licensed engineer. The engineer shall certify in writing that the WTG will be structurally sound and will comply with all applicable building and code requirements.
- E. **Standards for Approval:** In addition to the generally applicable standards for approval of a Special Use Permit, Wind Turbine Generators shall comply with the following standards.
1. **Setbacks from Adjacent Property Lines and Public Road Rights-of-Way.** The base of all WTGs shall be set back from the nearest lot line, including the nearest public road right-of-way, a distance equal to 75% of the height of the WTG. As used in this Ordinance, the term “height” when applied to WTGs shall mean the distance from the ground at the base of the WTG to the top of the radius of the WTG propeller, when a propeller arm is extended vertically from the surface (i.e. straight up). The setback is measured from the outside edge of the base of the tower. Guys and accessory buildings must satisfy the minimum setback requirements for the zoning district.
 2. **Setbacks from Existing Residences.** When initially constructed, the base of all WTGs shall be located no closer than 1/2-mile radius (2,640 feet) from any portion of the nearest residential structure. Provided further, that the Township recognizes that the potential adverse effects of WTGs may affect various individuals differently, and some individuals may not be disturbed by the potential negative effects of WTGs, or may be willing to waive their rights to be free from the negative effects of WTGs. Hence, applicants for WTGs may avoid imposition of the 1/2-mile setback requirement for residences for which the owners of which are willing to grant permanent licenses authorizing the construction and operation of such WTGs. The owners of each such residence shall execute a license, in recordable form to be recorded with the Oceana County Register of Deeds, in substantial form as set forth on the license attached as Exhibit “A” to this Ordinance provision. Residences for which licenses have been obtained from the owners shall not be deemed counted or applicable as residences within the 1/2-mile setback as required by this Ordinance provision.
 3. **Security Fencing.** WTGs shall be enclosed by security fencing not less than six (6) feet in height. The support structures of WTGs shall also be equipped with appropriate anti-climbing devices.

4. **Accessory Utility Buildings.** All utility buildings and structures accessory to WTGs shall comply with all other requirements of the Benona Township Zoning Ordinance.
- F. **Removal of Abandoned WTGs.** Notwithstanding anything to the contrary elsewhere in this Ordinance, any WTG that is not operated or utilized for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such WTG shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove abandoned WTGs within the period prescribed shall be grounds for the Township to proceed under applicable law to remove the WTG at the owner's expense. The owner of each WTG shall submit to the Township on the anniversary of the Conditional Use Permit the current operation status of the unit. The WTG owner and the property owner for the subject parcel shall both be held jointly and severally accountable for reimbursement to the Township.

Section 15.36 Wireless Communication Facilities.

- A. **Purpose and Intent.** The general purpose of this section is to regulate the placement, construction, and modification of transmission towers and telecommunication facilities in order to protect the health, safety and welfare of the public, while, at the same time, not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in Benona Township. Specifically, the purposes of this section are:
 1. To regulate the location of transmission towers and telecommunication facilities within the Township.
 2. To protect properties from the potential adverse impact of telecommunication towers and facilities.
 3. To minimize adverse visual impacts of transmission towers and telecommunication facilities through careful design, siting, landscaping and innovative camouflaging techniques.
 4. To minimize the total number of towers and facilities by encouraging the shared use/co-location of transmission towers and antennae support structures as the primary option.
 5. To avoid potential damage to property caused by transmission towers and telecommunication facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer use or determined to be structurally unsound.
 6. To ensure that transmission towers and telecommunication facilities are compatible with surrounding land uses.
- B. **Definitions.** For the purpose of this Ordinance, the following terms shall have the following meanings:
 1. **Alternative Technology:** Any basis technology that could feasibly be used to provide the same level of service as the wireless system being proposed
 2. **Alternative Tower Structure:** Man made structures e.g. spires, light poles, bulk elevator buildings, and similar alternative mounting structures that are present in the community so as to camouflage or conceal the presence of antennas or towers.
 3. **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signal, analog signal, radio frequencies (excluding radar waves), wireless communication signals or other communication signals.
 4. **FAA:** The Federal Aviation Administration.
 5. **FCC:** The Federal Communications Commission
 6. **Guyed Tower** - A Tower that is supported by the use of cables (guy wires) that are permanently anchored.
 7. **Height:** When referring to a tower or other building or structure upon which an antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front of the tower or other building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna.
 8. **Lattice Tower:** A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.

9. **Pre-existing Towers and/or Antennas:** Any tower or antenna for which a building permit or conditional permit has been properly issued prior to the effective date of this amendment to the Ordinance, or any tower or antenna for which no building and/or special use permit was required, including permitted towers or antennas that have not been constructed so long as such approval is current and has not expired.
10. **Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting (i.e. without guy wires or other external means of support) lattice towers, guyed towers, or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals. The term includes the structure and any support for the structure.
11. **Tower Pair:** Any two- (2) towers, which are located within one hundred (100) feet of each other.

C. Applicability.

1. **New Towers and Antennas:** All new towers and new antennas in the Township shall be subject to this Ordinance, except as otherwise provided in this section.
2. **Amateur Radio Station Operators/Receive Only Antennas;** Television Antennas: Amateur Radio Station Operators must meet or exceed current standards and regulations of the FAA, FCC, the Benona Township Zoning Ordinance, and other agencies of the State and or Federal Government with the authority to regulate towers and antennas. All towers noted above less than seventy (70) feet would be exempt.
3. **Pre-existing towers and Antennas:** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this amendment, other than the general requirements of Article IV General Provisions and the general requirements of this ordinance concerning preexisting structures (i.e. Article V).

D. General Requirements.

1. **Principal or Accessory Use:** Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot. Likewise, an existing antenna or tower on a lot shall not preclude the location of a different use, building or structure on the same lot.
2. **Lot Size:** Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements, and other such requirements. The area of the lot and the lot dimensions, frontage for example, shall meet the minimum requirements of the zoning district with which it is located.
3. **Inventory of Existing Sites:** Each applicant for an antenna and /or tower shall provide to the Zoning Administrator an inventory of applicant's existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one (1) mile of the Township border, including specific information about the location, height, and design of each tower or antenna.
4. **Tower Finish:** Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
5. **Tower Site:** At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
6. **Antenna Color:** An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting equipment as visually unobtrusive as possible.
7. **State or Federal Requirements:** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring their towers and antennas into compliance with such revised and applicable standards and regulations within six (6) months of the effective date of such standards and regulations, unless compliance schedule is mandated by the controlling state or federal agency.

8. **Building Codes; Safety Standards:** The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with the standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the Township suspects that a tower or antenna does not comply with such codes and standard and constitutes a danger to persons or property, the Township may proceed under applicable State of Michigan law (i.e. Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna into compliance or to remove the tower or antenna at the owner's expense.
9. **Measurement:** Tower setbacks and separation distances shall be measured and applied to facilities located in the Township without regard to municipal and county jurisdictional boundaries.
10. **Not Essential Services:** Towers and antennas shall be regulated and permitted pursuant to this Chapter. They shall not be regulated or permitted as essential services, public utilities, or private utilities.
11. **Franchises:** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and /or operation of a wireless communication system in the Township have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.
12. **Metal Towers:** Metal towers shall be constructed with corrosion-resistant materials.
13. **No Interference:** Towers shall not interfere with television or radio reception on surrounding properties.
14. **Driveway Entrance Requirements:** All parking and driving areas shall be surfaced and maintained with an aggregate material or may be surfaced with concrete or asphalt pavement.

E. Application Requirements.

1. **Information required.** Applicants for a special use permit for a tower or an antenna shall submit the following information in addition to any other information required by the guidelines in Article XIII Special Use Permits.
 - a) A scaled site plan showing the location, type, and height of the proposed tower or antenna, on site land use and zoning, and adjacent uses (including buildings and structures thereon) within one-quarter mile, regardless of municipality. A scale sketch of properties, streets and uses shall be required for adjacent properties within 3/4 mile (beyond 1/4 mile). The plan shall include setbacks for all planned improvements of main and ancillary buildings.
 - b) Legal description of property and the lease portion of the property if applicable, together with a copy of the applicant's deed or lease pertaining to said parcel.
 - c) The separation distance from other towers or antennas described in the inventory of existing sites presently within the jurisdiction of the Township and within one mile of the Township boundaries. The type of construction of existing towers or antennas on this list. The present owners/operators of these towers or antennas.
 - d) The setback distance between the proposed tower and the nearest dwelling unit.
 - e) A landscape plan showing existing and proposed materials and any proposed fencing.
 - f) Sealed plans for tower and/or antenna. (6 sets, one each for Planning Commission and Zoning Administrator)
 - g) Compliance certificates if applicable for federal, state or county agencies.
 - h) A notarized statement by applicant for a tower, indicating if the tower will accommodate co-location of additional antennas or future users.
 - i) A map of the area served by the provider's existing wireless communication facilities shall be provided along with a map of the same area illustrating the service area coverage by the addition of the proposed facilities.
 - j) Plans illustrating how vehicular access will be provided.
 - k) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be made available through the use of the proposed new tower.
 - l) "Point of View" renderings of how the proposed tower will appear from the surrounding area.

- F. **Standards for approval for a Special Use Permit for Wireless Communication Facilities.** In addition to any other standards specified in this Ordinance for considering special use permit applications, the installation, construction, or modification of all transmission towers and antennae shall comply with following standards, unless a waiver is obtained pursuant to the provisions of Subsection H of this Article.
1. **Availability of suitable existing towers, structures, or alternative technology.** The applicant shall demonstrate that no existing towers, structures, or alternative technology can accommodate the applicant's proposed antenna. The applicant shall submit information related to the availability of suitable existing towers, structures, or alternative technology. The information submitted may include:
 - a) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - b) Existing towers or structures are not of a sufficient height to meet the applicant's engineering requirements.
 - c) Existing towers and structures are not of a sufficient strength to support the applicant's proposed antenna and related equipment.
 - d) The applicant's proposed antenna would cause electromagnetic interference with the antennae on existing towers and structures or vice versa.
 - e) The fees, costs or contractual provisions required by an owner to co-locate on an existing tower or structure are demonstrated to be unreasonably higher than the norm for similar situations. The Planning Commission may consider such costs exceeding 25% of the norm to be unreasonable high.
 - f) The applicant satisfactorily demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g) The applicant satisfactorily demonstrates that an alternative technology is unsuitable.
 2. **Collocation.** New transmission towers shall be built, constructed, or erected in Benona Township to accommodate the applicant's antennas and compatible antennas for at least three (3) other users. The applicant shall make the tower available for collocation at a fair market value.
 3. **Setbacks.** The following setback requirements shall apply to all towers for which a conditional use permit is required.
 - a) Towers must be set back 300 feet or the height of the tower whichever is greater from any adjoining lot line. The setback is measured from the perimeter or outside edge of the base of the tower.
 - b) Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
 - c) In addition, towers must be set back 500 feet from existing dwellings. This shall be a straight-line measurement between closest points.
 4. **Separation between Transmission Towers.** No transmission tower may be located within one (1) mile of any existing transmission tower. An existing tower shall include those towers for which the Township has approved a building permit or for which an application has been submitted and not denied.
 5. **Separation from Off-site uses/designated area.** All Towers shall comply with the minimum separation requirements from off-site uses and designated area measured from the base of the tower to the off site use or designated area.
 - a) Residential dwellings – 300 feet or 300% of the height of the tower, whichever is greater.
 - b) Residential or Coastal zoned property – 200 feet or 300% of the height of the tower, whichever is greater.
 - c) Non-residential uses – The setback requirements of F.3 apply.
 6. **Maximum Tower Height:** The maximum allowable tower height shall be 220 feet unless a waiver is granted of proposed structure.
 7. **Lighting:** The Tower shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the FAA or other state authorities.

8. **Display:** No signs, striping, graphics, or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of not more than three (3) square feet. In addition, the tower owner may post a sign no larger than thirty-two (32) square feet in area designating a person to contact in an emergency, together with the person's telephone number and address
- G. **Installation of Antenna.** The following provision governs the installation of antenna apparatus on an existing tower and the construction of ancillary buildings/structures on the site of an existing communication tower.
 1. When the existing tower has been granted special use and site plan approval, and the proposed antenna apparatus and, where applicable, proposed ancillary buildings/structures are in compliance with the underlying special use permit and approved site plan for the tower, no further zoning approvals are required.
- H. **Waiver.**
 1. Any waiver to the requirements of this chapter shall be granted only pursuant to the following provisions. The criteria for granting a waiver shall be granted only for this Section and shall not include criteria from beyond this section.
 2. The Township may grant a waiver from the provisions of Subsection F of this Section providing the applicant demonstrates that:
 - a) It is technologically impossible to locate the proposed transmission tower on available sites more than the applicable separation distance from a pre-existing transmission tower defined in this Ordinance and still provide the approximate coverage the proposed tower intends to provide.
 - b) The pre-existing transmission tower that is within the required separation distance cannot be modified to accommodate another provider.
 - c) There are no available buildings, light or utility poles, or other structures on which antennas maybe located and still provide the approximate coverage the proposed transmission tower would provide.
 3. The Township may grant a waiver to the setback requirements of subsection F.3 upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
 4. The Township may grant a waiver to the 220 ft height limitation if the applicant shows, through written documentation provide by an engineer, that the proposed height is the minimum height needed to meet the service needs and to accommodate future collocations.
 5. A request for waiver shall be considered as part of the special use permit process and shall be based on the criteria of this section and other provisions of this Ordinance.
- I. **Abandonment of Wireless Communication Facilities.** Abandoned or unused wireless communication telecommunication facilities shall be removed by the owner of the facilities. No permanent storage or disposal of decommissioned wireless telecommunication facilities shall be permitted in the Township.

Section 5.37 Adult Uses

- A) **Intent:** In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material, which, because of their very nature, have very serious operational characteristics that have a negative impact upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties be depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of the operation may be minimized.
- B) **Site Location Principles**
 - 1) No adult use shall be located within 1,000 feet of the following: The Residential or Coastal Zoning District, religious institution, school, cemetery, public park, or licensed daycare facility in Benona Township or any surrounding community

- 2) No adult use shall be located within 500 feet from a single family home in the Agricultural or Rural Residential Districts.
- 3) No adult use shall be located within 500 feet of an existing adult use

C) Site Development Requirements

- a. The building and site shall be designed, constructed and maintained so displays, decorations, and signs depicting, describing, or relating to specific sexual activities or specified anatomical areas cannot be observed from adjacent properties or by pedestrians or motorists within the public right of way.
- b. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public and semi-public as determined by the Planning Commission.
- c. An adult only business shall clearly post at the entrance of the business that minors are excluded.
- d. No person shall reside in or permit a person to reside in the premises of an adult use

Article 16.

Off-Street Parking and Loading Requirements

Section 16.1 Purpose.

The purpose of this Article is to:

- A. Protect water quality and storm sewer capacity by limiting the number of off-street parking spaces and amount of impervious surfaces that may be permitted on a parcel of land or accessory to a use or building.
- B. Preserve the character of Benona Township by limiting parking in front yard areas, promoting the use and development of shared parking and restricting the use and development of scattered private parking lots.
- C. Establish flexible minimum and maximum standards for off-street parking and loading and promote the use and development of shared parking and loading facilities, cross-access between sites, and a pedestrian oriented development pattern.

Section 16.2 Scope.

Off-street parking and loading shall be provided in all districts in accordance with the provisions in this Chapter whenever a structure or use is established, constructed, altered, or expanded, an existing use is replaced by a new use (change of use), or the intensity of a use is increased through additional dwelling units, an increase in floor area or seating capacity, or by other means.

Section 16.3 General Requirements.

The following general standards shall apply to all off-street parking or loading facilities:

- A. **Number of required spaces.** Off-street parking and loading spaces shall be provided for all uses in accordance with the requirements of this Chapter. The Planning Commission may require any use to provide parking spaces above the required minimum.
- B. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway that leads to an approved parking space.
- C. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within 300 feet of such building or use. (The measurement shall be based on the walking distance from the nearest point of the parking facility to the nearest normal entrance to the building or use.) Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- D. **Similar uses.** Where a use is not specifically mentioned in this Chapter, the Planning Commission shall apply the standards for a similar listed use.
- E. **Shared facilities.** The development and use of a joint parking or loading facility shared between two or more contiguous uses is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses. Shared facilities shall be subject to acceptance by the Planning Commission of a signed shared facility agreement between the property owners.
- F. **Irrevocable use.** All required off-street parking and loading spaces shall be reserved irrevocably and shall not be changed to any other use unless spaces meeting the standards of this Article are provided elsewhere, or the parking requirements of the use change.
- G. **Storage, repairs, and displays prohibited.** Except when land is used as permitted storage space in direct connection with a business, a 24-hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district. Parking lots and loading areas shall not be used for parking of inoperable vehicles; outside storage of any equipment, products, or materials; or dumping of refuse. Repairs, performing service, or display of vehicles for sale is prohibited.
- H. **Restriction of parking on private property.** No person shall park any motor vehicle on any private property without the authorization of the owner, holder, occupant, lessee, agent or trustee of such property.

Section 16.4 Minimum Required Parking Spaces by Use.

The number of required off-street parking spaces shall be determined by the Planning Commission in accordance with the following table. Where calculations determining the number of required parking spaces results in a fractional space, the fraction shall be rounded up to the next higher whole number.

Residential Uses	
Dwellings	Two (2) per dwelling unit
Multiple family Dwelling Unit	One (1) per dwelling unit plus one additional visitor space per every four (4) dwelling units.
Nursing Home and similar uses	Two (2) per every three dwelling units plus one (1) per on duty employee based on a maximum employee shift
Bed and Breakfast	One (1) space per room plus two (2) spaces per the dwelling unit.
Community Uses	

Place of Public Assembly	One (1) for each four (4) seats based upon maximum seating capacity plus one (1) per employee on the largest employment shift
Hospitals, Clinics, and similar uses	One (1) per bed plus one (1) per employee based on the shift that has the maximum number of employees
Day Care Centers	One (1) per every 350 feet of floor area
Private clubs or lodges	One (1) per every 4 people based on the maximum capacity of the building
High Schools and Colleges	One (1) per employee plus 1 per every 10 students, plus one per classroom, plus the amount required per a place of public assembly, if required.
Government Buildings, Libraries, Museums	One (1) per every 300 feet of floor area.

Commercial and Industrial Uses	
Marinas	Two (2) for each boat slip
Eating and Drinking Establishments	One (1) space per every 100 square feet of usable floor area plus one(1) per employee based on the largest shift
Hotel and Motel	One (1) for each two (20) guest rooms, plus one per employee during the largest shift, plus additional seats based on the capacity for dining rooms and/or meeting rooms
Banks, Professional Offices	One (1) for every 200 square feet of usable floor area.
Retail stores, Personal Service Shops	One (1) per every 150 feet of usable floor area.
Mortuaries/Funeral Homes	One (1) per every 50 feet of usable floor area used during services.
Medical/Dental Offices	One (1) for every 150 square feet of space in te waiting room, plus one for each examining room/dental chair/plus one per each employee.
Manufacturing, processing, or research buildings	One (1) per every 1000 square feet of usable floor space plus one per each employee at maximum shift.
Veterinary Clinic	One (1) per every 500 ft of usable floor space plus one per employee
Motor Vehicle sales and service	One (1) per every 200 square feet of usable floor space or sales area, plus one (1) per service stall, plus one (1) per employee on the largest employment shift.

Rural/Agricultural Uses	
Campgrounds	One (1) space per campsite plus one (1) space per employee on the largest employment shift.
Golf Course	Five (5) per hole plus one (1) per employee on the largest employee shift
Greenhouses and nurseries	One (1) per every 500 square feet of usable floor space plus one (1) per each employee on the maximum employee shift.
Outdoor recreation/eco-tourism facilities	One (1) per every six (6) acres of gross land area
Farm Processing Facilities	For manufacturing, one (1) per every 1000 square feet of usable floor space plus one (1) for every 150 square feet of tasting/retail space plus one (1) for each employee on the maximum shift.

Section 16.5 Design Requirements.

A. Barrier-Free Parking Requirements.

1. Within each parking lot, signed and striped barrier-free spaces shall be provided at conveniently accessible locations in accordance with the following standards, or with any revised standards of the Michigan Department of Labor, Construction Code Commission.
2. Accessible spaces shall be a minimum width of eight (8) feet.
3. Adjacent to each accessible space shall be at least one access aisle.
4. For the required Van Accessible spaces, the minimum width of the access aisle is eight (8) feet. For all other accessible spaces, the minimum width of the access aisle is five (5) feet.

5. The required number of Van Accessible spaces shall be based on the table shown below.
6. Barrier-free parking spaces shall be identified by signs located approximately six (6) feet above grade.
7. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in 12 feet and a width of not less than four (4) feet shall be provided for wheelchair access.

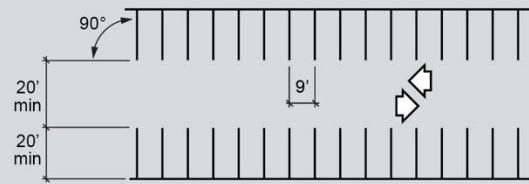
Total Parking Spaces	Barrier Free Parking Spaces Required	Van-Accessible Barrier Free Parking Spaces Required
Less than 25	1	1
25-49	2	1
50-74	3	1
75-99	4	1
100-149	6	1
150-199	8	2
200-299	10	2
300-399	12	3
400 or more	14 plus one (1) additional space for each additional 50 parking spaces over 400	4 plus 1 additional for each 15 total barrier free spaces

- B. **Landscaping.** Landscaping, screening and buffering shall be provided for all parking and loading facilities in accordance with the provisions of Chapter 17, Landscaping and Screening.
- C. **Exterior lighting.** Where provided, exterior lighting shall comply with the standards of Exterior Lighting-
- D. **Ingress/Egress.** Adequate means of ingress and egress shall be provided for all parking and loading facilities, and such facilities shall be designed to prevent vehicles from backing into the street, backing into an access drive, or requiring the use of the street for maneuvering between parking rows. Entrances and exits shall be located so as to minimize traffic congestion. Shared curb cuts are to be utilized whenever possible on primary roads.
- E. **Curbing.** Parking lots shall be provided with concrete curbs and gutters for the protection of adjoining properties, streets, sidewalks and landscaped areas. The Planning Commission may approve parking facilities without concrete curbs; however bumper stops must be provided in such facilities to prevent vehicles from bumping any walls or fences or encroaching upon any landscaping or sidewalks. Where necessary for the protection of the public and the adjoining properties, streets, or sidewalks, curbs shall be required.
- F. **Sidewalks.** In all cases where off-street parking spaces directly abut a public or private sidewalk, the sidewalk shall be widened to at least seven (7) feet in width to accommodate encroachment of the vehicle's bumper.
- G. **Stacking spaces for drive-through facilities.**
 1. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.
 2. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self-service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet. A drying lane 50 feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
 3. An off-street waiting space is defined as an area 10 feet wide by 20 feet long.

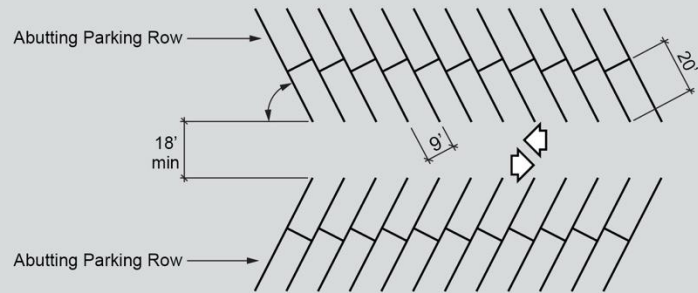
- H. **Grading and drainage.** The parking lot and its driveway shall be designed to meet minimum engineering standards. At a minimum they shall provide adequate drainage, surfaced with concrete or asphalt pavement, and maintained in good condition, free of dust, trash, and debris.
- I. **Parking layout.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Pattern (Degrees)	Maneuvering Lane Width	Parking Space		Total Width of Rows of Spaces Plus Maneuvering Lane	
		Width (Feet)	Length)	One row	Two rows
0 (parallel)	24 ft (two-way)	10 ft	24 ft	34 ft	44 ft
30-53 degrees	12 ft (One-way)	10 ft	20 ft	26 ft	40 ft
54-74 degrees	15 ft (one-way)	10 ft	20 ft	33 ft	50 ft
75-90 degrees	20 ft (two-way)	10 ft	20 ft	40 ft	60 ft

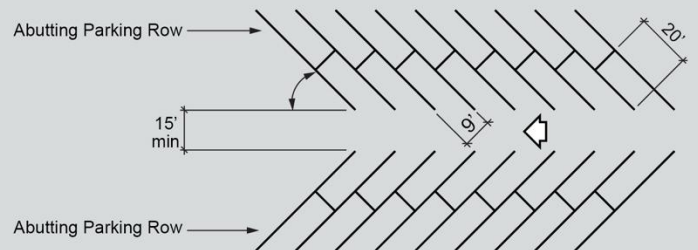
75 to 90 Degree



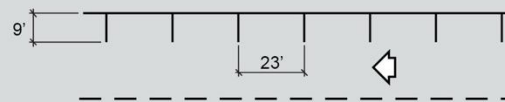
54 to 74 Degree



30 to 53 Degree



**0 Degree
(Parallel Parking)**



Parking Space Layout

Section 16.6 Off-Street Loading Requirements.

Where determined to be necessary by the Planning Commission, adequate space shall be provided for loading and unloading activities on the same premises with a use involving the receipt or distribution of vehicles, materials, or merchandise to avoid undue interference with the public use of streets and alleys. Each loading or unloading space shall be 10 feet wide by 50 feet long, with a 15 foot height clearance, unless the Planning Commission determines that an alternative size is more appropriate for the site. Such spaces shall be provided in accordance with the following schedule:

Usable floor area (square feet)	Loading spaces required
0-2000	0
2001-20,000	1
20,001-100,000	2 plus one per 1/20000 in excess of 20,000

- A. No loading space shall be located closer than 50 feet to any residential district or use, except where located within an enclosed building or adequately screened to the satisfaction of the Planning Commission.
- B. Loading spaces shall not be provided in the front yard or on any building facade facing or visible from a public street, except where the Planning Commission determines such a location is necessary due to the location or placement of the building, existing street pattern, or other factors.
- C. Loading spaces shall be paved with concrete or plant-mixed bituminous material in accordance with the requirements of the Township.

Section 16.7 Modification of Standards.

- A. **Deferment of parking spaces.** Where an applicant demonstrates to the satisfaction of the Planning Commission that the minimum required number of parking spaces is excessive, the Planning Commission may approve the construction of a lesser number of parking spaces, provided that the deferred parking is shown on the site plan and set aside as open space, and provided that the applicant agrees to construct the additional parking upon request by the Township after the Zoning Administrator documents three (3) incidents of problem parking on the site.
- B. **Special circumstances.** Under the following circumstances, the Planning Commission may permit alternative means (other than the construction of private off-street parking or loading facilities) of complying with the parking or loading requirements of this Chapter:
 - 1. Existing off-street parking and/or loading spaces on the lot can effectively accommodate the parking and loading needs of a given use.
 - 2. Existing on-street spaces adjacent to the lot can effectively accommodate the parking and loading needs of a given use without negatively impacting traffic safety or adjacent uses.
 - 3. Existing public parking lots and alleys near the lot can effectively accommodate the parking and loading needs of a given use without negatively impacting traffic safety or adjacent uses.
 - 4. An agreement for shared facilities is in place between adjacent property owners to set aside existing off-street parking and/or loading spaces on an adjacent lot to accommodate the requirements of a given use.

Section 16.8 Maintenance.

All parking and loading areas shall be maintained in accordance with the provisions of this Chapter, an approved site plan, and the following:

- A. Any alterations to an approved parking or loading facility that is not in accordance with an approved site plan shall be a violation of this Ordinance.
- B. Parking and loading facilities for an established use shall not be encroached upon, unless the site maintains the minimum number of required parking spaces as provided in this Chapter. If not, accommodations for additional parking must be made in order to satisfy the minimum requirements for that use.
- C. All land between the boundaries of the parking facility and required screening, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse and debris, and shall be landscaped to conform with the requirements of this Ordinance.

Article 17.

Landscaping and Screening Requirements

Section 17.1 Purpose.

- A. The intent of this Chapter is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, property value stability, and overall character in the Township.
- B. The standards of this Chapter are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff.
- C. The landscape standards of this Chapter are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.
- D. The provisions of this Chapter shall apply to all sites that are subject to site plan or sketch plan review in accordance with the Site Plan Review and Approval Procedures outlined in this ordinance. Such sites shall be required to comply with all applicable provisions of this Chapter. Every property owner and developer has the responsibility to ensure that the use of a lot in the Township does not adversely impact adjacent properties.

Section 17.2 General Requirements and Standards.

- A. **Landscape Plan.** A Landscape Plan shall be included with all site plan applications reviewed by the Township. The separate landscape plan shall be submitted at a minimum scale of one (1) inch equals 50 feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials.
- B. **Installation and Inspection.**

1. Wherever this Ordinance requires landscaping or plant materials, the material shall be planted prior to the issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials, which may be supplemented with other plantings.
 2. If due to the seasons, it is not an appropriate time to install landscaping, the Planning Commission shall require a performance guarantee, in a form acceptable to the Township, to cover the costs of landscaping prior to the issuance of a certificate of occupancy.
 3. Landscaping shall be installed in a sound manner according to generally accepted planting procedures consistent with the standards of the American Association of Nurserymen and the quality of plant materials as hereinafter described and shall be protected from vehicular encroachment and snow removal operations.
 4. In the event a performance guarantee is being held, the Zoning Administrator will within three (3) months of receiving written notification of installation, conduct an inspection to verify said installation and authorize release of the guarantee.
- C. **Plant Material Standards.** It is the intent of this Chapter that a diverse mixture of plantings be provided throughout the Township. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this Chapter. The Planning Commission may vary these standards where the established minimums, in the judgment of the Commission, will not serve the purpose and intent of this Chapter.
1. **Plant Quality.** Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
 2. **Plant Size Specifications.**
 - a) **Trees.** Required trees shall be of adequate size as determined by the Planning Commission at the time of planting, unless otherwise stated in this Chapter.
 - 1) **Deciduous Trees.** Two and a half (2-½) inch caliper minimum trunk measurement at four (4) feet off the ground, with a minimum eight (8) feet in height above grade when planted.
 - 2) **Evergreen Trees.** Six (6) feet in height, with a minimum spread of three (3) feet and the size of the burlapped root ball shall be at least 10 times the caliper of the tree measured six (6) inches above the grade.
 - 3) **Deciduous Ornamental Trees.** One (1) inch caliper minimum at four (4) feet off the ground, with a minimum height of six (6) feet above grade when planted.
 - b) **Shrubs.** Minimum 24 inches in height above planting grade.
 - c) **Hedges.** Planted in such a manner as to form a continuous unbroken visual screen within two (2) years after planting.
 - d) **Groundcovers.**
 - 1) Lawn areas shall be planted in species of grass normally grown as permanent lawns in west Michigan. Grass may be sodded, hydro-seeded and mulched, plugged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion. Sod or seed shall be clean, free of weeds and noxious pests or disease.
 - 2) The creative use of groundcover alternatives is encouraged. Groundcover used in lieu of grass in whole or part shall be planted in such a manner as to present a finished appearance that is reasonably complete after one complete growing season. Prairie grass and natural wildflower and grass mix may be used where appropriate. (3) Stone and synthetic materials shall not be used as a groundcover.
 - e) **Mulch Material.** Minimum of four (4) inches deep for planted materials shall be installed in a manner as to present a finished appearance.
 - f) No plant materials used to satisfy these standards shall be comprised of non-living materials, such as plastic plants.
 - g) All plant materials shall be well-formed, sound, vigorous, healthy and free from disease, sunscald, wind burn, abrasion, and harmful insects at the time of planting.

- h) The following plant materials are not permitted for planting (in a public right-of-way or as required by the minimum landscaping standards of this Ordinance) due to their tendency and susceptibility to storm damage, their roots are known to clog drains and sewers, they are known to be susceptible to disease or insect pests, or other undesirable characteristics: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Poplar, Black Locust, Willow, American Elm, Siberian Elm, Slippery Elm (Red Elm), and Chinese Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage orange, Cottonwood, and European Barberry.

- D. **Plant Health and Maintenance.** Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy and growing condition, neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced within 30 days of written notice from the Zoning Administrator, or within an extended time period as specified in said notice.
- E. **Irrigation.** All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance.
- F. **Visibility.** Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants, and shall not interfere with or obstruct the view of public viewsheds and sight lines from rights of way and public property to streams, lakes, and other waterways.
- G. **Species Tolerance.** Public and private roads, cul-de-sacs, site entrances, and boulevard medians shall be landscaped with species tolerant of roadside conditions common to the area.

Section 17.3 Existing Plant Material.

- A. **Consideration of Existing Elements in the Landscape Design.** In instances where healthy plant material exists on a site prior to its development, the Planning Commission may permit substitution of such plant material in place of the requirements set forth in this Section.
- B. **Preservation of Existing Plant Material.** Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered and are six (6) inches or greater in caliper, measured four (4) feet above grade. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the placement of a tree guard at the drip line around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved.
- C. In the event that healthy plant materials which are intended to meet the requirements of the Ordinance are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree or approved substitute, in accordance with the following schedule, unless otherwise approved by the Zoning Administrator based on consideration of the site and building configuration, available planting space, and similar considerations:

Damaged Tree*	Replacement Tree	Replacement Ratio
Less than 6 inches	2.5 – 3 inches	1:1
6 inches or more	2.5 – 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

*Caliper measured four (4) feet above the ground

Section 17.4 Screening and Buffering Requirements.

In those instances where the following conditions occur, the need for a wall, a berm, or similar type of landscaped buffer strip shall be determined by the Planning Commission.

A. Zoning Districts and Land Uses.

1. For developments within the C and MU districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a masonry wall, wooden privacy fence six (6) feet in height, greenbelt, or evergreen screen in accordance with Section 15.06, (except as otherwise required) as deemed appropriate by the Planning Commission.
2. For non-residential land uses within residential zoning districts, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, an obscuring wall six (6) feet in height, decorative wooden privacy fencing, a greenbelt, a berm, or a buffer strip (except as otherwise required).

B. Location. Required walls, fences, greenbelts, berms, or buffers strips shall begin on or at the property line, except where underground utilities interfere.

C. Materials. Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided for in this Ordinance and except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather resistant, rustproof, and easily maintained. Materials for walls shall be compatible with surrounding building materials. Materials for the greenbelts, berms, or buffer strips shall be in accordance with the standards identified in this Chapter unless specified elsewhere.

D. Alternatives. The Planning Commission may approve a landscaped berm as an alternative to a wall upon finding the landscaped berm will provide a similar screening effect. However, the yard space that the berm shall occupy shall be yard space that would not otherwise serve any functional purpose besides screening and buffering the adjacent use.

Section 17.5 Methods of Screening and Buffering.

Screening and buffering elements shall satisfy the purpose and objectives of this Chapter, and shall be accomplished by any one of the following methods, or any combination of these methods or other alternatives that the Planning Commission determines to be best suited for the existing conditions, unless a specific method or combination of methods was identified elsewhere in the Ordinance:

A. Screen wall (or fence) with planting strip. This method shall consist of a decorative brick wall or ornamental fence up to four (4) feet in height, along with a six (6) to 10 foot wide planting strip abutting the base of the wall or fence that includes a mixture of deciduous shade trees, ornamental trees and shrubs, at a minimum concentration of one (1) tree and five (5) shrubs per each 30 lineal feet.

B. Berms. Berms shall consist of a combination of a raised earth berm and plantings, and shall meet the following standards:

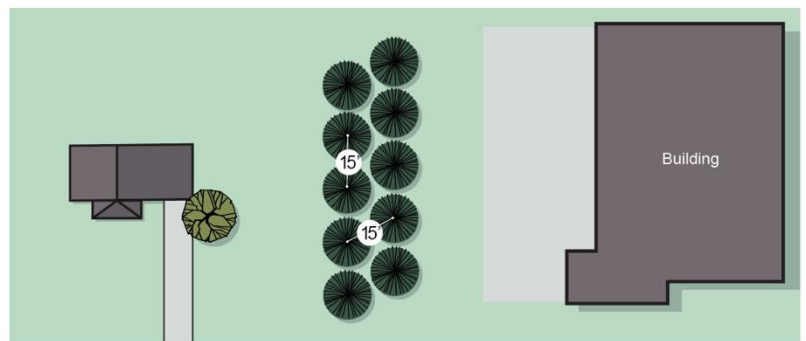
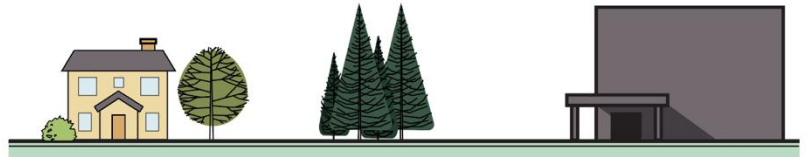
1. A berm shall have side slopes no steeper than four to one (4:1) - four (4) feet horizontal to one (1) foot vertical - and the top of all berms shall have a level horizontal area of at least four (4) feet in width.
2. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace, or other means acceptable to the Planning Commission.
3. The berm shall be designed and graded to blend with existing topography, and shall be appropriately sodded, hydro-seeded or planted with appropriate ground covers.
4. A mixture of deciduous shade and ornamental trees, evergreen trees and shrubs shall be planted along the entire berm area at a minimum concentration of one (1) tree and two (2) shrubs per each 10 lineal feet of berm.

5. Berms shall be used only in areas adjacent to parking and adjacent to industrial uses, unless otherwise excepted by the Planning Commission, due to the amount of space they occupy and the potential long-term impact on the landscape material.

C. **Evergreen screen.** This method shall consist of evergreen trees, with year-round characteristics that meet the screening objectives of this Article, planted 10 to 15 feet apart in a minimum of two (2) staggered rows 10 to 15 feet apart.

D. **Greenbelt buffer strip.** A buffer strip may be required, particularly where the adjacent uses (including uses that are adjacent across a street right-of-way) are residential in character or less intense than the use of the subject site. A required greenbelt buffer strip shall include the following:

1. Greenbelts shall have a minimum width of six (6) feet, with a preferred width of 10 feet, and shall contain appropriate grasses, groundcovers and mulch as necessary.
2. A mixture of deciduous shade and evergreen trees and shrubs shall be planted along the greenbelt buffer at a minimum concentration of one (1) tree and two (2) shrubs per each 20 lineal feet of street frontage or length along a property line. Additional trees may be substituted for the required shrubs at the rate of one (1) tree per four (4) shrubs.



Evergreen Screening

E. **Hedgerow.** To provide a low screen to block headlight glare, screen parked vehicles from street rights-of way, or other circumstances where ground-level screening is necessary to obscure a portion of a site without inhibiting visibility or light, the Planning Commission may require use of a continuous hedgerow consisting of 24 inch to 36 inch high shrubs planted and maintained as a continuous visual screen, with full maturity within one full planting season, with the maximum permitted spacing to be determined by the type of shrub proposed.

F. **Masonry wall.** Where required, a masonry wall shall be solid and decorative in nature, and at least two (2) feet and no more than six (6) feet in height above grade. Such walls shall be capped, and constructed of masonry (brick, stone, or decorative block) materials that complement the primary building materials.

Section 17.6 Parking Lot Landscaping.

Within every parking area containing 10 or more proposed spaces, at least one (1) deciduous tree with at least 100 square feet of planting area shall be used for every 10 parking spaces, or fraction thereof, in addition to any other landscaping requirements. This landscaping shall meet the following standards:

- A. Landscaping shall be dispersed throughout the parking area in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.
- B. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, nor interfere with adequate motorist sight distance.
- C. Dimensions of separate landscaped areas within the interior of or adjacent to parking areas shall be shown on the development plan. Minimum width of such areas shall be 10 feet.

- D. All landscaped areas shall be designed to ensure proper protection of the plant materials. Where adjacent to streets, driveway aisles, or parking areas, shall be protected with concrete curbing. Plant materials used shall be hardy, salt-tolerant species characterized by low maintenance requirements. Trees should result in high, broad canopies that will provide shade over large expanses of the parking lot.
- E. Approved shrubs or groundcovers shall be used to cover the remainder of the island area.

Section 17.7 Waste Receptacle, Mechanical Equipment, and Loading Area Screening.

- A. Waste receptacles shall be screened to the satisfaction of the Planning Commission in accordance with Section 16.06. Except at locations where the receptacle will not be visible from public rights of any adjacent properties, enclosures shall be required. Enclosures include privacy fence, masonry wall, or landscaping that is an opaque screen year round. A steel-reinforced, lockable wooden gate shall be provided to secure the enclosure.
- B. Loading areas, storage areas and service areas, public utility and essential service uses and structures, ground-equipment shelters for wireless communications facilities, ground-mounted transformers and HVAC units, electric sub-stations, gas regulator stations, and similar facilities shall be screened from the street right-of-way and adjacent properties in accordance with Section 16.06.
- C. Roof mounted equipment shall also be screened from view through the use of ceiling walls, parapet walls, or other devices and techniques.

Section 17.8 Street Yard Landscaping.

Street yard areas, including the area between the street pavement edge and the street right-of-way line plus any required front yard setback area, shall be landscaped in a manner that enhances the visual character of Township streets and minimizes adverse impacts of vehicular traffic on adjacent uses.

- A. **Street trees.** Street tree plantings shall consist of deciduous shade trees planted in one (1) or more rows at regular intervals, or in informal groupings, along the margins of street rights-of-way, in an amount equal to a minimum of one (1) street tree per 40 linear feet, as measured along the street right-of-way line.
- B. **Front yard setback area plantings.** Where a front yard setback is required by this Ordinance, the Planning Commission may require a berm, greenbelt, or other landscaping materials within the front yard setback in accordance with the screening or buffering objectives of this Article.
- C. **Infill development exception.** In the case of spot infill redevelopment where an individual property or use is being developed or redeveloped in the midst of existing development, the Planning Commission may decide to alter the street tree landscaping requirement based on the following determinations:
 - 1. There is no established street tree landscaping pattern along the existing roadway, and there likely never will be;
 - 2. The existing landscaping provides adequate or better treatment along the streetscape than the required landscaping would provide;
 - 3. Not planting the required landscaping along the street frontage would not cause any detriment to the subject property or any adjacent properties at the present time or at any time in the future.
 - 4. If the Planning Commission determines that the specific property qualifies, then the trees required to be planted along the street can be relocated elsewhere on the site. They are still required; they are just no longer required in the street yard.

Section 17.9 Maintenance.

All landscaping materials shall be maintained in accordance with the approved landscape plan, and the following:

- A. Landscape maintenance procedures and frequencies to be followed shall be specified on the landscape plan, along with the manner in which the effectiveness, health and intended functions of the various landscape areas on the site will be ensured.
- B. Landscaping shall be kept in a neat, orderly and healthy growing condition, free from debris and refuse. Tree stakes, guy wires and tree wrap are to be removed after one (1) year.
- C. All dead or diseased plant materials shall be removed and replaced with the same number, size and species of materials within 30 days of written notice from the Township, or by the end of the next planting season if it is determined by the Township that the new materials would be jeopardized by weather conditions.
- D. The approved landscape plan shall be considered a permanent record and integral part of the approved site plan. Any replacement or removal of plant materials that is not in accordance with the approved landscape plan shall be a violation of this Ordinance.
- E. Adequate provisions shall be made to supply water to all landscape areas on a regular schedule.

Section 17.10 Exceptions and Alternatives.

- A. **Alternative designs or materials.** The Planning Commission shall have the authority to modify the standards of this Chapter, provided that the alternative is determined to be in accordance with the purpose and objectives of this Chapter.
- B. **Existing sites.** Where an existing building is undergoing redevelopment, improvement, a change in use, or expansion, the Planning Commission may require landscaping, screening and buffering improvements in accordance with the purpose and objectives of this Chapter, provided that any required improvements shall be in reasonable proportion to the size and configuration of the site, and the scale of proposed building improvements, expansions or other site improvements.

Article 18.

Signs

Section 18.01 Purpose.

The sign provisions of this Ordinance are intended to regulate the size, number, location, and manner of display of signs in the Township, consistent with the following purposes:

- A. To protect the safety and welfare of residents; to conserve and enhance the character of the Township; and to promote the economic viability of commercial and other areas by minimizing visual clutter.
- B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.
- C. To promote uniformity in size, number, and placement of signs within zoning districts.
- D. To promote the identification of establishments and premises in the Township.

Section 18.01 Definitions.

SIGN. Any individual announcement, declaration, demonstration, display, illustration, insignia, surface, or space that is affixed to, located on, painted, illuminated, or otherwise depicted on any structure, land interior or exterior of a building in view of the general public for identification, advertisement or promotion of the interests of any person.

ABANDONED SIGN. A sign that no longer identifies or advertises a current business, service, owner, product, or activity conducted on the premises; a sign for which no legal owner can be found; or a sign that is dilapidated beyond repair.

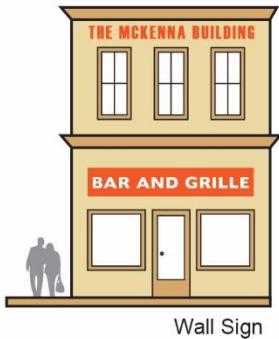
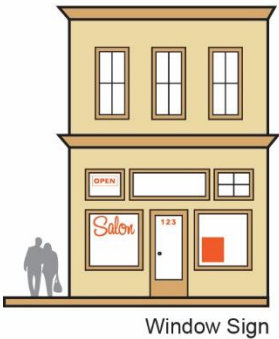
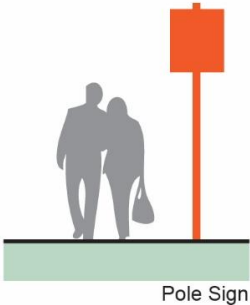
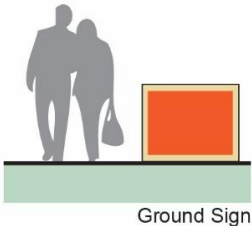
AWNING SIGN. A sign which is part of, hung from the underside of, or attached to, a marquee, canopy, awning, or other covered structure projecting from and supported by a building, and which does not project horizontally beyond or vertically above the marquee, canopy, or covered structure.

BANNER. A temporary sign made of natural, flexible, synthetic, plastic, or other non-rigid material with or without structural frame. Banner signs do not include pennants or flags.



Awning Face Sign

BILLBOARD. A sign structure which exceeds one hundred (100) square feet advertising a



service, commodity, or establishment that is not sold, produced, manufactured, or furnished at the property on which the sign is located.

ELECTRONIC MESSAGE BOARD. A sign with a fixed or changing display or message composed of a series of lights that may be changed through electronic means, including an automatic lamp bank or mechanical means, e.g., electrical or electronic time and temperature units.

FREESTANDING SIGN. Any non-movable sign not affixed to a building and either supported by one (1) or more poles, braces, or attached directly to the ground.

GOVERNMENT SIGN. A sign that is constructed, placed, or maintained by the federal, state, or local government, or a sign that is required by the federal, state, or local government. Signs otherwise required by the state or deferral government are also considered government signs (e.g., signs required for safety warnings, traffic control signs, etc.).

ILLUMINATED SIGN. Any sign designated to give forth artificial light, either internally from a light source within such sign or externally by a light source aimed at its surface and shielded so that no direct rays are visible from any public right-of-way or from abutting property.

MONUMENT SIGN. A freestanding sign affixed to the ground with short supporting upright braces, or some other base with a full footing on the ground where the display surface is less than four (4) feet above grade to the bottom of the display area.

PENNANT. A series of small, often triangular, tapering flags made of lightweight plastic, fabric, or other similar material often deigned to move in the wind and used in multitudes as a device to call attention to a land use or activity.

POLE SIGN. A freestanding sign which is supported by one (1) or more uprights in permanent footings with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign.

TEMPORARY SIGN. A sign which is not permanently affixed to a building, structure, or the ground, and which obtains some or all of its structural stability with respect to wind or other normally applied forced by means of its geometry or character.

ROOF SIGN. A sign which is erected, constructed, and maintained upon or above the roof, or parapet wall, to which it is connected.

WINDOW SIGN. A sign that is applied or attached to the exterior or interior of a window or locate in such a manner within a building that it can be seen from the exterior of the structure through a window.

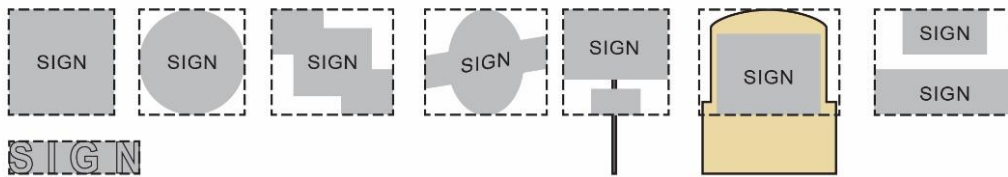
WALL SIGN. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than twelve (12) inches from the building or structure.

Section 18.2 Permit Required.

- A. Unless otherwise provided by this Ordinance, a sign permit shall be required for all new signs, sign replacements, or alterations to existing signs. No permit is required for the normal maintenance or repair of a sign; for the change of copy on painted, printed, or changeable copy signs.
- B. An application for a sign permit shall be made to the Zoning Administrator and shall include payment of a fee as established by resolution or other action by the Township Board. The application shall include the following:
 - 1. A completed application on a form provided by the Township as applicable.
 - 2. A sketch plan with the sign drawn to scale showing the sign's proposed location, relation to buildings and structures on the site, required setbacks from lot lines, specifications for the sign (area, height, lighting, etc.) and information on the method of construction and attachment to structures or the ground.
 - 3. Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, shall comply with the provisions of this Ordinance. Copies of any other required permit, such as an electrical permit, shall be submitted to the Zoning Administrator.
 - 4. Any other information which the Zoning Administrator may require in order to determine compliance with this Ordinance.
- C. The Zoning Administrator shall issue a sign permit if all provisions of this Section, other provisions of this Ordinance, and other applicable ordinances are satisfied.
- D. **Expiration.** An approved sign permit shall expire if the sign is not installed or under construction within six (6) months of the date of issuance of the sign permit. A new sign permit may be issued upon the filing of a new application and payment of the required fee. The Zoning Administrator may grant an extension of the sign permit not to exceed six (6) months if a substantial change in circumstances is found to warrant an extension.

Section 18.3 Sign Regulations Applicable to All Districts.

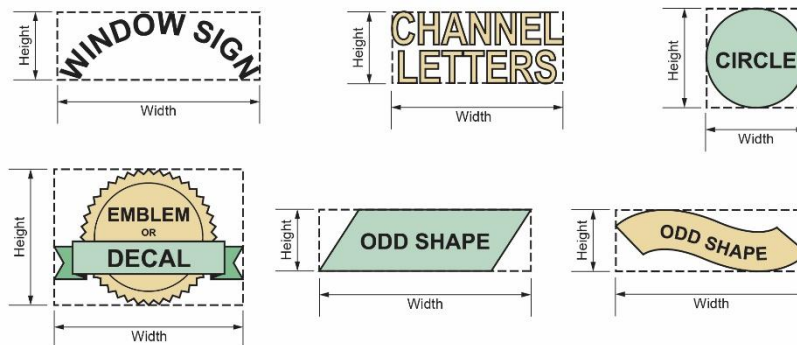
- A. It shall be unlawful for any person to erect, place, maintain, or continue a sign upon any public lands in Benona Township except in accordance with the provisions of this Ordinance.
- B. **Measurement of Signs.**
 - 1. The area of a sign shall be measured as the area within a single, continuous rectangle that encloses the extreme limits or writing, representation, emblem, logo, and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Such area shall exclude only the structure necessary to support the sign, unless the supports or uprights contain writing, representations, emblems, or any figure of similar character, in which case the area of such sign shall be computed within the total sign area.



Computation of Sign Area



2. Where a sign has two (2) or more faces, sign area shall be measured by including the area of all sign faces, except that if two (2) sign faces are placed back-to-back and are of equal size, the area of two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) sign face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grader of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.



Sign Height and Width

4. Any sign, including any awning to which a sign is affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
- C. **Lighting.** Signs that are illuminated shall comply with the following standards:
1. Illumination shall be steady, stationary, shielded light sources directed solely at the sign or internal to the sign.
 2. Illumination shall not be flashing, blinking, intermittent, changing in color, changing in intensity, or an on-and-off type of lighting.
 3. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way, street easement, or any adjacent property.

4. **Internal illumination.** Only the sign face shall be illuminated and shall be opaque so that individual lamps are muted and cannot be distinguished behind the sign face.
 5. **External illumination.** Any external lighting of signs shall be downward facing, shielded, or otherwise directed to illuminate only the sign face.
- D. Electronic message boards shall be permitted in the Commercial and Mixed Use districts, subject to the following requirements:
1. The electronic message board shall not occupy more than fifty percent (50%) of the total area of the sign or twenty-four (24) square feet, whichever is less.
 2. The message(s) displayed on the electronic message board shall pertain to the principal use of the lot or parcel on which it is located.
 3. The intensity and contrast of the light levels on the electronic message board shall remain constant throughout the sign face. An electronic message board shall use automatic day/night dimming software or programming to reduce the illumination intensity of the sign at night.
 4. The electronic message board shall not have flashing, blinking, or a similar effect and shall have a status display free of movement.
 5. The message shall change no more frequently than once every sixty (60) seconds.
 6. The brightness of an electronic message board, measured at the property line, shall not exceed 0.3 footcandles. An applicant proposing an electronic message board shall provide a photometric plan demonstrating compliance with this standard.
 7. An electronic message board shall not be located within one hundred (100) feet of a parcel containing a residential principal use or a parcel in the Agricultural or Residential districts.
 8. It shall be the responsibility of the owner on whose property the sign is located to present the Zoning Administrator documentation that the brightness of the electronic message board is compliant with this Ordinance within ten (10) days of installation.
- E. **Clear Vision Area.** Signs shall not obstruct the clear view of traffic and no sign shall be placed in the clear vision area as described in this Ordinance nor in a similar clear vision area at the intersection of a public road with a driveway or private road.
- F. Except for governmental signs, no sign shall be placed in, or extend into, any public street right-of-way.
- G. All signs shall advertise only the business or activity conducted on the premises, with the exception of temporary billboards.
- H. **Installation and Maintenance.** All signs and sign structures shall conform to all applicable codes adopted or enforced by the Township. Signs shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, bolts, clips, supporting frames, and fastenings free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant materials.
- I. **Abandoned Signs.** A sign that no longer serves the purpose for which it is intended, is abandoned, or is not maintained in accordance with applicable regulations of the Township, shall be removed by the owner, or by the Township at the expense of such owner, within thirty (30) days upon written notice by the Zoning Administrator.
- J. **Substitution Clause.** Signs containing non-commercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

Section 18.4 Prohibited Signs.

The following signs are expressly prohibited in all zoning districts:

- A. A sign resembling the flashing lights customarily used in traffic signals, police, fire, ambulance, or rescue vehicle; signs which imitate official traffic directional signs or devices; or any sign that may obstruct a motorist's vision.
- B. Abandoned signs.
- C. Signs with flashing or moving illumination.
- D. A sign using the words "Stop", "Danger", or any other words, phrases, symbols, or characters, in such manner as to interfere with, mislead, or confuse a vehicle driver.
- E. A sign on parked vehicles where the sign is the primary use of the vehicle.
- F. Signs affixed to trees, shrubs, or other similar natural features.
- G. Signs affixed to fences, utility poles, or structural elements not capable of supporting the signs.
- H. Roof signs.
- I. Signs located in, projecting into, or overhanging the public right-of-way or dedicated public easement, except:
 - 1. Official traffic signs posted by a governmental agency;
 - 2. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;
 - 3. Emergency warning signs erected by a governmental agency, public utility company, or contractor doing authorized permitted work within the right-of-way; or
 - 4. Any sign installed by a Township Official or the County Road Commission.
- J. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
- K. Temporary signs and devices including inflatable devices, pennants, pinwheels, searchlights, or other devices with similar characteristics, except when used for a period not to exceed fifteen (15) days to announce an event.

Section 18.5 Exempt Signs.

The following signs shall be exempt from the provisions of this Ordinance.

- A. Governmental signs.
- B. Signs erected by the Township, County, State or Federal government for street direction or traffic control.
- C. Signs for essential public services denoting utility lines, railroad lines, hazards, and precautions, including flashing portable signs.
- D. Signs designating sites recognized by the State Historical Commission as Centennial Farms or Historical Landmarks.
- E. Memorial signs or tablets.
- F. Signs with an address and/or name of the owner or occupant, of not more than two (2) square feet in area, attached to a mailbox, light fixture, or exterior wall.
- G. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
- H. Signs, pennants, flags, or banners used for holidays, public demonstrations for promotion of civic welfare, or charitable purposes wherein the same sign shall be used for not more than thirty (30) days.
- I. Non-illuminated temporary signs in accordance with the following requirements:
 - 1. A property owner may place one (1) temporary sign with an area no larger than six (6) square feet on a lot at any time, for a time period not to exceed thirty (30) consecutive days.
 - 2. A property owner may place a temporary sign no larger than six (6) square feet in one (1) window on a lot at any time, for a time period not to exceed thirty (30) consecutive days.

3. In addition to the temporary signs permitted above, the following signs may also be permitted:
 - a) One (1) temporary sign may be located on a lot when the owner consents and that lot is currently being offered for sale or lease and shall be removed no later than thirty (30) days after completion of sale or lease of property.
 - b) One (1) temporary sign not exceeding twelve (12) feet may remain on the lot or parcel during a time period of thirty (30) days prior to an election date to ten (10) days after the election date.
- J. One (1) construction sign per site is permitted, subject to the following restrictions:
 1. Construction signs shall not be larger than thirty-two (32) square feet and shall not exceed twelve (12) feet in height.
 2. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activity has begun.
 3. Construction signs shall be removed immediately upon issuance of any occupancy permit for the building or structure which is the subject of the construction sign.

Section 18.6 Signs Permitted in Each Zoning District.

Within the zoning districts indicated, only the following types of signs are allowed with an approved sign permit, except as elsewhere permitted by this Ordinance:

A. In all zoning districts, the following signs are permitted for home occupations:

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted?	Minimum Setback
Wall	1 per lot	8 sq ft	-	No	N/A
Freestanding	1 per lot	8 sq ft	5 ft	No	N/A

1. A freestanding sign shall only be permitted if the home occupation is located at least seventy-five (75) feet from a public right-of-way.

B. In all zoning districts, the following sign is permitted at an entrance to a residential development:

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted?	Minimum Setback
Monument	1 per public road frontage; but not to exceed 2 signs total	32 sq ft per sign	6 ft	No	N/A

C. The following signs are permitted in the Agricultural District:

1. One (1) non-illuminated wall sign of up to eight (8) square feet for a home occupation. If a residential unit containing a home occupation is located seventy-five (75) feet or more from the right-of-way line, one (1) freestanding sign of not more than eight (8) square feet in area and five (5) feet in height is permitted.
2. One (1) non-illuminated real estate sign not exceeding six (6) square feet in area.
3. Non-illuminated trespassing, safety, directional, caution or announcement signs or signs announcing the sale of produce each not exceeding two (2) square feet in area.
4. On-site political signs not exceeding twelve (12) square feet in display area. It is recommended that they are removed within ten (10) days after the election.

D. In the Residential and Coastal zoning districts for all institutional uses:

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted?	Minimum Setback
Monument	1 per lot	32 sq ft	8 ft	No	N/A

E. In the Commercial and Mixed Use districts, the following signs are permitted:

Type	Maximum Number	Maximum Area	Maximum Height	Illumination Permitted?	Minimum Setback
Wall or Awning	1 per building wall facing a public street	10% of the building wall area but not to exceed 75 square feet	N/A	Yes	5 feet from all property lines
Monument	1 per lot	32 square feet	8 feet	Yes	5 feet from all property lines
Pole	1 per lot, in lieu of monument	32 square feet	20 feet	Yes	5 feet from all property lines

1. One (1) monument or pole sign is permitted per property, regardless of the number of businesses there, except that one (1) additional freestanding sign (monument or pole) may be erected per road frontage when the development has parallel frontage on more than one (1) major road or corner frontages on major roads totaling over five hundred (500) linear feet.
2. The maximum area of a wall or awning sign may be increased to fifteen percent (15%) if the building wall facing a public street is located at least one hundred (100) feet from a road right-of-way or twenty percent (20%) if the building wall facing a public street is over three hundred (300) feet from the road or public right-of-way.

Section 18.7 Off Premise Signs.

Off Premise signs shall be permitted with the following conditions:

- A. Off Premise Signs shall not exceed 24 square feet in area
- B. There shall be a maximum of three (3) off premise signs permitted per applicant, business, use, or operation at any one time in Benona Township:
- C. A Land use permit approved by the Township Zoning Administrator shall be required for the placement of an Off Premise Sign.
 1. Written approval from the property owner where the Off Premise sign will be placed must be submitted with the application.
- D. Setbacks. Off Premise Signs shall be located outside of the road right of way and shall have a minimum setback of ten (10) feet from the property line to the edge of the sign.
- E. Where Off Premise signs are located on a key corner or intersection in the Township, there shall be a maximum of 192 square feet of total sign area at that intersection or corner.

Section 18.8 Nonconforming Signs.

- A. Every permanent sign, legally established prior to the adoption or amendment of this Ordinance that does not meet the height, size, area, or location requirements of this Chapter is deemed to be a nonconforming structure. A nonconforming sign shall not:
 1. Be expanded, enlarged, or extended; or
 2. Be reestablished or continued after the activity, business, or use to which it applied has been discontinued for ninety (90) days or longer.
- B. A nonconforming sign may be maintained and repaired so as to continue its useful life.
- C. A nonconforming sign may be diminished in size or dimensions, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.

Section 18.9 Removal of Signs.

- A. **Abandoned Signs.** A sign that no longer serves the purpose for which it was intended, is no longer associated with an active business, or is not maintained in accordance with this Ordinance, shall be considered abandoned. Abandoned signs shall be removed by the property owner, or by the Township at the owner's expense, within thirty (30) days of written notice by the Zoning Administrator.
- B. **Closed or Discontinued Businesses.** Signs identifying a business or activity that has permanently closed or ceased operations shall be removed within ninety (90) days of closure. If the sign remains in place beyond this period and no new business or use has occupied the premises, the sign shall be deemed abandoned and subject to removal as described above.

Article 19.

Site Plan Review

Section 19.1 Statement of Purpose.

It is the purpose of this Article to require Site Plan Approval for certain building structures and uses that can be expected to have a significant impact on natural resources, traffic patterns and the character of future development in the Township. The Site Plan review procedures and standards in this section are intended to provide a consistent and uniform method of review of proposed development plans. Through the application of the following provisions, the Vision, Goals and Objectives of the Township Master Plan will be realized, and Benona Township will develop in an orderly manner.

Section 19.2 Site Plan Review Authority.

- A. **Zoning Administrator.** The Zoning Administrator shall ensure that all site plan submittals substantially contain the required submittal information prior to scheduling a review before the Planning Commission. The Zoning Administrator may waive particular site plan submittal items or accept a sketch plan in accordance with Sec. 1909, Sketch Plan Requirements.
- B. **Planning Commission.** In accordance with this section and its Rules of Procedure, the Planning Commission shall have the authority to either approve, approve with conditions, or deny site plans.

Section 19.3 Types of Site Plans.

The following types of site plan shall be required to be submitted for projects requiring a land use permit.

- A. **Sketch Plan.** A Sketch plan shall consist of an accurate plot plan of the property showing the proposed project. A Sketch Plan can be used for the following projects:
 - 1. Farm Buildings
 - 2. Accessory buildings and uses on parcels 10 acres or greater
 - 3. Conceptual plans to be submitted for informal review with the Planning Commission or Zoning Administrator
- B. **Basic Site Plan.** A Basic Site Plan shall consist of a scaled drawing illustrating the entire property that shall be drawn at a scale of not less than 1 inch = 40 feet. A Basic Site Plan can be used for the following projects:

1. Single-Family, Two-family, Triplex, or Quadplex homes on individual parcels
 2. Accessory buildings and uses on parcels less than 10 acres
 3. Signs
 4. Home Occupations
- C. **Detailed Site Plans.** A Detailed Site Plan shall consist of a scaled drawing illustrating the entire site and all adjacent land uses within 150 feet of the site at a scale that shall not be less than 1 inch = 40 feet for parcels less than (5) acres in size and 1 inch = 100 feet for parcels five (5) acres or more. Detailed Site Plans shall be completed by one of the following professionals: Architect, Engineer, Landscape Architect, Land Surveyor, or Professional Planner and shall be required for the following projects:
1. Commercial, Retail, and Office Development
 2. Industrial Development
 3. Multi-Family Developments
 4. Subdivisions and Site Condominiums
 5. Mixed Use Development
 6. Planned Unit Developments
 7. Special Uses
 8. Open Space Developments
 9. Projects approved through Administrative Site Plan Review

Section 19.4 Administrative Site Plan Review.

Uses that require approved Site Plans, which propose a one-time change constituting ten percent (10%) or less of building floor area or ten percent (10%) or less of the required parking spaces, may be reviewed, approved, and administered by the Township Zoning Administrator. All reviews and approvals by the Township Zoning Administrator shall be reported to the Township Planning Commission at its next regularly scheduled meeting.

Section 19.5 Required Information for Detailed Site Plans.

The following information shall be included on a Detailed Site Plan. However, the Township Zoning Administrator may waive some of the requirements due to the scope and nature of the project.

- A. The name of the development and a general location sketch.
- B. The legal description, property parcel number, and street address of the proposed site.
- C. The scale of the drawing, north arrow, and the date of the original drawing
- D. The existing and proposed topography at a contour interval of not more than two (2) feet including any buildings, drives and parking lots and any adjacent areas with unusual surface conditions.
- E. The existing zoning and land uses of all properties within 300 feet of the proposed site.
- F. The location and width of all existing and proposed roads, rights of way or private easements, and any abutting streets, alleys or driveway locations.
- G. A detailed landscaping plan including the location and the types and sizes of the materials set forth in this ordinance.
- H. The location of all utilities including natural gas, electric, internet and telephone.

- I. The location and elevation of natural water features such as wetlands, streams, county drains, lakes or ponds including floodplains and drainage areas.
- J. The location, dimensions, and setbacks of all existing and proposed buildings and accessory buildings on the subject property and on adjacent properties.
- K. An illustration of all proposed improvements and buildings, fences, parking lots, screening, including the location, height, and footprint of each.
- L. Any proposed parking and the typical dimensions of the parking spaces and parking calculations, vehicular circulation patterns and features and the identification of any service lanes or fire lanes as well as any acceleration, deceleration and passing lanes serving the development.
- M. Any proposed curbs, sidewalks, walkways or other non-motorized access features to be located on the site.
- N. For residential developments, a site summary indicating the dwelling unit density where pertinent including a density schedule demonstrating the numbers of each dwelling type, as well as a typical floor plan, recreation facilities, open spaces and lot coverage.
- O. For non-residential developments, the number of offices, employees, floors, and typical floor plans and cross sections.
- P. The location and type of existing vegetation including the location of all trees over five (5) inches in diameter. Where stands of trees are to be preserved, a general location may be indicated.
- Q. A lighting plan.
- R. The dimension and location of all signage on the property.
- S. The locations, size and screening of all trash receptacles or other solid waste disposal facilities.
- T. The size, location and description of any proposed interior or exterior area or structure for storing, using, loading and unloading hazardous substances. A listing of the types and quantities of any hazardous substances which will be used or stored on site in quantities of greater than 100 kg or 25 gallons per month.
- U. Any other information requested by the Zoning Administrator to complete their review.

Section 19.6 Site Plan Review Procedures.

- A. **Optional Preliminary Site Plan Review.** The applicant may request review of a Preliminary Site Plan by the Planning Commission prior to submitting a complete final site plan. The purpose of a Preliminary Site Plan is to permit the applicant to obtain reaction on the potential location of buildings, points of egress and ingress to the site, and an indication of other likely improvements necessary to facilitate the preparation of the final plan. Generally, the submittal should include the building footprint, general parking lot layout, location of driveways, conceptual grading, conceptual landscaping and similar items. The direction given to an applicant during a preliminary site plan review is non-binding and shall be void after one (1) year from the time the advice is given. The Township may require a review fee for a preliminary site plan review.
 - 1. **Application.** The owner of land or the owner's designated agent shall submit a completed application along with seven (7) paper copies and one (1) electronic copy of a site plan to the Township Zoning Administrator. Such application shall be submitted forty-five (45) days prior to the meeting for which the site plan review is sought. A site plan that does not meet the stipulated requirements of this ordinance shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.
 - 2. **Application Form.** One copy of the completed Site Plan Review application form which shall contain at a minimum the following information (The applicant may submit a narrative statement as an addendum to the application form to sufficiently address all of the following items):
 - a) Name, address, and signature of the applicant or developer and the property owner.
 - b) Property parcel number and street address of the subject parcel of property.
 - c) The area of the subject property stated in acres, or, if less than 1 acre, in square feet.

- d) Present zoning classification of the parcel and the adjacent parcel(s).
 - e) Present and proposed land use
 - f) The project description
 - g) The project completion schedule and any development phasing.
3. **Initial Staff and Technical Reviews.** The Zoning Administrator shall review the application and site plan submittal to determine if the application is complete. Prior to submitting a complete Site Plan to the Planning Commission, the Zoning Administrator shall distribute the Site Plan to other area review agencies such as the Oceana County Road Commission, Drain Commissioner, and District 10 Health Department for review and comment. If necessary, the Zoning Administrator shall also submit the Plan to applicable outside agencies such as MDOT and EGLE and others for review and comment.
 4. **Submittal to Planning Commission.** Once a site plan submittal is found to be complete, Township staff shall place the site plan proposal on the next open Planning Commission agenda for review. The Zoning Administrator shall also submit a copy to each member of the Planning Commission and any township staff consultants involved in the review.
 5. **Review by Planning Commission.** The Planning Commission shall review the Site Plan together with any reports and recommendations from staff, consultants, and other reviewing agencies and any public comments. The Planning Commission shall then take action based on the requirements of this Ordinance and the criteria for approval. The Planning Commission is authorized to postpone, approve, approve with conditions, or deny the Site Plan as follows:
 - a) **Postponement.** Upon determination by the Planning Commission that the Site Plan is not sufficiently complete for approval or denial, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
 - 1) If the postponement is initiated by the applicant, the applicant may be required to submit an additional review fee.
 - b) **Approval.** Approve the site plan upon a finding that applicable ordinance standards are met (permits from outside agencies such as the Road Commission are then obtained); or
 - c) **Approve with Conditions.** The Planning Commission may approve a site plan, subject to one or more conditions necessary to address minor modifications to the plan, protect significant natural features, ensure compatibility with adjacent land uses or otherwise meet the intent and purpose of the Ordinance. Such conditions may include obtaining approvals from other agencies.
 - d) **Denial.** Upon determination that the Site Plan does not comply with the standards and regulations set forth in this ordinance or would require extensive revisions to comply with the standards and regulations, the Site Plan shall be denied. If a plan is denied, a written record shall be provided to the applicant listing the reasons for such denial.
 - e) Failure of the applicant or the applicant's designated agent to attend two (2) meetings shall be grounds for the Planning Commission to deny approval of the Site Plan.

Section 19.7 Review Criteria.

In the process of reviewing a Site Plan, the Planning Commission and Zoning Administrator shall consider the following standards. A Site Plan that is found to meet the requirements of this Section shall be approved.

- A. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Township Zoning Board of Appeals.
- B. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use or public access.
- C. The movement of vehicles, non-motorized transportation and pedestrian traffic within the site and in relation to access streets will be safe and convenient.

- D. The proposed development provides the necessary infrastructure improvements such as roads, drainage, sidewalks, and parking and loading spaces to serve the site and be coordinated with the current and future use on adjacent properties.
- E. The applicable requirements of the County Drain Commissioner or any State agency are met regarding grading and storm water management, including the design and construction of storm sewer facilities or other techniques to contain runoff on the property so that adjacent properties are not adversely affected.
- F. Landscaping, including trees, shrubs, and other vegetative materials are provided to maintain, improve, or restore the aesthetic quality of life.
- G. The proposed development shall respect the natural topography to the maximum extent possible by minimizing the amount of cutting, filling or grading required.

Section 19.8 Conformity to Approved Site Plans.

Property, which is the subject of site plan approval, must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission. If construction and development does not conform with such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application, approve an amendment to the site plan pursuant to Section 19.10.

Section 19.9 Validity of Approved Final Site Plan.

Approval of the final site plan is valid for a period of twenty-four (24) months. Upon written application, filed prior to the termination of the twenty-four (24) month review period, the Planning Commission may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one hundred eighty (180) days. The reasons for an extension may be the inability to complete all of the requirements for the project, financial constraints, regulatory approvals from outside agencies, or other hardships beyond the reasonable control of the applicant. If a zoning permit has not been obtained and actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced, the approval of the final site plan shall be deemed null and void.

Section 19.10 Deviations from Approved Site Plan.

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

- A. The Zoning Administrator may approve minor changes to an approved site plan involving slight changes in the location of buildings and structures, adjustment of utilities, walkways, trafficways, parking areas, and similar minor changes.
- B. Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, a major relocation of a building, an increase in the gross floor area or heights of buildings, a reduction in open space, a change in the storm water management design, and similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed, and approved.

Section 19.11 Appeals.

With regard to site plan approval decisions, the Zoning Board of Appeals shall not have the Authority to consider appeals of plan determinations. If the Planning Commission or Zoning Administrator determines that a Variance would be required to attain site plan approval, the Variance must be applied for and approved by the ZBA prior to the Final Site Plan approval.

Article 20.

Floodplain Development Standards

Section 20.1 Intent.

The standards of this article are intended to significantly reduce hazards to persons and damage as a result of flood conditions in Benona Township, and to comply with the provisions and requirements of the National Flood Insurance Program and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency. In addition, the objectives of this Article include:

- A. Protection of human life, health, and property from the dangerous and damaging effects of flood conditions.
- B. Minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes and other buildings.
- C. Prevention of private and public economic loss and social disruption as a result of flood conditions.
- D. Promotion of the goals and objectives of the Benona Township Master Plan.
- E. Preserve the ability of floodplains to carry and discharge a base flood

Section 20.2 Delineation of the Floodplain Area.

- A. The floodplain development standards of this Article shall overlay existing zoning districts delineated on the official Zoning Map of Benona Township. The boundaries of the flood hazard area are hereby designated as those special hazard areas depicted on Federal Insurance Administration Flood Hazard Boundary Maps of Benona Township.
- B. In addition to other requirements of this article applicable to development in the underlying zoning districts, compliance with the requirements of this Article shall be necessary for all development occurring within the flood hazard area overlay zone. Conflicts between the requirements this Article and other requirements of this Ordinance shall be resolved in favor of this Article, except where the conflicting requirement is more stringent.

Section 20.3 Restriction on Uses and Principal Buildings Within the Floodplain.

All Site Plans and Subdivision plans shall be reviewed to determine their impact upon the 100-year floodplain and floodway. Development of land within the floodway shall be prohibited. Development of lands which contain floodplain area must be designed to minimize construction within the Special Flood Hazard Area.

- A. The following uses shall be permitted within the boundary of the 100-year floodplain:
 - 1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - 2. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - 3. Residential uses such as lawns, gardens, parking areas and play areas.
 - 4. Wildlife preserves.
 - 5. Fishing, trapping, and hunting.
- B. The following additional uses shall be permitted when the applicant demonstrates that there is no feasible alternative which would provide a reasonable rate of return on investment in the land. Such documentation may include engineering and appraisal analysis.
 - 1. Extraction of sand, gravel and other materials.
 - 2. Principal residential and non-residential buildings when the lowest floor is constructed at least one (1) foot above the floodplain elevation. Expansions, additions, or improvements to existing residential buildings shall also be elevated a minimum of one (1) foot above the floodplain elevation.

Section 20.4 Accessory buildings, Structures and Uses.

- A. Within the floodplain boundary, accessory buildings and structures shall be used for one or more of the uses listed below when a permit is granted and only in a manner consistent with the requirements of the underlying zoning district.
- B. Off Street parking, roads, outdoor play equipment, sheds and garages, boathouses, boat hoists, utility structures, pump houses, bank protection structures, signs, fences, gazebos and similar outdoor equipment and appurtenances, provided each of the following requirements are met:
 - 1. Structures shall have no flood damage potential.
 - 2. The building or structure shall not be used for human habitation.
 - 3. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - 4. All equipment, buildings and structures shall be anchored to prevent floatation and lateral movement
 - 5. Any electrical must be elevated and flood proofed.

Section 20.5 Filling and Dumping.

Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment of the floodplain will be maintained or improved, and all applicable state regulations are met and permits are obtained.

Section 20.6 General Standards for Reducing Flood Hazards.

- A. No building or structure shall be erected, converted, or substantially improved or placed, and no land filled or building or structure used within a floodplain unless permits have been approved by the Zoning Administrator and the State of Michigan.
- B. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- C. The flood carrying capacity of any altered or relocated watercourse shall be designed to ensure the flood carrying capacity shall be maintained.

Section 20.7 Disclaimer of Liability.

- A. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. All current requirements of State and County agencies shall be followed as recommended or by permit.
- B. This Ordinance does not imply that areas outside the Flood Hazard Area will be free from damage. This Ordinance does not create liability on the part of Benona Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made there under.

Article 21.

Administrative Organization

Section 21.1 Overview.

The Township Board or its duly authorized Representative as specified in this Article is hereby charged with the duty of enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is hereby vested in the following entities:

- A. Township Board of Trustees
- B. Township Planning Commission
- C. Zoning Board of Appeals
- D. Zoning Administrator

The purpose of this article is to set forth the responsibilities and scope of authority of these entities.

Section 21.2 Township Board of Trustees.

The Township Board of Trustees shall have the responsibilities granted to it by the Michigan Planning Enabling Act (Public Act 33 of 2008, as amended) and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), as well as the powers explicitly granted to it by the Ordinance.

- A. **Setting of Fees.** By resolution, The Township Board shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance.

Section 21.3 Township Planning Commission.

The Township Planning Commission shall have the following responsibilities and authority pursuant to this Ordinance.

- A. **Creation.** The Township Planning Commission was created pursuant to Michigan PA 33 of 2008, as amended, The Michigan Planning Enabling Act, and Township Ordinance. The Planning Commission will continue to operate under the jurisdiction of those Acts.

- B. **Membership and Operation.** Members of the Planning Commission shall be appointed by the Township Supervisor with the approval of the Township Board of Trustees. The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the Planning Commission shall be in accordance with the MPEA, Act 33 of 2008, as amended, and Township Ordinances.
1. The Planning Commission shall consist of 5 members, who shall be representative of major interests as they exist in the Township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry. All members shall be qualified electors and residents of the Township. One member of the Township Board shall be a member of the Planning Commission. Planning Commission members shall hold office until his/her successor is appointed. Vacancies shall be filled in the same manner as the original appointment.
 2. The Planning Commission shall elect a chairperson, vice-chairperson, and secretary from its members and shall create and fill other offices or committees as it considers advisable. The representative from the Township Board is not eligible to serve as Chair. The term of each officer shall be one (1) year. The Planning Commission may appoint advisory committees outside of its membership.
 3. **Annual Report.** The Planning Commission shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations. It shall make an annual written report to the Township Board concerning its operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development.
 4. **Meetings.** The Planning Commission shall hold a minimum of four (4) regular meetings each year and shall determine the time and place of meetings. A special meeting may be called by either two (2) members upon written request to the secretary, or by the chairperson. The Planning Commission shall adopt by-laws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.
- C. **Jurisdiction.** The Planning Commission shall have the responsibilities granted to it by the Michigan Planning Enabling Act (PA 33 of 2008, as amended), the Michigan Zoning Enabling Act (PA 110 of 2006, as amended), as well as the powers explicitly granted to it in this Ordinance.
1. **Report on Operation of the Zoning Ordinance.** In accordance with Section 308(2) of PA 110 of 2006, as amended, the Planning Commission shall periodically prepare for the Township Board of Trustees a report on the operations of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance.

Section 21.4 Zoning Administrator.

- A. **Overview.** As specified throughout this Ordinance, certain actions necessary for the implementation of this Ordinance shall be administered by the Zoning Administrator, or their duly authorized assistants, agents, or representatives.
- B. **Responsibilities of the Zoning Administrator.** In addition to specific responsibilities outlined elsewhere in this Ordinance, The Zoning Administrator or his/her duly authorized assistants or agents shall have the following responsibilities. The roles of the Zoning Administrator shall include:
1. Provide citizens and public officials with information relative to this Ordinance and related matters.
 2. Assist applicants in determining and completing appropriate forms and procedures related to Site Plan Review, Rezoning, and other zoning matters.
 3. Review and investigate permit applications to determine compliance with the provisions of this Ordinance and other applicable ordinances.
 4. Issue appropriate permits upon compliance with the provisions of this Ordinance and other applicable ordinances.
 5. Perform inspections of buildings, structures, and premises to ensure proposed land use changes are in compliance with this Ordinance.
 6. Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, citations, issuance of stop work orders, and the revocation of permits.
 7. Perform other related duties required to administer this Ordinance.

8. Maintain records as accurately as feasible of all nonconforming uses, structures, and lots existing on the effective date of this Ordinance and update the record as conditions affecting the nonconformity status of such uses changes.

C. The Zoning Administrator shall have the authority to approve Land Use Permits.

1. It shall be unlawful for the Zoning Administrator to approve any plans or issue a Land Use Permit for any excavation, construction, or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a Land Use Permit for excavation, construction, moving, alteration, or change of use or type of occupancy shall be accompanied by a site plan in accordance with Article 19 of this Ordinance.
2. If the proposed excavation, construction, moving, alteration, or use of land as set forth in the application, and the site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a Land Use Permit. If an application for such permit is not approved, The Zoning Administrator shall state in writing the cause for such disapproval.
3. Issuance of a Land Use Permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause or regulation contained in this Ordinance to any person requesting a Land Use Permit except as explicitly provided in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.
4. The Zoning Administrator shall not refuse to issue a Land Use Permit when the applicant has complied with all applicable conditions required by this Ordinance. Violations of contracts such as covenants, deed or plat restrictions, or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.
5. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any provision of this Ordinance and of the actions taken consequent to each complaint. Such records shall be considered a public record.
6. The Zoning Administrator shall report to the Benona Township Board at least quarterly providing a summary report of all permits issued, complaints of violations submitted, all appeals, variances, and exceptions granted by the ZBA and any actions taken subsequent thereto. Any closed files shall be forwarded to the Township Clerk.

Section 21.5 Performance Guarantee.

A. Intent of Scope and Purpose.

1. To ensure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Planning Commission, ZBA, or Township Board may require that a performance guarantee be deposited with the Township to ensure faithful completion of improvements, in accordance with Section 505 of PA 110 of 2006, as amended.
2. Improvements for which the township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, driveways and parking, acceleration/deceleration lanes, traffic control devices, sidewalks, completion of construction in a timely fashion, wetlands disturbance, and land reclamation activities.

B. General Requirements. The performance guarantee shall meet the following requirements.

1. The performance guarantee shall be in the form of an insurance bond, an irrevocable bank letter of credit, or cash escrow. No such performance guarantee shall have an expiration date and shall include a provision that calls for notification of the Township if the bond is canceled. If the applicant posts a letter of credit, the credit shall require only that the Township present the credit with a sight draft and an affidavit signed by the Township Supervisor attesting to the Township's right to draw funds under the credit. The escrow funds shall be delivered directly to the Township for deposit.
2. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. If appropriate, based on the type of performance guarantee submitted, the Township shall deposit the funds in an interest-bearing account in a financial institution with which the Township regularly conducts business.

3. The amount of the performance guarantee shall be 125% of the estimated cost of the improvements for which the performance guarantee is required. The applicant shall provide an itemized schedule of estimated costs to complete all improvements; the exact amount of the performance guarantee shall be determined by the Zoning Administrator.
 4. The entire performance guarantee shall be returned to the applicant following inspection by the Zoning Administrator and a determination that the required improvements have been completed satisfactorily. The performance guarantee may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of 10% shall be held back on each element until satisfactory completion of the entire project.
 5. An amount of not less than 10% of the total performance guarantee may be retained for a period of at least one year after installation of landscape materials to ensure proper maintenance and replacement, if necessary. The amount shall be released to the applicant upon certification by the Zoning Administrator, or his/her designee, that all landscape materials as defined in this Ordinance are being maintained in good health and condition.
- C. **Unsatisfactory Completion of Improvements.** Whatever required improvements are not installed or maintained within the time stipulated or in accordance with standards set forth in this Ordinance, the Township may complete the necessary improvements itself or by contract with an independent developer and assess all costs of completing said improvements against the performance guarantee. Prior to completing said improvements, the Township shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements.

SECTION 21.6 FEES, ESCROW AND EXPENDITURES

- A) The Township Board shall by resolution establish a schedule of fees, charges, and expenses and a collection procedure for zoning compliance permits, appeals, special land uses, variances, site plan reviews, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be available at the Township Hall and may be amended by the Township Board.
- B) All applications shall be accompanied by a filing fee established by the Township Board. The filing fee may include a deposit toward the costs of other parties retained by the Township to provide expert consultation and advice in the review of an application, including but not limited to legal, planning, and engineering professionals. The amount of the deposit shall be based on a reasonable estimate to provide such services. Any unused portion of the deposit shall be returned to the applicant after the Township has paid all of the costs for consulting services. The Township may require the applicant to replenish the escrow account at any time to ensure a sufficient balance.

Article 22.

Zoning Board of Appeals

Section 22.1 Establishment.

There is hereby established a Zoning Board of Appeals in accordance with Public Act 110 of the Public Acts of Michigan of 2006, as amended, being the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means of competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety, and welfare of the public be secured, and that substantial justice be secured.

Section 22.2 Membership, Terms of Office.

- A. **Membership.** The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Board of Trustees.
1. The first member of such Board shall be a member of the Township Planning Commission, and the Commissioner's term on the Board shall be concurrent with their term on the Planning Commission.
 2. The Township Board of Trustees shall appoint the remaining members of the Board.
 3. The members selected shall be representative of the population distribution and of the various interests in the Township.
 4. One member may be a member of the Board of Trustees.
 5. An elected officer of the Township shall not serve as Chair of the Zoning Board of Appeals.
- B. **Terms of Office.** The term of office of each member shall be three (3) years.
1. A successor shall be appointed not more than one month after the term of the preceding member has expired.
 2. All vacancies for unexpired terms shall be filled for the remainder of the term.
 3. The Township Board of Trustees shall seek to stagger the expiration dates of members of the ZBA so at least one member's term expires each year and to achieve a reasonable degree of continuity of membership from one year to the next.
 4. The Township Board of Trustees may appoint up to two (2) alternate members, who shall serve for three (3) years.

Section 22.3 Meetings.

Meetings of the Zoning Board of Appeals shall be held at the call of the chair and at such other times as the Board in its rules may specify. The Chair or in his/her absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the Public. The Board shall maintain a record of its proceedings, which shall be filed in the Office of the Township Clerk and shall be a public record. The Board shall not conduct business unless a majority of the members are present.

Section 22.4 Time and Notice of Appeal; Transmission of Record.

Such appeals shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule. Applications for appeals shall be filed with the Township Clerk, Zoning Administrator, or other officer from whom the appeal is taken. A fee established by the Township Board of Trustees which shall be paid to the Township at the time the notice of appeal is filed. The Zoning Administrator shall forthwith transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed was taken.

Section 22.5 Stay of Proceedings Pending Appeal.

An appeal shall stay all proceedings in furtherance of the action appealed, except as provided herein. Proceedings shall not be stayed in the event the Zoning Administrator certified to the Zoning Board of Appeals, after the appeal is taken, that a stay would cause imminent peril to life or property. The Zoning Board of Appeals or the Circuit Court may issue a restraining order to re-institute the stay on application and notice to the Zoning Administrator with due cause shown.

Section 22.6 Hearings and Notices, Right to Be Heard, Disposition of Appeals, Decision Not Final.

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon hearing, any party may appear, in person, by agent or by attorney. The Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power, in passing upon appeals, to vary or modify any of its rules, regulations, or provisions so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done. The decision of the Zoning Board of Appeals shall not be final, and any person having an interest affected by this Ordinance shall have the right to appeal to the Circuit Court.

Section 22.7 Duties and Powers.

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms of intent of this Ordinance, but does have the power to act on those matters where by statute or this Ordinance provision is made for an administrative review, interpretation, variance or exception as define therein.

- A. **Review.** The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or the Planning Commission, or by any other official in administering or enforcing any provision of this Ordinance. The allegation shall be duly made within thirty (30) days of the date of the decision being appealed. The date of the decision is presumed to be five (5) days after the literal date of the decision.
- B. **Interpretation.** The Zoning Board of Appeals shall have the power to:
 - 1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.

2. Determine the precise location of the boundary lines between zoning districts.

- C. **Variances.** The Board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width measurements, building height regulations, yard and depth regulations and off street parking and loading requirements and other requirements of this Ordinance provided that all of the conditions set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought. Use Variances cannot be considered by the ZBA.

1. **Conditions.** The Board shall find the variance request meets all of the following conditions.

- a) The requested variance shall not be contrary to the public interest or to the intent and purpose of the Ordinance.
- b) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density, or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render the Ordinance conformity unnecessarily burdensome.
- c) Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this article, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of a variance.
- d) A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
- e) The alleged practical difficulties, which will result from a failure to grant a variance, include substantially more than mere inconvenience or inability to achieve a higher financial return.
- f) The proposed and resulted need for the variance has not been self-created by the applicant.
- g) The variance is the minimum necessary to permit a reasonable use of the land, building, or structure and does not confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

2. **Rules.** The following rules shall apply in the granting of variances.

- a) The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- b) Each variance granted under the provision of this Ordinance shall become null and void unless: The construction authorized by such variance has received a Township zoning permit within one (1) year after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance has taken place within one year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.
- c) No application for a variance which has been denied wholly or in part by the Board of Appeals shall be re-submitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals along with a report and recommendation on the nature of the newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that said evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice, and fee requirements of this Ordinance.

Section 22.8 Performance Guarantee for Compliance.

In authorizing any variance, or in granting conditional, temporary, or special approval permits, the Zoning Board of Appeals may require that a performance guarantee be furnished to ensure compliance with the requirements, specifications, and conditions imposed with the grant of variance or permit and to insure the discontinuance of a temporary use by a stipulated time. Such performance guarantee may be in the form of a cash deposit, certified check, or irrevocable bank letter of credit, at the discretion of the Zoning Administrator.

Article 23.

Enforcement

Section 23.1 Land Use Permits.

- A. It shall be unlawful to commence the excavation for or the construction of any building or other structure, including an accessory building or to commence the moving or structural alteration of any building exceeding 120 square feet until the Zoning Administrator has issued a permit for such work a Land Use Permit including a certification that the plans, specifications, and intended use of such structure do in all respects conform to the provisions of this Ordinance.
- B. It shall be unlawful to change the type of use or type of occupancy of any building, or to extend any use on a lot where there is a nonconforming use until the Zoning Administrator has issued a Land Use Permit for such use.
- C. Any Land Use permit issued under the provisions of this Ordinance shall be valid for a period of twelve (12) months. Any approved project which has not commenced within the twelve (12) month period will require a reapplication and reissuance or extension of the permit.
- D. When the Zoning Administrator receives an application for a Land Use Permit which requires a special land use approval, variance, Site Plan Approval, or any other type of approval, he/she shall inform the applicant.
- E. Before any Land Use permit is issued, an application and fee and any required escrow fees shall be submitted and paid. The amount of fees and escrow shall be fixed by a schedule approved by the Township Board of Trustees.

Section 23.2 Reapplication.

No application for a Special Land Use, Site Plan Review or Variance which has been denied, in whole or in part, by either the Planning Commission or Zoning Board of Appeals may be resubmitted for a period of twelve (12) months, except on the grounds of newly discovered evidence.

Section 23.3 Hearing and Notice Requirements.

Where this Ordinance requires the Township to provide notice of a public hearing for any decision or action permitted, authorized, or required by this Ordinance, or under Act 110 of 2006, as amended, notice of the Public Hearing shall be given as follows:

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing in a newspaper of general circulation in the Township.
- B. Except as provided in Subsection 4 of this Ordinance, a notice of Public Hearing shall also be mailed or personally delivered to the following persons at least fifteen (15) days prior to the date of the public hearing.
 - 1. The Applicant
 - 2. The owner/owners of the subject property.
 - 3. All persons to whom real property is assessed within three hundred (300) feet of the subject property, even if the 300 feet extends beyond the Township boundaries, and
 - 4. The occupants of all structures within three hundred (300) feet of the subject property, even if the 300 feet extends beyond the Township boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. The notice of the Public Hearing shall include the following information:
 - 1. A description of the nature of the proposed amendment, application or request.
 - 2. An identification of the property subject of the application or request, if applicable. The notice shall include a listing of all of the existing street addresses for the property.
 - 3. When and where the application or request will be considered.
 - 4. Identify when and where written comments will be received concerning the application or request.
 - 5. The place where and the times when the proposed application, request, or amendment may be examined.
- D. When a proposed rezoning involves the text of the Ordinance or includes eleven (11) or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation or an appeal of an administrative decision that does not involve a specific property, the mailing and delivery requirements of this Ordinance are not required.
- E. For any Zoning Ordinance text amendment or map change, notices shall be sent to each electric, gas and pipeline utility provider, each telecommunication service provider, and each railroad operating within the Township.
- F. After providing the notice required under this section and without further notice, except as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date and place of the continued public hearing.

Section 23.4 Rehearing.

- A. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 - 1. The applicant who brought the matter before the Planning Commission or ZBA made misrepresentations concerning a material issue which were relied upon by the Planning Commission or ZBA in reaching its decision.
 - 2. There has been a material change in circumstances regarding the Planning Commission's or ZBA's findings of fact which occurred after the public hearing.
 - 3. The Township Attorney, by written opinion, states that in the Attorney's professional opinion, the decision made by the Planning Commission or ZBA or the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
 - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.

2. A request for a rehearing initiated by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals may be granted at any time as long as the applicant has not been prejudiced by any delay.
3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of hearing being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 23.5 Stop Work or Stop Use Order.

In addition to any other rights or remedies the Township may have pursuant to this Ordinance or other applicable law, upon finding the existence of any one of the conditions listed in Paragraph A of this Section, the Zoning Administrator shall be empowered to issue stop work or stop use orders as defined herein and in accord with the terms of this section and may order a stoppage of work or a cessation of a land use.

- A. A stop work or stop use order will be issued when:
 1. An imminent threat to the public health, safety, or welfare exists.
 2. Work is being done or has been done without a permit.
 3. Work is being done beyond the scope of the issued permit.
 4. Work is being done that does not match the approved plans.
 5. The Zoning Administrator finds evidence of a violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.
 6. The Zoning Administrator finds evidence of a Permittee's failure to comply with any of the terms, conditions, and or requirements of its permit.
 7. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
 8. A Permittee fails to pay any fees required by this Article and/or any other applicable ordinances, codes, statutes, or laws.
 9. The Zoning Administrator finds evidence that a Permittee is causing, allowing, or maintaining a nuisance as determined by the Township.
- B. **Procedure.** In the event a stop work or stop use order is issued, the Zoning Administrator shall do the following:
 1. Mail or deliver a written notice of the stop work or stop use order to the permittee at the last address furnished to the Township by the permittee, as well as the location of the site which is in violation. Notice shall include:
 - a) Detailed description of the nature of the violation and the required actions to remedy the violation.
 - b) Date and time of the recorded violation.
 - c) A statement informing the permittee that an appeal to the stop work or stop use order may be filed and a hearing with the Zoning Board of Appeals may be requested, at which time the permittee may present witnesses, evidence, information, and arguments on its behalf, and that the permittee has the right to be represented by counsel.

2. A hearing shall be scheduled no sooner than ten (10) days after the request is received by the Township from the permittee.
3. At the hearing, the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information, and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information, and comments on the matters addressed at the hearing.
4. Following the hearing, the Zoning Board of Appeals shall make a decision to continue, modify, or dissolve the stop work or stop use order and/or revoke a permit as applicable. In the event the Zoning Board of Appeals decides to revoke a permit or to continue or modify a stop work/use order, the Zoning Board shall state its reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

Section 23.6 Penalties.

- A. **Fines, compliance, and nuisance abatement.** The violation of any provision of this Zoning Ordinance by any firm, corporation, person or persons, or anyone acting on behalf of said person or persons, firm, or corporation, is a municipal civil infraction that shall result in the assessment of a fine of not less than \$100.00 and not more than \$500.00 per infraction, plus costs and other sanctions ordered by the court. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.
- C. The owner of any building structure, or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines herein provided.

Article 24.

District Changes and Ordinance Amendments

SECTION 2401 INITIATION OF AMENDMENTS

The Township Board may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the Official Zoning Map and Official Zoning Data Base or the provisions of this Ordinance. Amendments to the provisions of this Ordinance may be initiated by the Township Board, the Planning Commission or by petition from one or more residents or property owners of the Township. An amendment to the zoning district boundaries contained on the Official Zoning Map and Official Zoning Data Base may be initiated by the Township Board, the Planning Commission, or by the owner or owners of property which is the subject of the proposed amendment. All proposed amendments to the provisions of this Ordinance or the Official Zoning Map and Official Zoning Data Base shall be referred to the Planning Commission for public hearing and recommendation to the Township Board, prior to consideration thereof by the Township Board.

SECTION 2402 APPLICATION PROCEDURE

An amendment to this Ordinance or the Official Zoning Map and Official Zoning Data Base, except those initiated by the Township Board or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the Township, including an application fee, which shall be established from time to time by resolution of the Township Board.

- A. In the case of an amendment to the Official Zoning Map and Official Zoning Data Base, the following information shall accompany the application form:
 - 1) A legal description and street address of the subject property, together with a map identifying the subject property in relation to surrounding properties.
 - 2. The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property if not the owner in fee simple title.
 - 3. The existing and proposed zoning district designation of the subject property;
 - 4. A written description of how the requested rezoning meets Sec. 2405 "Criteria for Amendment of the Official Zoning Map and Official Zoning Data Base".

5. In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description of the proposed amendment shall accompany the application form.
6. A Conditional Rezoning Agreement, if any conditions are proposed by the applicant.

SECTION 2403 AMENDMENT PROCEDURE; PUBLIC HEARING AND NOTICE

1. Upon initiation of an amendment, a work session and public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given as follows, as required by P.A. 110 of 2006.
 - a) The notice shall describe the nature of the requested variance, indicate the property that is the subject of the request, include a listing of all existing street addresses within the property (if any street addresses exist), when and where the proposed text or maps may be examined, identify when and where the request will be considered, and indicate when and where written comments may be submitted regarding the request. If a rezoning request involves 11 or more adjacent properties, the notice does not have to list all of the street addresses within the property.
 - b) Notice shall be published in a newspaper of general circulation within the Township not less than 15 days prior to the public hearing.
 - c) Notice shall be sent by mail or personal delivery to the owners of the property in question and all persons to whom real property is assessed within 300 feet of the property in question not less than 15 days before the date the request will be considered for approval.
 - d) Notice shall be sent by mail or personal delivery to the occupants of all structures within 300 feet of the property (including structures in neighboring communities if they are within 300 feet) not less than 15 days before the date the request will be considered for approval.
 - e) Notice for proposed amendments to the text of the Zoning Ordinance that do not relate to a specific property need not comply with items 3 and 4, above.
2. Following the public hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendations to the Township Board. In the case of an amendment to the Official Zoning Map and Official Zoning Data Base, the Planning Commission shall consider the criteria contained in Section 2405 below, in making its finding and recommendation.
3. Following receipt of the findings and recommendation of the Planning Commission, the Township Board shall consider the proposed amendment. In the case of an amendment to the text of this Ordinance, the Township Board may modify or revise the proposed amendment prior to enactment. In the case of an amendment to the Official Zoning Map and Official Zoning Data Base, the Township Board shall approve or deny the amendment, based on its consideration of the criteria contained in Section 2405 below.

SECTION 2404 AMENDMENTS REQUIRED TO CONFORM TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and published, without necessity of a public hearing or referral thereof to any other board or agency.

SECTION 2405 CRITERIA FOR AMENDMENT OF THE OFFICIAL ZONING MAP

In considering any petition for an amendment to the Official Zoning Map and Official Zoning Data Base, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision:

- A) Consistency with the goals, policies and future land use map of the Benona Township Master Plan, including any subarea or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
- B) Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
- C) Evidence the applicant reasonable use of the land can not be provided through developing the property with any of the uses permitted under the current zoning.
- D) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- E) The capacity of Township utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township.
- F) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- G) The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned and available to accommodate the demand.
- H) The boundaries of the requested rezoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.
 - I) If a rezoning is appropriate, the requested zoning district considered to be more appropriate from the township's perspective than another zoning district.
 - J) The requested rezoning will not create an isolated and unplanned spot zone.
 - K) The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.
 - L) Other factors deemed appropriate by the Planning Commission and Township Board.

SECTION 2406 CRITERIA FOR AMENDMENTS TO ZONING ORDINANCE TEXT

- A) The Planning Commission and Township Board shall consider the following criteria for initiating amendments to the zoning ordinance text or responding to a petitioners' request to amend the ordinance text.
 - 1) The proposed amendment would correct an error in the Ordinance.
 - 2. The proposed amendment would clarify the intent of the Ordinance.

3. Documentation has been provided from Township Staff or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance.
4. The proposed amendment would address changes to the state legislation.
5. The proposed amendment would address potential legal issues or administrative problems with the Zoning Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.
6. The proposed amendment would promote compliance with changes in other Township Ordinances and County State or federal regulations.
7. The proposed amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
8. Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the Township, promote implementation of the goals and policies of the Master Plan and sub-area plans, and enhance the overall quality of life in Benona Township.

SECTION 2407 NOTICE OF ADOPTION AND EFFECTIVE DATE

Following adoption of the proposed text or map amendment, a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption. The approved text or map amendment shall take effect 7 days after the notice of adoption is published in the newspaper, or at a later date if specified by the Township Board.

Article 25.

Severability

If any clause, sentence, subdivision, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.